

# Public Document Pack

*Prior to the meeting at 5.20pm, the Chairman will make a presentation to Kevin Finan, Chief Executive.*

## **MID DEVON DISTRICT COUNCIL**

**A MEETING** of the **MID DEVON DISTRICT COUNCIL** will be held in Phoenix Chamber on Wednesday, 6 January 2016 at 6.00 pm

**ALL MEMBERS** of the **COUNCIL** are summoned to attend for the purposes of transacting the business specified in the Agenda which is set out below:

**[An Extraordinary meeting is scheduled to be held in Tiverton on Wednesday, 27 January 2016 at 6.00 pm]**



**KEVIN FINAN**  
Chief Executive

21 December 2015

**Members are reminded of the need to make declarations of interest prior to any discussion which may take place**

Councillor D R Coren will lead the Council in prayer.

### **AGENDA**

- 1 **Apologies**  
To receive any apologies for absence.
- 2 **Minutes** (*Pages 5 - 16*)  
To approve as a correct record the Minutes of the Meeting of Council on 4 November 2015  
  
The Council is reminded that only those Members present at the previous meeting should vote and, in doing so, should be influenced only by seeking to ensure that the minutes are an accurate record.
- 3 **Chairman's Announcements**  
To receive any announcements which the Chairman of the Council may wish to make.
- 4 **Public Question Time**  
To receive any questions relating to items on the agenda from members of the public and replies thereto.
- 5 **Petitions**  
To receive any petitions from members of the public.

6      **Notices of Motions**

To receive any notice of motions to Council.

7      **Committee Reports** *(Pages 17 - 398)*

- 1)      Cabinet
  - 19 November 2015
  - 17 December 2015
  
- (2)     Scrutiny Committee
  - 30 November 2015
  - 4 January 2016 (to follow)
  
- (3)     Audit Committee
  - 17 November 2015
  
- (4)     Managing the Environment Policy Development Group
  - 24 November 2015
  
- (5)     Decent and Affordable Homes Policy Development Group
  - 1 December 2015
  
- (6)     Community Well-Being Policy Development Group
  - 3 November 2015
  - 8 December 2015
  
- (7)     Planning Committee
  - 2 December 2015
  - 16 December 2015
  
- (8)     Standards Committee
  - 15 December 2015

8      **Questions**

To deal with any questions raised pursuant to Procedure Rule 12 not already dealt with during the relevant Committee report.

9      **Recommendation from the Appointments Panel - Interim Appointment of Head of Paid Service**

The Appointments Panel met on Wednesday 9 December to consider the requirement to make an interim appointment between the departure of Kevin Finan and the starting date of Stephen Walford: the recommendation of the Appointments Panel is that the Head of Human Resources and Development be appointed Interim Head of Paid Service and Chief Executive for the period 9<sup>th</sup> January to 14<sup>th</sup> February 2016.

10     **Ungrouped Vacancy - Scrutiny Committee**

To appoint one Member of the Ungrouped to the Scrutiny Committee following the resignation of Councillor Mrs Woollatt from this Committee.

11     **Questions to Cabinet Members**

Cabinet Members will answer questions from Members on their Portfolios.

12 **Members Business**

To receive any statements made and notice of future questions by Members.

Note: the time allowed for this item is limited to 15 minutes

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Sally Gabriel on:

Tel: 01884 234229

Fax:

E-Mail: [sgabriel@middevon.gov.uk](mailto:sgabriel@middevon.gov.uk)

Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **COUNCIL** held on 4 November 2015 at 6.00 pm

### **Present Councillors**

Mrs E M Andrews, Mrs H Bainbridge,  
Mrs A R Berry, Mrs J B Binks, K Busch,  
R J Chesterton, Mrs C Collis,  
Mrs F J Colthorpe, D R Coren, N V Davey,  
W J Daw, R M Deed, Mrs G Doe,  
R J Dolley, J M Downes, C J Eginton,  
R Evans, Mrs S Griggs, P J Heal,  
T G Hughes, Mrs B M Hull, B A Moore,  
R F Radford, Mrs J Roach, F J Rosamond,  
Mrs E J Slade, Miss C E L Slade,  
C R Slade, J L Smith, J D Squire,  
Mrs M E Squires, R L Stanley, L D Taylor,  
N A Way, Mrs N Woollatt and R Wright.

### **Apologies Councillors**

Mrs C P Daw, P H D Hare-Scott, F W Letch  
and T W Snow

#### 66 **Apologies**

Apologies were received from Cllrs Mrs C P Daw, P H D Hare-Scott, F W Letch and T W Snow.

#### 67 **Minutes**

The minutes of the meeting held on 9 September were agreed as a correct record and signed by the Chairman.

The minutes of the extraordinary meeting held on 9 September were agreed as a correct record and signed by the Chairman.

#### 68 **Chairman's Announcements**

The Chairman reminded Members of an extraordinary meeting of the Council to be held at 4.00pm on Wednesday 9 December, this would be followed by the Honorary Aldermen reception and ceremony.

#### 69 **Public Question Time (00-04-40)**

There were no questions from members of the public present.

#### 70 **Petitions**

There were no petitions from members of the public.

71 **Notices of Motions (00-3-00)**

(1) **Motion 523 (Councillor N A Way – 23 October 2015)**

The Council had before it a **MOTION** submitted in accordance with Procedure Rule 13.1:

Council supports the introduction of a through rail service from Barnstaple to Waterloo on the Tarka line and return on a daily bases Monday to Saturday. Stopping at Crediton and the village stations serving the various communities within Mid Devon. An opportunity to introduce this new service now appears to be a real possibility at no extra cost to the public purse. We advise First Great Western, South West Trains and Devon County Council of our support for the introduction of such a rail service improvement.

The **MOTION** was **MOVED** by Councillor N A Way and seconded by Councillor R M Deed

In accordance with Procedure Rule 13.4, the Chairman of the Council had ruled that the Motion be dealt with at this meeting.

Following debate and upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

Notes:

- i) Cllr N A Way declared a personal interest as a Member of the County Council;
- ii) Cllr R M Deed declared a personal interest as he used to run Honiton Station.

72 **Cabinet - Report of the meeting - 24 September 2015 (00-18-35)**

The Leader presented the report of the meeting of the Cabinet held on 24 September 2015.

73 **Cabinet - Report of the meeting - 22 October 2015 (00-18-40)**

The Leader presented the report of the meeting of the Cabinet held on 22 October 2014.

**Arising thereon:-**

(1) **Waste Education and Enforcement Policy (Min 10)**

The Leader **MOVED**, seconded by Councillor N V Davey:

**“THAT** the recommendation of the Cabinet as set out in Minute 74 be **ADOPTED”**.

Following discussion and upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

The Council had before it questions\* submitted by Councillor Mrs J Roach in accordance with Procedure Rule 12.2(1) together with a response from the cabinet Member for the Environment.

Councillor Mrs Roach asked a supplementary question stating that as there were no plans to issue enforcement notices at the present time to people who put the kitchen waste in their paid for brown bin and the fact that the blue bin and the brown bin were being tipped into the same lorry, why did the Council not treat the public as adults and let them continue to put food and garden waste together until the time came when they would be separated.

The Cabinet Member for the Environment stated that waste would currently be disposed of in the same way, in 18 months time this would change, but there was a need to keep it simple and set out the process and keep to it.

## **(2) Local Development Scheme and Local Plan Review Update**

The Leader **MOVED**, seconded by Councillor R J Chesterton:-

**“THAT** the recommendation of the Cabinet as set out in Minute 79 be **ADOPTED”**.

Following discussion and upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

The Council had before it questions\* submitted by Councillor Mrs J Roach in accordance with Procedure Rule 12.2(1) together with a response from the Cabinet Member for Planning and Economic Regeneration.

Councillor Mrs Roach asked a supplementary question stating that the call for land for the Local Plan had taken place two years ago and people were still waiting to find out the result alongside those who had made representation, therefore were they going to inform people?

The Cabinet Member for Planning and Economic Regeneration explained that he would discuss this further with the Head of Planning and Regeneration and look into the cost implications of informing people of the proposed timetable.

## **(3) Review of the Article 4 Direction for Cullompton**

The Leader **MOVED**, seconded by Councillor Mrs N Woollatt:-

**“THAT** the recommendation of the Cabinet as set out in Minute 80 be **ADOPTED”**.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

## **(4) Schedule of Meetings 2016/17**

The Leader **MOVED**, seconded by Councillor Miss C E L Slade:-

**“THAT** the recommendation of the Cabinet as set out in Minute 84 be

**ADOPTED”.**

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

The Council had before it other questions\* submitted by Councillor Mrs J Roach in accordance with Procedure Rule 12.2(1) together with a response from the Head of Finance. Councillor Mrs Roach asked a supplementary question in relation to minute 83 (Financial Monitoring): is the figure for April to September in relation to agency workers correct? The Head of Finance stated that it was correct.

Notes:

- (i) \*Questions and responses circulated at the meeting, copy attached to minutes;
- (ii) Councillor N A Way requested that his vote against (1) be recorded.

**74 Scrutiny Committee - Report - Meeting held on 5 October 2015 (00-46-32)**

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 5 October 2015.

**75 Scrutiny Committee - Report - Meeting held on 2 November 2015 (00-48-06)**

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 2 November 2015.

**76 Audit Committee - Report - Meeting - held on 29 September 2015 (00-53-42)**

The Chairman of the Scrutiny Committee presented the report of the meeting of the Committee held on 29 September 2015.

**77 Managing the Environment Policy Development Group - Report - Meeting held on 22 September 2015 (1-01-45)**

The Chairman of the Managing the Environment Policy Development Group presented the report of the meeting of the Group held on 22 September 2015.

**78 Decent and Affordable Homes Policy Development Group - Meeting - held on 6 October 2015 (1-03-23)**

The Chairman of the Decent and Affordable Homes Policy Development Group presented the report of the meeting of the Group held on 6 October 2015.

**79 Community Well-Being Policy Development Group - Report - Meeting held on 13 October 2015 (1-03-55)**

The Chairman of the Community Well Being Policy Development Group presented the report of the meeting of the Group held on 13 October 2015.



80 **Planning Committee - Report - Meeting held on 23 September 2015 (1-05-08)**

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 23 September 2015

81 **Planning Committee - Report - Meeting held on 21 October 2015 (1-06-03)**

The Chairman of the Planning Committee presented the report of the meeting of the Committee held on 21 October 2015.

Note: Councillor Mrs J Roach declared a personal interest in Minute 66 (d) as she lived near to the proposed development.

82 **Licensing Committee - Report - Meeting 15 October 2015 (1-14-58)**

The Chairman of the Licensing Committee presented the report of the meeting of the Committee held on 15 October 2015.

**Arising thereon:-**

(1) **Third Review of the Gambling Act 2005 – Statement of Principles** (Min 11)

The Chairman of the Licensing Committee **MOVED**, seconded by the Leader:-

**“THAT** the recommendation of the Licensing Committee as set out in Minute 11 be **ADOPTED**”.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

83 **Regulatory Committee - Report - Meeting 15 October 2015 (1-16-15)**

The Chairman of the Regulatory Committee presented the report of the meeting of the Committee held on 15 October 2015.

84 **Standards Committee - Report - Meeting 19 October 2015 (1-16-43)**

The Chairman of the Standards Committee presented the report of the meeting of the Committee held on 19 October 2015.

85 **Questions (1-17-29)**

There were no questions submitted under Procedure Rule 12.2.

86 **Access to Information Act - Exclusion of the Press and Public (1-17-52)**

Prior to considering Item 10 on the agenda discussion took place as to whether it was necessary to pass the following resolution to exclude the press and public having reflected on Article 12 12.02(d) (a presumption in favour of openness) of the Constitution. The Council decided that in all the circumstances of the case, the public

interest in maintaining the exemption outweighed the public interest in disclosing the information.

It was therefore

**RESOLVED** that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, namely information relating to an individual.

(Proposed by the Chairman)

#### 87 **Recommendation from the Appointments Panel**

The Council had before it a \* report of the Appointments Panel making a recommendation following interviews for a new Chief Executive.

Following discussions with regard to the candidates and the process that had taken place, the meeting returned to open session.

The Leader **MOVED** seconded by Councillor R J Chesterton that the recommendation of the Appointments Panel be approved and that Stephen Walford be appointed as the new Chief Executive.

Upon a vote being taken, the **MOTION** was declared to have been **CARRIED**.

Note: \*Report previously circulated.

#### 88 **Six Monthly Briefing from the Leader (1-22-24)**

The Leader of the Council addressed the Council on a number of issues:

- The Homes and Communities Agency had following a bid contributed £1.25m towards the building of council houses in Palmerston Park and Birchen Lane, Tiverton, special mention was made of the work of Mrs Katie Furner with regard to this matter.
- The Local Plan was progressing, it was hoped that submission would take place in June 2016 with the examination later in the year.
- Police Crime Commissioner Mr Tony Hogg had attended the Scrutiny Committee on Monday. Inspector Alford-Mole would be attending a Member briefing on 10 November and was keen to learn of Members ideas on local policing, he therefore encouraged attendance on that date.
- The Corporate Plan was being progressed which required all Member input, an away day had been organised for 27 November and he therefore encouraged attendance.
- Waste and Finance had already been discussed at the meeting and therefore he felt that these issues had been covered.

## 89 Questions to Cabinet Members (1-26-18)

1. Councillor N A Way addressing the Leader voiced his concerns regarding the special meeting of the Community Well-Being Policy Development Group (that had taken place the previous day), the content of the Grants report, the fact the Cabinet Member had not seen the detail of the report before publication and was unhappy with certain aspects; the outcome of the meeting had been that a working group be formed to look at the grant issues. Why was the report tabled as this was very unsatisfactory?

The Leader stated that he had not been present at the meeting and therefore the Cabinet Member should speak for himself. In relation to the Grand Western Canal no decision had been made and further discussions would take place.

The Cabinet Member for Community Well-Being stated that he had expressed his disappointment that the report had been changed since he had seen it and that he was distressed at the recommendation with regard to the Grand Western Canal. A working group had been formed and it would discuss the grant issues, a separate meeting would also take place with Devon County Council with regard to funding for the Grand Western Canal.

Councillor R M Deed spoke of his working relationship with officers whilst he was Cabinet Member and voiced his concern regarding a breakdown of communication between the Cabinet Member and officers.

The Cabinet Member stated that he had a very good working relationship with officers, in this instance the report had arrived at the last minute, he had commented but his comments had not been taken into consideration.

2. Councillor Mrs J B Binks asked the Cabinet Member for Community Well-Being when the report regarding the Grants was sent to him.

The Cabinet Member responded stating that he had received the report 2 days before publication.

3. Councillor L D Taylor addressing the Leader stated that Bradninch Town Council had been asked to contribute to the costs of amenity car parks, grass cutting and looking after 2 play areas and they had lost 75% of the burial grant which had been received since the 1980's, to cover these costs they would have to increase the precept, during the last 5 years Mid Devon had not increased their Council Tax.

The Leader stated that it was all about devolved services, brought forward by the last coalition Government which gave opportunities for the community to take on local services. He was very proud of the fact that the Council Tax had not risen in the last 5 years, the budget for 2016/17 had yet to be set and that we would know more in the New Year.

4. Councillor Mrs A R Berry asked the Cabinet Member for Community Well-Being why given that the Cabinet Member had had so little time to consider the report, why was the meeting not postponed?

The Cabinet Member stated that there had been no problems in the previous year, yesterday the PDG could have come to a conclusion and there was a need to debate the issue of grants.

5. Councillor J M Downes addressing the Cabinet Member for the Environment stated that 2 years ago the Councillors in Crediton and a community group had received £100k for the refurbishment of Newcombes Meadow play area, one piece of equipment was still outstanding and could that piece of equipment be installed by the spring?

The Cabinet Member stated that he would look into the issue.

6. Councillor Mrs J Roach addressing the Leader asked why the Council were making decisions in isolation, what about the Tourism Strategy and the Corporate Plan, an agreed strategy may lead to an increase in a specific budget.

The Leader stated that a more rounded strategy would help and would enable the Council to move forward; he again encouraged attendance at the away day so that Members could put forward their views.

#### 90 **Members Business (1-45-42)**

There was no Members Business to be discussed.

(The meeting ended at 8.09 pm)

**CHAIRMAN**

## WRITTEN QUESTIONS – FULL COUNCIL – 4 NOVEMBER 2015

### 1. CABINET – 22 OCTOBER 2015

#### Min No 77

#### **Question submitted by Cllr Mrs J Roach and the response of the Head of Communities and Governance**

At the Council meeting in September I asked if there had been a review of the RIPA policy. I was informed that the RIPA policy had been changed to reflect that it will be reviewed annually for compliance by the Cabinet rather than Scrutiny. I note that this change was made at the Cabinet meeting in October. I note also that the revised policy agreeing this change was passed by the CWB in October. Why was I told in September that changes had already been agreed? At the September Council meeting the Chief Executive told Council that he had told the management team not to use RIPA..."that they should just not operate it, full stop" Has the Chief Executive now reversed this instruction?

#### **RESPONSE**

The Cabinet at their meeting on the 5<sup>th</sup> February 2015 changed the policy framework so that the RIPA Policy went to the CWB PDG and then to Cabinet.

The Surveillance Inspector visited MDDC in April 2015 and then sent a report through. We responded to that report as per the Surveillance Officer request.

The feedback from the Inspector was included in the review of the policy and the review took place in September and then went to CWB PDG on 13<sup>th</sup> October and then Cabinet on 22<sup>nd</sup> October.

With regard to the last sentence, this instruction has not been reversed.

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### 2. CABINET – 22 OCTOBER 2015

#### Min No 79

#### **Question submitted by Cllr Mrs J Roach and the response of the Cabinet Member for Planning and Economic Regeneration.**

The effect of this decision will be to put back the submission of the Local Plan. Why has there been such a delay in identifying the need to undertake more technical work? Is this Council at risk in relation to the Housing and Planning Bill 2015? Will the affected householders be informed of the delay? The cost of the work is £100k, where is that money coming from?

#### **RESPONSE**

*The effect of this decision will be to put back the submission of the Local Plan. Why has there been such a delay in identifying the need to undertake more technical work?*

The Environment Agency did not identify the need for this extra work at the consultation stage. This has only come to our attention more recently as part of ongoing work with statutory partners prior to submission. Detailed work of this nature is not normally required at this stage in the planning process, however because of previous flood events, the Environment Agency wishes to understand in more detail the implications of any scheme crossing the floodplain at Cullompton in terms of the floodplain and flood flows. To this end detailed design and flood modelling work is required and must be completed to their satisfaction. The Environment Agency will not support the plan as proposed without the detailed design and flood modelling work being undertaken on the Cullompton highway arrangements, in so far as they cross the flood plain.

*Is this Council at risk in relation to the Housing and Planning Bill 2015?*

Mid Devon District Council already has a current adopted Local Plan in place, and many other authorities currently do not. The current timetable is for the emerging local plan review to be adopted by January 2017, which would be in line with the Government target in any case. The latest advice from the Planning Advisory Service is that we are not likely to be at risk.

*Will the affected householders be informed of the delay?*

It is unclear which households Cllr Roach has in mind. The local plan has a district wide coverage. It is not currently envisaged that there will be any major modifications to the plan, if there were to be, then additional consultation would be undertaken. Any additional blanket correspondence at this stage to residents, businesses and other interested parties would be unnecessary at this stage. The Council's website has been updated to include the revised timetable.

*The cost of the work is £100k, where is that money coming from?*

The funds for this project would be sourced from the Council's reserves.

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### **3. CABINET – 22 OCTOBER 2015**

#### **Min No 83**

#### **Question submitted by Cllr Mrs J Roach and the response of the Cabinet Member for the Environment.**

The budget shows a spend of £88k for agency staff for the waste services. The monitoring report shows a spend to date of £77k, thus leaving approx, £10k for the next six months. This could lead to an overspend of £100k if the current level of spending continues. Is the figure for April to September in relation to agency workers correct?

#### **RESPONSE**

Agency spend is higher due to the covering of vacant positions in the service with agency staff so the overspend is offset by a £39k underspend on salaries. There have been two long term sickness to cover for. There is also a larger than normal spend due to the roll out of the new scheme. Agency staff have been used to back fill collection routes while

permeant staff are used for deliveries of new containers. There was a budget of £28k for this.

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#### **4. CABINET – 22 OCTOBER 2015**

##### **Min No 74**

##### **Question submitted by Cllr Mrs J Roach and the response of the Cabinet Member for the Environment.**

Is it proposed to issue enforcement notices to people who put kitchen waste in their paid for brown bins?

##### **RESPONSE**

No plans at the moment. We will be commingling this waste until March 2017 but we will need to educate the residents to separate these two materials by that date so they can be treated separately.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **CABINET** held on 19 November 2015 at 2.15 pm

### **Present**

#### **Councillors**

C J Eginton (Leader)  
R J Chesterton, N V Davey, P H D Hare-  
Scott, C R Slade, Mrs M E Squires and  
R L Stanley

### **Also Present**

#### **Councillor(s)**

Mrs J Roach and F J Rosamond

### **Also Present**

#### **Officer(s):**

Kevin Finan (Chief Executive), Andrew Jarrett (Head of  
Finance), Catherine Yandle (Internal Audit Team Leader)  
and Sally Gabriel (Member Services Manager)

## 87. **APOLOGIES**

There were no apologies.

## 88. **PUBLIC QUESTION TIME**

There were no members of the public present.

## 89. **MINUTES OF THE PREVIOUS MEETING (00-01-07)**

The minutes of the previous meeting held on 22 October were approved as a true record and signed by the Chairman.

## 90. **FINANCIAL MONITORING (00-02-15)**

The Head of Finance updated the Cabinet with the following information: nothing had changed dramatically since the previous report, there was a projected overspend of £150k mainly due to a change in the valuation of GP surgeries which required a partial refund in business rates. In addition, redundancies were taking place in order to set a balanced budget for the following year.

Discussion took place regarding:

- The GP surgeries refund
- The amount held in reserves
- The contribution towards the Grand Western Canal
- The inability to make firm promises on future contributions because of the economic climate.

## 91. BUDGET UPDATE (00-06-07)

The Cabinet had before it a \*report of the Head of Finance setting out options available in order for the Council to set a balanced budget for 2016/17 and to agree a future strategy for further budget reductions for 2017/18 onwards.

The Cabinet Member for Finance outlined the contents of the report stating that Service Managers had been tasked to produce savings and substantial savings had been found, however there was still a budget gap of £827k. It had been reported that the Treasury had reached agreement with four government departments, including the Department for Communities and Local Government, for an average of 30% cut in government funding over the next four years. There was no question that the formula grant would be cut and it was now likely that the Revenue Support Grant of £1.7m would disappear entirely by 2019/20.

Consideration was given to the following table:

### Reconciliation of Major 2016/17 Budget Variances

<b>Variances</b>	<b>Amount £000</b>
<b><i>External items outside of our control</i></b>	
Reduced formula grant settlement	597
Increased pension contributions - auto enrolment	110
NIC rebate removed from contracted out pensions	180
NNDR GP surgery appeals	100
Pay award circa	100
Falling commodity prices for recycling	125
<b><i>Subtotal</i></b>	<b>1,212</b>
<b><i>Other changes</i></b>	
Deficit on our 2015/16 budget taken from reserves	187
Increase in sinking funds for asset replacement	132
Increased interest payable	78
Decrease in Collection Fund surplus	32
Income from garden waste scheme	(250)
Increased leisure income	(155)
Increased income from investments	(102)
Contributions from town and parish councils	(100)
Increase Council tax income	(95)
Other net savings	(112)
<b>Draft budget gap for 2016/17</b>	<b>827</b>

Discussion followed with regard to:

- The increase in sinking funds for asset replacement
- Increased income from investments
- The purchase of refuse and recycling vehicles
- Aspirations within the new Corporate Plan

**RESOLVED** that following consideration of the draft budget proposals for 2016/17, the report be **NOTED**.

(Proposed by Cllr P H D Hare-Scott and seconded by Cllr R J Chesterton).

Note: \*Report previously circulated, copy attached to minutes.

92. **PERFORMANCE AND RISK REPORT FOR THE SECOND QUARTER OF 2015-16 (00-17-35)**

The Cabinet had before it and **NOTED** a \* report of the Head of Communities and Governance providing Members with an update on performance against the Corporate Plan and local service targets for 2015/16 as well as providing an update on the key business risks.

The Cabinet Members identified issues within their portfolios:

**Housing**

- The number of affordable homes delivered.
- Rent recovery would be on target by the end of the financial year.

**Leisure**

- The percentage of leisure's operational expenditure recovered through customer receipts which were marginally below target.

**Planning**

- Major applications were below local targets but above Government target.
- Staffing levels were still below the norm and recruitment had proved difficult.
- Central Government were proposing changes to targets for minor and other applications within 8 weeks.
- Listed Building Consents were also below target as the capacity of the team had been affected by issues arising in Cullompton.

**Working Environment**

- Percentage of complaints acknowledged in 3 days was below target, a new system was in the process of being put in place.

**Finance**

- Council Tax collections were slightly below target as were the percentage total of NNDR collected monthly.

Discussion took place regarding planning enforcement and the length of time taken to deal with enforcement cases.

The Internal Audit Team Leader provided updated papers for Managing the Environment Policy Development Group which showed a below target figure for fixed penalties however the new waste scheme was performing well with an encouraging uptake on the chargeable garden waste scheme.

Note: \*Report previously circulated, copy attached to minutes.

93. **NOTIFICATION OF KEY DECISIONS (00-31-27)**

The Cabinet had before it, and **NOTED**, its rolling plan for December containing future key decisions.

Members were informed of the following movements since the publication of the document:

- The addition of a report regarding Activation of the Severe Weather Emergency Protocol (SWEP) and Extended Winter Provision which would be discussed on 17 December.
- The Corporate Asbestos Policy had been removed as it had been amalgamated with the Asbestos Management Plan which had been discussed in October.

It was requested that reports requiring a decision by Council be clearly identified. (This would be actioned).

The Chief Executive informed the meeting that a report regarding devolution would go straight to an Extraordinary meeting of Council on 9 December and therefore the special meeting of the Cabinet arranged for 2 December would be cancelled.

Note: \* Plan previously circulated, copy attached to minutes.

(The meeting ended at 2.52 pm)

**CHAIRMAN**

Mid Devon District Council – Decisions taken by the Cabinet on Thursday, 17 December 2015

Agenda Item No	Topic	Decision
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Part A – Items considered in public

94.	Apologies	
95.	Public Question Time	
96.	Minutes of the Previous Meeting	
97.	Play Areas in Mid Devon (00-23-52)	<p>Arising from a report of the Head of Housing and Property Services, the Managing the Environment Policy Development Group had recommended that:</p> <ul style="list-style-type: none"> <li>a) The recommendations within Annex 2 of the report be approved;</li> <li>b) The contributions from Town and Parish Councils towards the running and maintenance cost be noted;</li> <li>c) The Head of Housing and Property Services, in consultation with the Cabinet Member for the Environment, be given delegated authority to negotiate acceptable terms for the transfer of selected play area in Willand to the Parish Council by the end of December 2015.</li> </ul> <p><b>RESOLVED</b> that the recommendations of the Policy Development Group be approved with the inclusion of the wording “Parish Field (Gables Lea) in (c) and the addition of:</p> <ul style="list-style-type: none"> <li>(d) The Head of Housing and property Services in consultation with the Cabinet Member for the Environment, be given delegated authority to negotiate acceptable terms for the transfer of Tufty Park and Headweir Road plays areas in Cullompton to the Town Council by 31 January 2016.</li> </ul>

Mid Devon District Council – Decisions taken by the Cabinet on Thursday, 17 December 2015

Agenda Item No	Topic	Decision
		(e) Any sites identified for managed decline or closure could be leased to the Parish/Town Councils by negotiation.
98.	Planning Guidance for Waste Storage (1-02-18)	<p>Arising from a *report of the Head of Housing and Property Services, the Managing the Environment Policy Development Group had recommended that the design guidance be agreed and that officers develop the guidance as a supplementary planning document.</p> <p><b>RESOLVED</b> that subject to the words “may” to be replaced with “must” and “should” to be replaced with “would” on paragraph 4 on page 33, the recommendation of the Policy Development Group be approved.</p>
99.	Grounds Maintenance and Grass Cutting (1-09-31)	<p>Arising from a report of the Head of Housing and Property Services, the Managing the Environment Policy Development Group had recommended that this authority:</p> <ul style="list-style-type: none"> <li>a) Continues to provide grass verge cutting on Devon County Council highway land in Town and Parishes that have contributed funding based on the 2015/16 budget as detailed in 3.3 and Option 1.</li> <li>b) Negotiates with those Town and Parishes Councils who have resolved on Option 1 for a reduction of one cut per annum or to contribute towards one additional cut per annum with reference to 3.4 and 5.5.</li> <li>c) Withdraws from the Devon County Council grass verge cutting agreement,</li> </ul>

Mid Devon District Council – Decisions taken by the Cabinet on Thursday, 17 December 2015

Agenda Item No	Topic	Decision
		<p>where the Town and Parish Councils have resolved to accept funding directly from Devon County Council as detailed in 3.3 /Option 2.</p> <p>d) Withdraws from our grass verge cutting agreement with Devon County Council where Town and Parish Councils have resolved to accept Option 3 due to the financial shortfall forecast in Annex A.</p> <p>e) Reviews the ongoing service provision of grass verge cutting in response to the reduction of funding as detailed at 5.6 by March 2016.</p> <p><b>RESOLVED</b> that the recommendation of the Policy Development Group be approved.</p> <p>.</p>
100.	Car Parking Charging Proposals (1-19-53)	<p>Arising from a *report of the Head of Finance, the Managing the Environment Policy Development Group had recommended that the pricing proposals within the report be approved, along with the recommendations in section 3.2 of the report.</p> <p><b>RESOLVED</b> that:</p> <p>a) subject to: the parking charges in the Multi-Storey Car Park in Tiverton, and the car parks in Station Road, Cullompton and St Saviours Way, Crediton being raised to £2 for 24 hours or part of; the recommendations of the Policy Development Group be approved.</p>

Mid Devon District Council – Decisions taken by the Cabinet on Thursday, 17 December 2015

Agenda Item No	Topic	Decision
		<p>b) These recommendations will form the basis of the new Off Street Parking Places Order (Road Traffic Act 1984) which will be advertised and consulted upon and therefore delegated authority be given to the Head of Finance in consultation with the Cabinet Member for the Environment to act on feedback from this consultation process and agree any necessary amendments required before finalising the 2016/17 car park charges to be incorporated into the final order.</p>
101.	Grants (1-51-53)	<p>Arising from a *report of the Head of Communities and Governance, the Community Well-Being Policy Development Group had recommended that:</p> <ul style="list-style-type: none"> <li>a) The grant for the Grand Western Canal be removed from the grants budget and be paid from the New Homes Bonus;</li> <li>b) The revised grants for 2016/17 be approved;</li> <li>c) The authority put in place procedures to ensure that monitoring of activity and finances of those in receipt of grants takes place in the future; and</li> <li>d) The Community Well Being Policy Development Group Grants Working Group be involved in any initial discussions regarding the setting of proposed cuts to future grants.</li> </ul> <p><b>RESOLVED</b> that subject to a further reduction of £5K to the Citizens Advice Bureau grant, the recommendations of the Policy Development Group be approved.</p>
102.	Housing Revenue Account Budget	



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Agenda Item No	Topic	Decision
	2016/17 (2-16-35)	
103.	Meeting Management (2-19-46)	
104.	Corporate Plan (2-20-14)	<p>The Cabinet had before it a *report of the Head of Communities and Governance setting out the strategic direction and aspirations of the Council for the next four years.</p> <p><b>RESOLVED</b> that the contents of the draft Corporate Plan be approved for consultation.</p>
105.	Anaerobic Digesters (2-35-18)	<p>Arising from a report of the Head of Planning and Regeneration, the Scrutiny Committee had recommended that:</p> <p>a) A request be made to the Environment Agency for the opportunity for MDDC to feed into the environmental permitting regime and that a copy of the approved permit be given to this authority.</p> <p>b) Where enforcement issues were raised with an AD plant, that related to more than one agency, coordination take place between relevant agencies and that MDDC take a lead role in that coordination.</p> <p>c) a review of the scope of planning conditions to control AD plants be undertaken in order to develop best practice for future applications.</p> <p><b>RESOLVED</b> that the recommendation of the Scrutiny Committee be approved.</p>
106.	Leasehold Management (including service charge policy) (2-47-38)	<p>Arising from a report of the Head of Housing and Property Services, the Decent and Affordable Homes Policy Development Group had recommended the revised</p>

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Agenda Item No	Topic	Decision
		<p>Leasehold Management Policy be approved.</p> <p><b>RESOLVED</b> that the recommendation of the Policy Development Group be approved.</p>
107.	Supply and Demand Policy (2-49-14)	
108.	Void Policy (2-50-42)	
109.	Allocations Policy (Band E - Devon Home Choice) (2-54-12)	<p>Arising from a *report of the Allocations Policy Working Group, the Decent and Affordable Homes Policy Development Group had recommended that: Band E be retained only on the following assumptions:</p> <ol style="list-style-type: none"> <li>1. All applicants to be reviewed annually on Devon Home Choice, this will also include contacting applicants to remind them that they may not have logged onto the Devon Home Choice system or have never placed a bid on the system. This will take out some of the “<i>dead wood</i>” on the system and remove those who have moved and not notified Devon Home Choice of their changes. Applicants will be given 21 days in which to respond. Should they not reply then the application will be suspended.</li> <li>2. Contact applicants who have not logged onto the system to ascertain the reasons behind this.</li> <li>3. Applicants who have refused 3 properties will be investigated as to the reasons for the refusal, to determine if they should remain in their current band or</li> </ol>

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Agenda Item No	Topic	Decision
Page 27		<p>suspended.</p> <p>4. Mid Devon goes out for consultation on its Housing Allocation Policy proposing that the policy be rewritten to include the following points:</p> <ul style="list-style-type: none"> <li>• Applicants will be removed from the Devon Home Choice waiting list if they do not bid for properties over a 12 month period*. (*subject to review of available &amp; suitable properties)</li> <li>• Applicants will be removed from the waiting list if they refuse 3 <i>suitable</i> offers of accommodation subject to availability or properties within their required location or adjacent parish.</li> <li>• Whilst carrying out a consultation, the working group may wish to include other elements to the review.</li> <li>• That there be a review in June 2016.</li> </ul> <p>(These changes can be implemented ready for the 1<sup>st</sup> April 2016. This would allow for the consultation period of 6 weeks (as recommended by DCLG), a new allocation policy to be written and sent to the PDG for agreement).</p> <p><b>RESOLVED</b> that the recommendation of the Policy Development Group be approved.</p>
	110.	Abolition of the Cash Incentive Scheme (2-57-26)

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		incentive scheme whereby downsizing tenants are given payments for giving up larger homes be discontinued.  <b>RESOLVED</b> that the recommendation of the Policy Development Group be approved.
111.	Improvements to Council Properties policy	Arising from a *report of the Head of Housing and Property Services, the Decent and Affordable Homes Policy Development Group had recommended: that the revised Improvements to Council Properties Policy be approved.  <b>RESOLVED</b> that the recommendation of the Policy Development Group be approved.
112.	Severe Weather Emergency Protocol and Extended Winter Provision Protocol (3-00-05)	
113.	Council Tax Reduction Scheme (3-01-45)	
114.	Tax Base Calculation (3-02-41)	
115.	Financial Monitoring (3-03-42)	
116.	Notification of Key Decisions (3-08-00)	
A1		
A2		

**THE HOUSING OPTIONS SERVICE – SUPPLY AND DEMAND POLICY**

**Cabinet Member** Cllr Ray Stanley  
**Responsible Officer** Head of Housing and Property Services

**Reason for Report:** On 2nd April 2015, the Supreme Court found against Westminster Council in a case relating to how it had made a decision on where to place a family to which it owed a duty to accommodate under the Housing Act 1996. The *Nzolameso v City of Westminster* judgment has significant ramifications for local authorities who are now required to develop policies to show how they will procure accommodation both in and outside their local authority boundaries and how they will decide who has priority accommodation in or close to their operational districts.

**RECOMMENDATION(S):** The Cabinet recommends to the Council the new Housing Options Supply and Demand Policy.

**Relationship to Corporate Plan:** The Council duties are governed by the Housing Act 1996 as amended under the Homelessness Act 2002 Part VII. This legislation sets out what a Council must provide and what duties it might owe a homeless applicant.

**Financial Implications:** There is a budget set aside for the Housing Options Service. Failure to provide advice and assistance could result in the Council being taken to court.

**Legal Implications:** As a consequence of the judgment in *Nzolomeso v Westminster City Council*, local authorities must all now develop a policy which:

- Outlines the Council's approach to procuring accommodation both 'in the district, 'close to home' and 'further away'. This must indicate both the anticipated supply and the expected demand over the next year.
- Explains how the Council will decide who will receive priority in the allocation of these properties.

The policy must be compliant with the existing duties of the local authority within the Housing Act 1996 and the Children Act 2004.

**Risk Assessment:** The Council is responsible for ensuring that the Housing Act 1996 as amended under the Homelessness Act 2002 Part VII is adhered to. Failure to provide advice and assistance under the legislation could lead to financial implications.

## **1.0 Introduction**

1.1 The Council's statutory duties are governed by the Housing Act 1996/2002. These are as follows:

- I. To provide advice and assistance to all applicants who come through the door. Applicants are usually seen on the same day or within 28 days of being threatened with homelessness. The emphasis is on prevention work and taking a homeless claim is a last resort. (Section 184)
  - II. To provide temporary accommodation for those we have a statutory duty to whilst we investigate their claim. This can be in bed and breakfast accommodation or hostels managed either by the council or partnership agencies. (Section 188)
  - III. To provide, or assist in providing, temporary or permanent accommodation to those where a full homelessness duty is accepted. (Section 193)
  - IV. To provide assistance to those applicants who aren't accepted in order to maximise their options, and refer on to partnership agencies
  - V. To provide quarterly returns to the Department of Communities and Local Government (DCLG) on performance in areas such as the ages and family make up of applicants, the length of stay and type of temporary accommodation and the number of acceptances. Some of these are also reflected in monthly reporting. Poor performance can mean a reduction in funding
- 1.2 The Council already has its own Homelessness Strategy 2013-2018 which is available on the internet, which sets out the Council's aims and objectives. This new policy sets out the Council's aims and the need to maximise the supply of good quality, affordable housing and make the best use of the District's social housing stock.
- 1.3 The current Choice Based Lettings Scheme (Devon Home Choice) introduced in 2009 allows flexibility to local authorities when allocating properties, whilst ensuring that there is a consistent approach.

## **2.0 The New Policy**

- 2.1 The new policy refers to the Council's statutory obligations that it would owe a homeless applicant. The policy has been written to take account of government guidance and recent case law, the Homelessness (Suitability of Accommodation) (England) Order 2012 and specifically all the statutory requirements in part 1 which cover the suitability of the location of accommodation.
- 2.2 When applying the new policy the Council must have regard to applying the test of suitability when making offers of permanent accommodation.
- 2.3 Authorities have to be satisfied that the accommodation offered is suitable and have considered the following issues which are a requirement to consider under the homelessness legislation, guidance and case law when making any suitable offer of accommodation.

2.4 The consideration includes:

- I. The suitability of the accommodation in relation to its location, proximity and accessibility of the accommodation to local services, amenities and transport
- II. The significance of any disruption which would be caused by the location of the accommodation to children's education.
- III. The proximity and accessibility of the accommodation to medical facilities and other support which are (i) currently used by or provided to members of the household; and (ii) are essential to the well-being of members of the household
- IV. Consideration of any other subjective matters and issues that relate to the household circumstances
- V. Must be satisfied that the accommodation is affordable having fully considered the cost of the rent and any other expenditure relating to the property
- VI. Must consider all existing legislation, statutory guidance and case law relating to making suitable offers of accommodation and specifically paragraphs 17.40 and 17.41 of the Homelessness Code of Guidance
- VII. Considered the provisions of the Housing Act 1985 relating to slum clearance and overcrowding
- VIII. Regard to the availability of properties within the District to suit applicants households requirements
- IX. Reference to the Equality duty covered within the Public Sector Equality Act 2010

**Contact for more Information:** Mike Parker, Housing Options Manager, Tel: 01884 234906 [mparker@middevon.gov.uk](mailto:mparker@middevon.gov.uk)

**Circulation of the Report:** Councillor Ray Stanley, Cabinet Member for Housing

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**Mid Devon District Council**

**Supply and Demand Policy – Housing Options**

**Addressing Needs and Aspirations of Homeless Households & Housing Applicants**

Policy Number: HSG 1

**December 2015**

## Version Control Sheet

*Title:* Supply and Demand Policy – Housing Options  
Addressing Needs and Aspirations of Homeless Households & Housing Applicants

*Purpose:* To review the Meeting the Housing Needs Policy in accordance with the Homelessness strategy and the Allocations Policy.

*Owner:* **Housing Options Manager**  
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Telephone number 01884 234906

*Date:* **December 2015**

*Version Number:* v3.1

*Status:* **DRAFT Policy**

*Review Frequency:* **Annually or sooner if required and in accordance with changes in legislation and case law.**

*Next review date:* **Dec 2016**

*Consultation* **This document was sent out for consultation to the following:**  
Management Team  
Cabinet Member  
PDG Decent and affordable Homes

## Document History

This document obtained the following approvals.

Title	Date	Version Approved
Head of Service		
Management Team		
PDG Decent and Affordable Home		
Cabinet		
Council		
Audit	<b>09/10/2015</b>	

## 1.0 Background Case Law

- 1.01 On 2nd April 2015, the Supreme Court gave its judgment in the case of *Nzolameso v Westminster City Council*. The case sets legal precedent and has implications for the way in which all local authorities must now make decisions as to where to place a family to whom they owe a duty under Part VII of the Housing Act 1996. The case established the need for documenting and formalising decision making processes.
- 1.02 The judgment was handed down on 2nd April 2015 following the Supreme Court case on 17th March 2015, where the Court found against Westminster City Council. They concluded that ‘the authority could not show that the offer of a property in Bletchley was sufficient to discharge Westminster’s legal obligations under the 1996 Act’. The judgment concludes that the authority did not explain adequately ‘what, if any, consideration had been to providing accommodation in or nearer the district. Additionally, the judgment concludes that the authority could not ‘show that they have properly discharged their obligation under section 11 of the Children Act 2004’.

## 2.0 Guidance within the judgment

- 2.1 The outcome of this case is to provide guidance to local authorities as to how they should go about explaining their decisions as to the location of any properties offered to homeless applicants. The guidance recognises that authorities are entitled to take account of the resources available to them, the difficulties of procuring sufficient units of accommodation at affordable prices in their area and the practicalities of procuring accommodation in nearby authorities. However, the decision on an individual case will depend on the policies which the authority has adopted both for the procurement and allocation of these units.
- 2.2 From the court judgment in *Nzolomeso v Westminster City Council*, each local authority must develop a policy which:
  - a) Outlines the Council’s approach to procuring accommodation both ‘in district’, ‘close to home’ and ‘further away’. This must indicate both the anticipated supply and the expected demand over the next year.
  - b) Explains how the Council will decide who will receive priority in the allocation of these properties.
- 2.3 Following the decision of the Supreme Court in *Nzolameso v Westminster City Council* [2015] UKSC 22; [2015] PTSR 549, there are now four main layers of substantive legal obligations that apply to decision making about the location of accommodation secured under the homelessness legislation in Part 7, Housing Act 1996.
- 2.4 As a preliminary point, these requirements apply to all accommodation secured under Part 7. That is not to say that they apply in precisely the same

way to, e.g. s.188 interim accommodation as to final offers of permanent accommodation under s.193(7).

2.5 The main requirements are as follows:

- a) The accommodation must be within the Council's area of operation so far as reasonably practicable: s.208(1)
- b) Where possible, it should be as close as possible to where an applicant was previously living;
- c) The accommodation must be suitable for the applicant and his or her household: s.206(1); and –
- d) When assessing suitability, the Council must have regard to the need to safeguard and promote the welfare of any children; and this means that the decision-maker should identify the principal needs of the children, both individually and collectively: s.11(2), Children Act 2004; Nzolameso at para 27.

2.6 In addition, a lawful decision on location must give adequate reasons to explain why the Council has decided the above issues in the way that it has. The Westminster judgment sets out three geographical areas the local authorities should consider when assessing locational priority: 'in district', 'close to home' and 'further away'. The Council must consider the definitions which will apply, particularly in relation to the category 'close to home'.

2.7 The judgment identifies three geographical areas that the Council should consider when assessing locational priority. These are defined for the purposes of this policy as follows:

- a) 'area of district operation': within the local authority district.
- b) 'close to home': within 60 minutes travelling distance of the district, with particular reference to the school, place of employment or other physical place which gives rise to the need to be accommodated close to home. Travelling distance will be defined as travelling by public transport on the quickest available route.
- c) 'further away': will be defined as anywhere beyond 60 minutes travelling distance of district. In deciding accommodation offers for individuals and families further away, the Council will always have regard as to the suitability of the property and the area that that property is in. In particular the Council will consider the availability of services such as schools and health services to ensure that the welfare of children is fully considered in line with the Council's duties under the Children Act 2004.

2.8 Each week the Council provides temporary accommodation to families and single adults. Given the scale of demand, our policy in terms of who has priority for accommodation must adequately reflect what is feasible to achieve and also must ensure that the processes for allocation are relevant and effective.

- 2.9 The Council's temporary accommodation consists of a mix of its own stock, private sector properties and private bed and breakfasts which are procured on a day to day basis. It is increasingly difficult for the authority to find affordable bed and breakfast accommodation, a problem now being experienced in many councils. We also have to factor in the revenue generated from Housing Benefit for each claimant.
- 2.10 In addition to the properties procured in the district, the Council procures bed and breakfast accommodation and private sector leasing properties in the neighbouring authorities. These properties are not in-district but are within 60 minutes of travelling distance of Mid Devon.

### **3.0 Equalities Implications**

- 3.1 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 3.2 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - c) Foster good relations between people who share a protected characteristic and those who do not.

### **4.0 General**

- 4.01 The aim of this policy is to provide a framework for the fair allocation of the limited supply of affordable temporary accommodation within and close to Mid Devon. This policy applies to temporary accommodation secured under Part 7, Housing Act 1996 and under Part 3, Children Act 1989.
- 4.02 The award of in-district or 60 minutes travel priority does not guarantee the provision of temporary accommodation within those areas. Where the household is in receipt of welfare benefits, this may place additional constraints on the availability of affordable accommodation, including constraints on its type and location.
- 4.03 Nothing in this policy should prevent a household from considering other housing options, including asking the Council for advice, support and assistance in relocating to more settled accommodation.

## **5.0 In-district priority**

- 5.01 Priority for available in-district accommodation will be given to certain households who have a compelling need to be housed within Mid Devon. Such priority does not guarantee an in-district placement, but should suitable and affordable accommodation be available within that area, it does give that household priority over others without that assessed priority.
- 5.02 Applicants and their household members to be housed with them who satisfy one or more of the following criteria will qualify for in-district priority:
- a) They are receiving treatment for a physical or mental health condition from a specialist hospital unit which cannot be transferred to another NHS service or they are at a critical point in their treatment.
  - b) They have a longstanding arrangement to provide care and support to another family member in Mid Devon who is not part of the household. Carers will need to be in receipt of Carer's Allowance and/or the person they care for must be in receipt of middle or high rate DLA care component or the daily living component of personal independence payment (PIP).
  - c) Children subject to a Child Protection Plan in Mid Devon which cannot be transferred to another local authority without causing serious detriment to a child's welfare.
  - d) Children subject to an Education, Health and Care Plan in Mid Devon which cannot be transferred to another local authority without causing serious detriment to a child's welfare.
  - e) Other circumstances which demonstrate an exceptional and compelling need that cannot be met outside the district.

## **6.0 The 60 minutes travel priority**

- 6.01 Priority for accommodation within 60 minutes travelling distance of Mid Devon by public transport ("60 minutes travel priority") will be given to certain households who have a compelling need to be housed within that area.
- 6.02 Such priority does not guarantee a placement within 60 minutes travelling distance of Mid Devon by public transport, but should suitable and affordable accommodation be available within that area, it does give the household priority over others without that assessed priority.
- 6.03 Applicants, or their household members to be housed with them, who satisfy one or more of the following criteria will qualify for 60 minutes travel priority:
- a) They have been continuously employed within Mid Devon for 16 hours or more per week in a role which cannot be transferred to another area. Applicants must have been employed in this role for six months prior to the date of application and remain so employed. Women who are on maternity leave from employment and meet the criteria will also be prioritised for placements within 60 minutes travelling distance of Mid Devon by public transport. Wherever practicable we will seek to place

such households within 60 minutes travelling distance by public transport from their place of employment at the time of application.

- b) Children who are enrolled in GCSE, AS, or A level courses in Mid Devon, with public exams to be taken within the next academic year. Wherever practicable we will seek to place such households within 60 minutes travelling distance of their school or college, by public transport.
- c) Other circumstances, where they demonstrate an exceptional and compelling need to be housed within 60 minutes travelling distance of Mid Devon by public transport.

## **7.0 No locational priority**

- 7.01 Applicants who meet none of the criteria may be offered properties further afield when no suitable property is available within Mid Devon or within 60 minutes travelling distance of Mid Devon by public transport.
- 7.02 The Council will have regard principally to the needs of any children in the household, and to the need to safeguard and promote the children's welfare. In particular, regard will be had to any disruption to schools, medical care, social work or other key services and support. However, due to the scarcity of temporary accommodation nearer to Mid Devon, of themselves these factors will not normally confer locational priority.

## **8.0 Mid Devon Background Information**

- 8.01 MDDC had a housing stock of 3,065 (Appendix 1) dwellings as at 1 June 2015. In addition to this, there is a number of Registered Social Landlords (RSLs) operating within Mid Devon who have 1,339 dwellings (Appendix 2). Together we have a total of 4,404 social Housing properties within the District (Appendix 3).
- 8.02 Social housing is a valuable resource and MDDC must ensure that it makes the best use of its stock. Devon Home Choice (DHC) is the model of Choice Based Lettings adopted by MDDC and the majority of RSLs operating within Devon have agreed to allocate housing through this jointly operated Choice Based Lettings Scheme.
- 8.03 Registered providers of Social Housing (RPs) including (RSLs) will give preference to certain applicants where necessary and let their own properties. They will also verify the applicant making sure they are eligible for an offer as per their allocation policies.
- 8.04 DHC has been introduced across the whole of Devon. MDDC co-ordinates DHC within Mid Devon and maintains the Housing Register operating within the area. MDDC co-ordinate the allocation process and provide, where appropriate, RSLs with the nominated household following the bidding process.

- 8.05 The significant gap between the demand for housing that is affordable and the available supply of both social housing and affordable private rented accommodation continues to increase in Mid Devon. It has been significantly impacted by Welfare Reform, specifically the changes to Local Housing Allowance (LHA) and the introduction of the Overall Benefit Cap (OBC).
- 8.06 The LHA caps had a significant impact on the Council's ability to procure properties in the private rented sector both for the prevention of homelessness and the discharge of the homeless duty. The LHA caps make it unaffordable for most households who require 4+ bedrooms or more to live in Mid Devon, unless they are in receipt of Working Tax Credit and therefore exempt from the OBC.
- 8.07 Although the District is still potentially affordable for households who require one or two bedroom properties, landlords in the District typically do not tend to rent accommodation to households in receipt of benefits, and efforts to address this with landlords have had limited success to date. Also market demands mean Local landlords can set rents above LHA rates, and Housing Benefit will only make payments up to the LHA rate for a property.
- 8.08 When a household approaches the Council in housing need, the Housing Options team will try to prevent homelessness wherever possible. If this is not possible the Housing Options team will make a formal assessment against a number of criteria as prescribed in homelessness legislation, before determining whether there is a statutory duty to rehouse a homeless applicant.
- 8.09 The Council has a duty to provide suitable housing to accepted homeless households under section 193 of the Housing Act 1996. It also has a duty to prevent homelessness and to offer advice and assistance to intentionally homeless households and non-priority households.
- 8.10 This policy should enable the Council to make suitable offers of accommodation to help with the shortage of housing. The Council may offer accommodation that may not meet the expectations of an applicant, but will take into account what is available in terms of suitability for that household.
- 8.11 In making offers, the Council will consider relevant factors such as employment, health, transport, education and accommodation. When making offers the Council may need to sometimes place applicants outside the District in accordance with the policy and therefore may not meet the expectations of the applicant.

## **9.0 Devon Home Choice**

- 9.01 The introduction of DHC in February 2009 has helped with the Council's stated aim of improving access to affordable housing. The scheme was revised in 2012 to reflect the bedroom occupancy changes made in the welfare reforms.



9.02 The chart below (Fig 1) shows the number of households on the waiting list for social housing in Mid Devon between 2005 and 2015, it shows a large decrease in 2009 after the introduction of Choice Based Lettings, which cleared many old applications from the database.

9.03 Since then the Housing waiting list has increased due to the reduction of available properties in the private sector, it also appears that housing applicants have joined the scheme in order to make themselves eligible for new developments being built by RSLs.

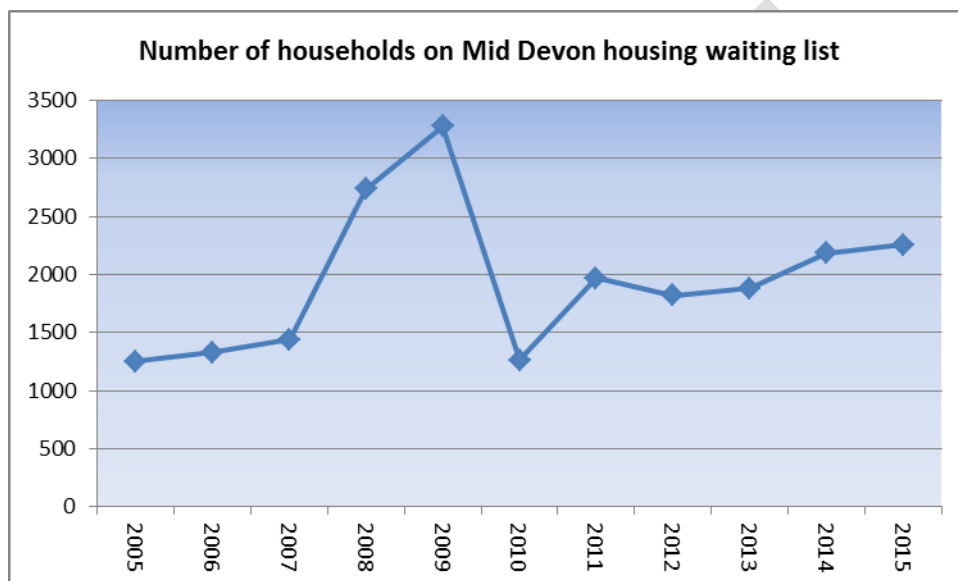


Fig 1 - Extracted from DHC (1 June 2015)

9.04 As at 1 June 2015, there were 2,236 applicants registered on Devon Home Choice within Mid Devon. Applications are assessed and put into one of five bands these being A, B, C, D, and E. The 'A' bands are those needing emergency accommodation. The 'B' band applicants have a high housing need and those in the 'E' band have no housing need.

## 10.0 Current Breakdown of the waiting list by Banding and Bedroom Need

10.01 The table below illustrates the breakdown of households within MDDC on Devon Home Choice, as of 1 June 2015, which shows over half of applicants are in band E with no housing need. It also shows that almost half of the waiting list requires a 1 bedroom property. The government's welfare reforms especially the removal of the spare bedroom subsidy has affected the numbers of households seeking to downsize.

	1	2	3	4	5	6	7	Total
Band B	107	78	8	6	6	1	2	208
Band C	62	112	87	49	3	0	0	313
Band D	391	101	22	13	2	0	0	529
Band E	554	479	178	22	1	0	0	1234
<b>Total</b>	<b>1114</b>	<b>770</b>	<b>295</b>	<b>90</b>	<b>12</b>	<b>1</b>	<b>2</b>	<b>2284</b>

Fig 2 - Extracted from DHC (10 August 2015)

10.02 In 2014-2015 we completed 58 new developments within the District, but this does not match the demand for accommodation.

10.03 The table below (Fig4) is taken from the Devon Home Choice figures on 1 June 2015. It shows the ratio of waiting list demand and the number of years it would take to meet the demand for individual property sizes through the turnover of existing stock.

10.04 This is based on the assumption that there is no future need other than the current backlog, which is clearly not the case. We know that further developments are needed to meet our demand.

10.05 This breakdown is based upon current properties being allocated via Devon Home Choice.

### 11.0 Waiting List Need, Social Stock Turnover and Demand vs. Supply from MDDC DHC 2014/15(Including new completed developments 2014/15)

Stock Size	Waiting List (DHC)		Social Stock Turnover		Demand
	Number	%	Number	%	Ratio
1 bedroom	1114	48.8	99	39.6	11.25
2 bedroom	770	33.7	113	45.2	6.81
3 bedroom	295	12.92	36	14.4	8.19
4+ bedroom	105	4.58	2	0.8	52.5
<b>Total</b>	<b>2284</b>	<b>100.0</b>	<b>250</b>	<b>100.0</b>	<b>9.14</b>

Fig 4 - Extracted from DHC (1<sup>st</sup> June 2015)

11.01 The study also found under-occupation in the social rented sector of 11.5%, suggesting that there are around 266\* social rented properties, which are under-occupied by two or more bedrooms with over 183 of these in the Council's own stock. \*(Extracted from DHC 1<sup>st</sup> June 2015 applicants requesting downsizing)

### 12.0 Analysis of 4+ Bedrooms within Mid Devon

12.01 Currently in Mid Devon we have limited supply of 4+ bedroom properties within the District. As a result the Council may have to allocate smaller properties to house larger Homeless families to whom we have a duty.

12.02 The table below shows the current stock with 4+ Bedrooms for Housing Associations and Local Authority stock with the maximum number of people allowed per property (Fig 4). The result clearly shows that there is a shortage of larger accommodation in the District.

Type	Social Sector	Bed Size	Maximum number of people	Qty	Location
House	LA	6	10	1	Tiverton
House	LA	5	10	1	Nymet Rowland
House	LA	5	10	1	Poughill
House	LA	4	10	2	Bampton
House	LA	4	10	1	Chawleigh
House	LA	4	10	1	Cullompton
House	LA	4	10	1	Down St Mary
House	LA	4	10	1	Shobrooke
House	LA	4	10	26	Tiverton
House	LA	4	10	2	Willand
House	LA	4	8	1	Ashill
House	LA	4	8	1	Kentisbeare
House	LA	4	8	1	Willand
Bungalow	LA	4	7	1	Yeoford
House	HA	4	6	1	Uffculme
House	HA	4	6	6	Cullompton
House	HA	4	6	1	Copplestone
House	HA	4	6	6	Tiverton
House	HA	4	6	1	Bradninch
House	HA	4	6	1	Lapford
House	HA	4	6	2	Silverton
House	LA	4	6	1	Crediton
Total				60	

Fig 5 - Extracted from LA & HA Stock 1 June 2015

12.03 The above table shows that within the District it is only the Council which has properties that will accommodate families larger than 6 persons. Housing Associations will consider housing larger households but this will be based upon their own adopted policies.

Over the last 5 years the Council has only allocated fifteen 4+ bedroom properties with no 4+ properties being allocated during 2014/15.

4+ Bedrooms Allocated on DHC 2010-2015									
	Bedroom Size	LA or HA	Allocated	Max Persons	Town	No of Bids	Band	Date	Local Connection
2010-2011	4 Bed	HA	1	6	Cullompton	58	B	Not Available	Yes
	4 Bed	LA	1	7	Yeoford	84	B	Not Available	Yes
	4 Bed	LA	1	10	Tiverton	74	B	Not Available	Yes
	5 Bed	No Properties	-	-	-	-	-	-	-
2011-2012	4 Bed	HA	1	6	Silverton	55	C	29/01/2012	S106
	5 Bed	No Properties	-	-	-	-	-	-	-
2012-2013	4 Bed	LA	1	8	Chawleigh	96	B	29/11/2011	Yes
	4 Bed	HA	1	6	Cullompton	58	B	12/07/2011	No
	4 Bed	HA	1	6	Cullompton	58	B	11/08/2010	Yes
	4 Bed	HA	1	6	Cullompton	23	B	28/11/2012	Yes
	4 Bed	HA	1	6	Cullompton	148	B	12/07/2012	No
	4 Bed	HA	1	6	Lapford	25	E	23/08/2011	Yes + S106
	5 Bed	No Properties	-	-	-	-	-	-	-
2013-2014	4 Bed	LA	1	7	Tiverton	32	B	22/03/2013	Yes
	4 Bed	LA	1	10	Tiverton	76	C	26/10/2010	Yes
	4 Bed	HA	1	6	Tiverton	35	C	15/04/2009	Yes
	4 Bed	HA	1	6	Uffculme	22	C	05/03/2013	Yes
	5 Bed	LA	1	9	Poughill	3	B	09/08/2013	Yes
2014-2015	4 Bed	No Properties	-	-	-	-	-	-	-
	5 Bed	No Properties	-	-	-	-	-	-	-

Fig 5 - Extracted from DHC Lets Summary 2010-2015

### 13.0 Conclusion

13.01 Within the District we have very little larger accommodation for families and as a consequence we may allocate homes which are not in the applicant's preferred area of choice. We may occasionally have to house households in 'Housing Need' out of the District on a temporary basis. We will however endeavour to meet the needs of our Housing applicant.

### 14.0 Related Documents

- a. MDDC Homelessness Strategy 2015-2018
- b. Housing Act 1996 Part vi
- c. Housing Act 1996 Part vii, as amended by the Homelessness Act 2002

### 15.0 Diversity and Equal Opportunities

15.01 Mid Devon District Council is committed to reflecting the full diversity of the community it serves and to promoting equality of opportunity for everyone. The Housing Service will tailor its services to meet the diverse needs of individuals.

## Appendix 1

The table shows the Council's current housing stock. We have a total of 3,065 properties within Mid Devon of which 22% are classed as sheltered accommodation. MDDC is the only registered provider currently providing five and six bedroom properties in the District (Fig 7).

## Appendix 2

This table shows the 1,339 Housing Association stock within the District. 32% of Housing Associations' stock is classed as sheltered accommodation (Fig 8).

## Appendix 3

This table shows the combined total stock held in the District as of April 2015. (Fig 6 & 9)  
We have a total of 4,404 properties with 25% sheltered accommodation.

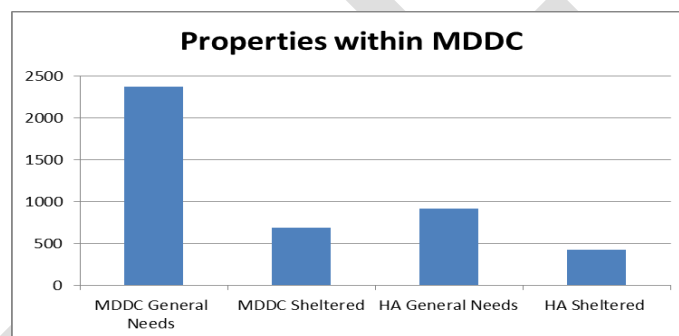


Fig 6 - Extracted from Orchard Stats & Housing Enabling Stats 1 June 2015

## Appendix 4

The table shows the total number of properties allocated during 2014/15. During this period we allocated 250 properties through Devon Home Choice. Of this total 59% was MDDC stock (Fig 10)

## Appendix 5

A summary of general needs and sheltered accommodation lets from 2010-2015 (Fig 11-15)



Appendix 2

CURRENT HOUSING ASSOCIATION PROPERTY STOCK AS OF APRIL 2015

AREA	TYPE OF ACCOMMODATION																				TOTAL		
	GENERAL NEEDS HOUSES					GENERAL NEEDS FLATS				GENERAL NEEDS BUNGALOWS			SUPPORTED ACCOMMODATION								TOTAL	General	Supported
	6BH	5BH	4BH	3BH	2BH	1BH	Bedsit	1BF	2BF	3BF	1BB	2BB	3BB	Bedsit	1BB/W	2BB/W	3BB/W	1BF/W	2BF/W	3BF			
TIVERTON TOWN			6	54	68			65	46		2	1		29	8			139	8	1	427	242	185
CULLOMPTON TOWN			11	78	70	4	5	15	42					2	4	2		83	6		322	225	97
CREDITON TOWN			41	44	4			8	14		24	3						84	1		223	138	85
Ashill																					0	0	0
Bampton				10	5			1	4												20	20	0
Black Dog																					0	0	0
Bradinch			1	9	15			2	1												28	28	0
Bow				7	2																9	9	0
Chawleigh				2	1																3	3	0
Cheriton Bishop																					0	0	0
Cheriton Fitzpaine				1								3									4	4	0
Chumleigh																					0	0	0
Collymore																					0	0	0
Coldstone			1	2	4																7	7	0
Exton																					0	0	0
Halberton				7	17			4													28	28	0
Hemlock				12	9			4													25	25	0
Hockworthy																					0	0	0
Holcombe Rogus				1																	1	1	0
Kentisbeare				4	4																8	8	0
Lapford			1	6	7																14	14	0
Morchard Road/Bishop					6																6	6	0
Morebath																					0	0	0
Newton St Cyres																1	2				3	0	3
Nymet Rowland																					0	0	0
Poughill																					0	0	0
Sandford				4	6	1															11	11	0
Sampford Peverell				4	8																12	12	0
Shillingford																					0	0	0
Shobrooke														1	1	1					3	0	3
Silverton			2	8	9	1															20	20	0
Templeton					1	1															2	2	0
Thorverton				4	2																6	6	0
Uffculme			5	24	31	8		25	2	2				14	5					116	97	19	
Wembworthy																					0	0	0
Westleigh																					0	0	0
Willand				3	4									26	5						38	7	31
Yeoford				2	1																3	3	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>27</b>	<b>283</b>	<b>314</b>	<b>19</b>	<b>5</b>	<b>124</b>	<b>109</b>	<b>2</b>	<b>26</b>	<b>7</b>	<b>0</b>	<b>29</b>	<b>51</b>	<b>16</b>	<b>5</b>	<b>306</b>	<b>15</b>	<b>1</b>	<b>1339</b>	<b>916</b>	<b>423</b>

Fig 8 - Extracted from Housing Enabling Stats 1 June 2015





**Appendix 4**

**DEVON HOME CHOICE - MDDC/SOCIAL PROPERTY LETS (1 April 2014 - 31 March 2015)**

AREA	TYPE OF ACCOMMODATION																					TOTAL			
	GENERAL NEEDS HOUSES						GENERAL NEEDS FLATS				GENERAL NEEDS BUNGALOWS				SUPPORTED ACCOMMODATION							TOTAL	General	Supported	
	6BH	5BH	4BH	3BH	2BH	1BH	Bedsit	1BF	2BF	3BF	1BB	2BB	3BB	4BB	Bedsit	1BB/W	2BB/W	3BB/W	2BHW	1BF/W	2BF/W				3BF
TIVERTON TOWN				15	16			26	18	2	5	6				1	3			5	1		98	88	10
CULLOMPTON TOWN				4	3	1	1	3	6		5	6				2	1			2			34	29	5
CREDITON TOWN				2	3	1		17	7		1							1	4	2		38	31	7	
Ash Thomas																							0	0	0
Ashill																							0	0	0
Bampton				3	2				1			1				1							8	7	1
Bickley																							0	0	0
Black Dog				1	1																		2	2	0
Bradninch			1	2	8				1		1												13	13	0
Bow				2																			2	2	0
Burlescombe																							0	0	0
Buttlerleigh																							0	0	0
Cadbury																							0	0	0
Chawleigh										1	1												2	2	0
Cheriton Bishop																1							1	0	1
Cheriton Fitzpaine										2						2							4	2	2
Chevthorne																							0	0	0
Clayhidon																							0	0	0
Colebrooke																							0	0	0
Coldridge																							0	0	0
Copplestone					1						2												3	3	0
Culmstock					1																		1	1	0
Down St Mary																							0	0	0
Eastleigh																							0	0	0
EastVillage																							0	0	0
Exbridge																							0	0	0
Halberton								1	1														2	2	0
Hemyock				1				2	1														4	4	0
Hockworthy																							0	0	0
Holcombe Rogus																							0	0	0
Kentisbeare					1																		1	1	0
Lapford																1							1	0	1
Loxbeare																							0	0	0
Morchard Road/Bishop																							1	1	0
Morebath				1																			1	1	0
Newton St Cyres					1						1					1							3	2	1
Nymet Rowland																							0	0	0
Oakford																							0	0	0
Pennymoor																							0	0	0
Poughill																							0	0	0
Sandford										1													1	1	0
Sampford Peverell				1																			1	1	0
Shillingford																							0	0	0
Shobrooke												1					1						2	1	1
Silverton			1		2							1											4	4	0
Stoodleigh																							0	0	0
Sunnymead																							0	0	0
Templeton																							0	0	0
Thorverton																				2			2	0	2
Uffculme				1	4			4	2		1	1							2			16	13	3	
Uploman																							0	0	0
Wembworthy																							0	0	0
Westcott																							0	0	0
Westleigh																							0	0	0
Willand						1						2					1						4	3	1
Yeoford				1																			1	1	0
Zeal Monachorum																							0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>34</b>	<b>44</b>	<b>3</b>	<b>1</b>	<b>53</b>	<b>37</b>	<b>2</b>	<b>20</b>	<b>19</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>10</b>	<b>0</b>	<b>1</b>	<b>12</b>	<b>3</b>	<b>0</b>	<b>250</b>	<b>215</b>	<b>35</b>

Fig 10 - Extracted from DHC Lets Summary 2010-2015

**Appendix 5**

**General Needs Allocations (Houses) 2010-2015**

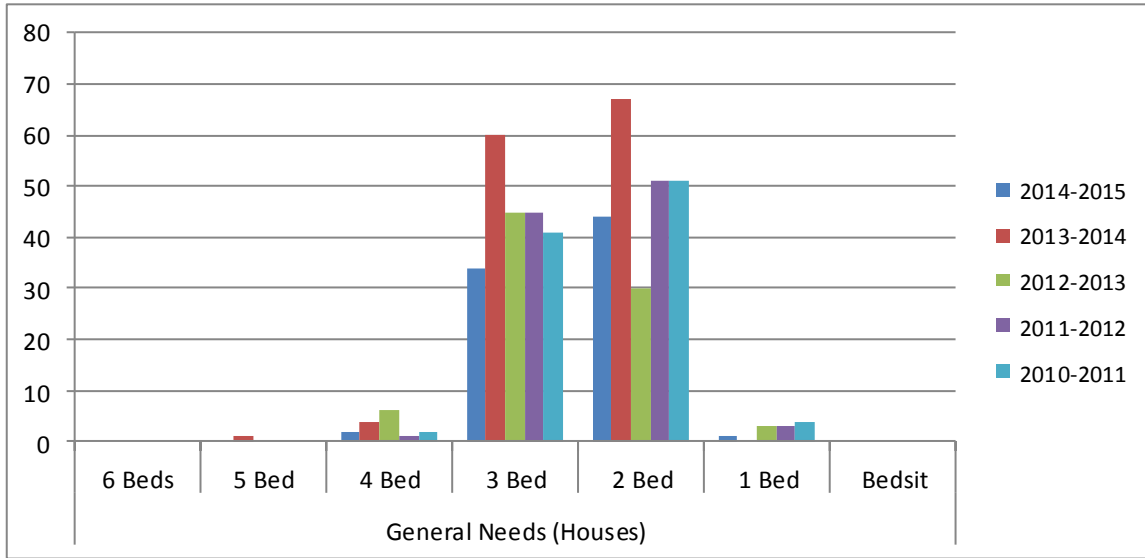


Fig 11 - Extracted from DHC Lets Summary 2010-2015

**General Needs Allocations (Flats) from 2010-2015**

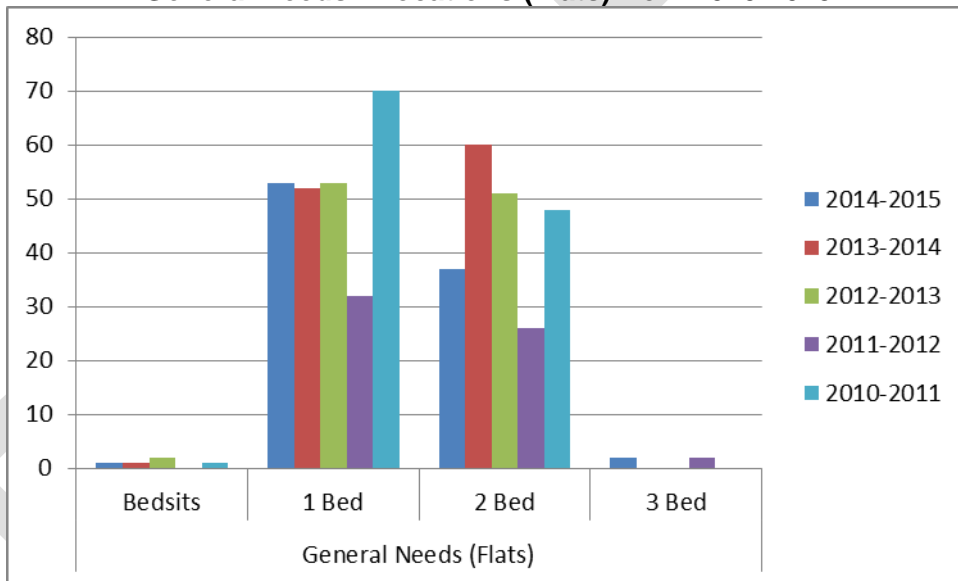


Fig 12 - Extracted from DHC (1<sup>st</sup> June 2015)

**General Needs Allocations (Bungalows) from 2010-2015**

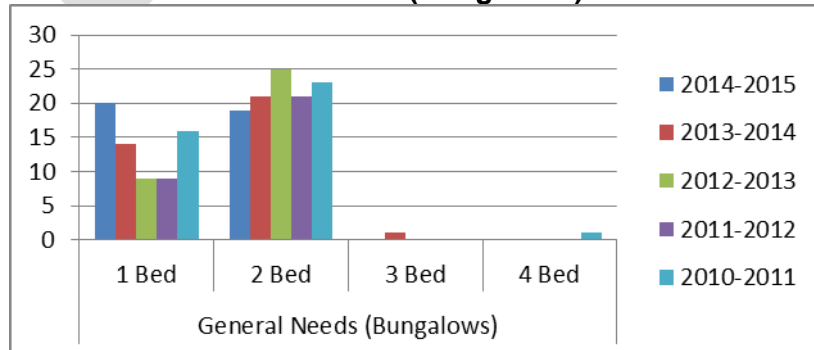


Fig 13 - Extracted from DHC Lets Summary 2010-2015

### Sheltered Allocations (Bungalows) from 2010-2015

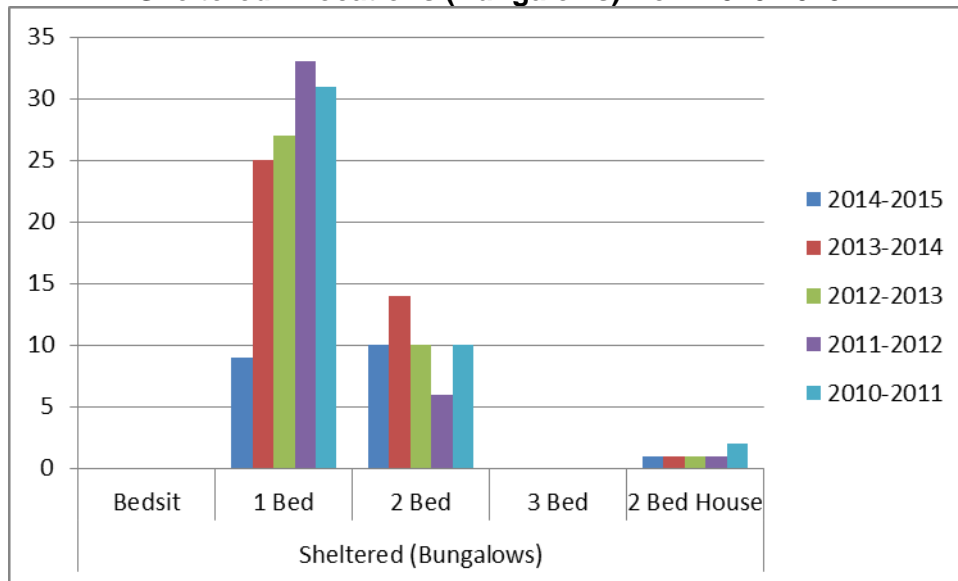


Fig 14 - Extracted from DHC Lets Summary 2010-2015

### Sheltered Allocations (Flats) from 2010-2015

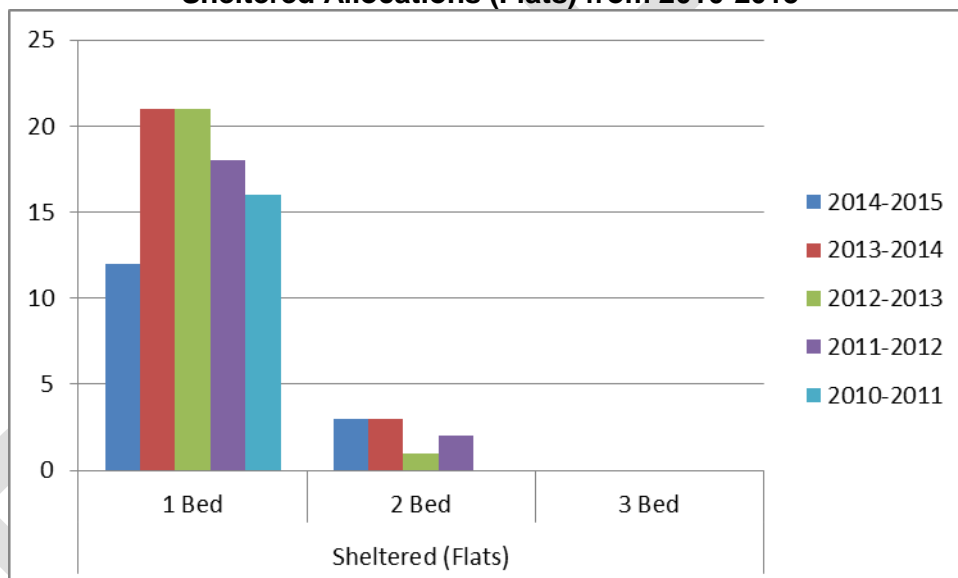


Fig 15 - Extracted from DHC Lets Summary 2010-2015

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## **VOID MANAGEMENT POLICY**

**Cabinet Member:** Cllr Ray Stanley

**Responsible Officer:** Head of Housing and Property

**Reason for Report:** To advise members of the Void Management Policy.

**RECOMMENDATION(S):** That the Cabinet recommends to Council the adoption of the Void Management Policy

**Relationship to Corporate Plan:** The Void Management Policy will be key to maintaining the councils stock within the parameters of the Decent Homes Standard.

**Financial Implications:** The financial implications will be contained within the Housing Revenue Account. It is important to prioritise financial management of the HRA to ensure the all available funds are used to the best effect.

**Legal Implications:** It will be necessary to ensure that the Void Management Policy addresses all the legal obligations the Council has as a Landlord for the housing estate.

**Risk Assessment:** The management of 3075 homes for some of our most vulnerable tenants contains many risks. These risks are managed at a service level through various risk assessment.

### **1.0 Introduction**

- 1.1 In 2014/15 works were carried out to 187 void properties, 68 of these were classified as major voids due to the extent of work involved before they could be re-let.
- 1.2 The average time to re-let a standard void in 2014/15 was 18 days against a target of 17 days, and the average void time for major voids in the same period was 50 days against a target of 45 days
- 1.3 A total of £483,490 has been spent bringing major voids up to an acceptable standard in 2014/15, an average of £7,110 per property.
- 1.4 A proportion of the total monies spent on void works each year are recharged to the vacating tenant, this is normally as a result of vandalism, abuse of the property, or failing to leave the property in a clean empty condition.
- 1.5 In order to reduce rent loss it is essential that we have a Void Management policy that covers all aspects of ending tenancies, carrying out works, through to re-letting.

1.6 One of the key factors in reducing void times and subsequent rent loss is the condition that the properties are returned to the Council in.

## 2.0 **Tenant Consultation**

2.1 The Housing 'Tenants Together' group have been consulted on this policy and their comments taken into consideration.

2.2 Attached is a copy of the Tenants Together Voids Service Review, summarising the work of the Voids Scrutiny Working Group. They have proposed the following changes to the way in which we currently manage our void stock.

2.2.1 The provision of a 'Decoration Pack' to new tenants of general needs stock to allow them to decorate upon moving in, should be stopped.

2.2.2 The provision of a 'Decoration Reward Grant' to new tenants of general needs stock that have decorated their homes within 6 months of moving in, should be stopped

2.2.3 The provision of a 'Clean and Clear Reward' to the vacating tenants that have left the property clean and clear of rubbish, should be stopped.

## 3.0 **Proposals**

3.1 The proposals from the service review have been considered by staff involved in the management of voids.

3.1.1 It was felt that item 2.2.1 could have a detrimental effect on both the letting process and the internal structure of the dwelling, taking this into consideration the 'Decoration Pack' should be retained. However it is recognised that savings need to be made and as such a new 'Decoration Pack' has been drawn up.

3.1.2 Nether the Decoration Reward Grant nor the Clean and Clear Reward add value to the void process and therefore these items have been removed from this revised Voids Policy.

## 4.0 **Implementation of the Void Management Policy**

4.1 Other than the Tenants Together recommendations this policy formalises the process already used to ensure that our void properties are let as soon as possible and to a reasonable standard.

4.2 There are no additional resource implications as a direct result of this policy.

## 5.0 **Financial Context**

- 5.1 Maintaining the Councils housing stock, including void properties, is the largest ongoing element of the Councils capital programme.
- 5.2 Within the annual budget there are sufficient monies to fund the current level of voids received each year.
- 5.3 It is envisaged that these changes to the way in which we currently work could save the Housing Revenue Account approximately £62,260 over the next 4 years.
- 5.3.1 There were 79 paint packs issued between 1<sup>st</sup> September 2014 and the 31<sup>st</sup> August 2015. Total cost £10,660. By introducing the new 'Decoration Pack' it is envisaged this cost could be reduced by 25%

Decoration Pack	Existing Cost	Proposed Cost	Envisaged Saving	Reduction
1 Bedroom Property	£117.50	£90.72	£26.78	23%
2 Bedroom Property	£132.50	£90.72	£41.78	32%
3 Bedroom Property	£142.50	£111.02	£31.48	22%
4 Bedroom Property	£152.50	£111.02	£41.48	23%

*The costs above are per property*

- 5.3.2 There were 12 decoration reward grants paid between 1st April 2015 and the 31st August 2015 (5 months). Total cost £1,275
- 5.3.3 There were 41 clean and clear payments made between the 1<sup>st</sup> April 2015 and the 31 August 2015 (5 months). Total cost £4,100

**Contact for more Information:** Mark Baglow, Building Services Manager. Tel 01884 233011 or Nick Sanderson, Head of Housing and Property. Tel 01884 234960

**Circulation of the Report:** Management Team, Councillor Ray Stanley, Cabinet Member for Housing

# **Building Services**

## **Void Management Policy – DRAFT**

**November 2015 v1.0**



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• Repairs to Void Properties	9
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## **Appendices**

• Our Standard of Repair for Empty Properties	Appendix A
• Decoration Pack	Appendix B

## **Policy Statement**

This policy is to ensure that Mid Devon District Council (MDDC) has effective procedures in place to manage its empty stock quickly and efficiently.

As the Housing Revenue Account (HRA) is funded from the income generated by the rental of its stock, the Void Management Policy focuses on the requirement to reduce the length of time a property is empty.

The policy will ensure a forward looking and strategic approach to void management that will help to:

- Minimise rent loss through reducing the length of the void period and repair costs
- Set out MDDC's Housing Service Standard of Repair for Empty Properties ensuring that all staff, contractors and tenants are aware of exactly what condition the council expects of its empty properties
- Set in place systems for monitoring the standards of void properties and customer satisfaction with their new home

The policy, together with MDDC's Housing Service Tenancy Management and Repair policies will guide staff in ensuring that tenants are aware of their repair responsibilities and end of tenancy obligations.

It should be used in conjunction with the most recent housing needs survey and the allocations policy, to ensure that the stock is well used in a way that meets local demand in a fair and equitable way.

This policy will be reviewed on a bi-annual basis to ensure that its contents reflect current legislation and the latest examples of best practice in the field.

## **Ending tenancies**

All tenants are required to give four weeks written notice terminating their tenancy which is effective from the Monday after the termination notice is received.

Tenancies always finish on a Sunday and keys must be returned to Mid Devon District Council by the time stated in the tenancy agreement.

Failure to return the keys by the time stated in the tenancy agreement will incur a charge as stated in the tenancy agreement. Where the keys are not returned at all, the cost of changing locks will be recharged to the outgoing tenant.

As part of the end of tenancy process the tenant will allow MDDC to carry out a pre-void inspection if requested.

The Council actively encourages tenants to leave the property and external areas in a clean and tidy condition as laid out in the tenancy agreement. When a valid notice of termination is received, all outgoing tenants will be reminded of their rights and responsibilities in relation to ending the tenancy. The Council will then arrange inspection of the property before the tenant moves out. This will enable the Housing Service to:-

- Agree any improvements which are eligible for compensation
- Identify any rechargeable repairs
- Identify and notify maintenance contractors of expected volumes of work to assist with forecasting and capacity planning
- Identify any factors which will be considered as part of offering the property for re-let, such as special adaptations

The outgoing tenant will be responsible for the full costs for clearing out the property and any other rechargeable repairs identified.

Any rechargeable repairs will be identified where possible during the pre-void inspection and the tenant made aware of their responsibilities regarding these. The outgoing tenant will be asked to sign the list of rechargeable repairs and this will be used as a checklist to ensure that their responsibilities have been met. The Council reserve the right to recharge the outgoing tenant for any rechargeable works that occurred after or that were not visible during, the pre-void inspection.

The tenant will also be informed by their Neighbourhood team about the status of their rent account and any sub accounts and required to make payments to clear any outstanding debt before the end of the tenancy. If the tenant is in arrears but is unable to clear them in full before the end of the tenancy, they will be required to make an affordable payment agreement to clear the debt. Failure to do so will mean that the tenant will be pursued for any monies owing through the courts. The outgoing tenant will be required to provide a forwarding address, as specified in their tenancy agreement.

Where it is suspected a property is abandoned the statutory procedures will be followed as detailed in our tenancy management procedures.

On becoming available for letting, the property will be offered to a potential new tenant with minimal delay in accordance with policies relating to the Devon Home Choice scheme and our own allocations policies.

### **Vacating Tenants**

The vacating tenants are required to fulfil the following conditions when they wish to end their tenancy:

#### **General Conditions:**

- Provide a minimum of four weeks' notice of intention to move out
- Allow staff access to pre-inspect the property following an appointment

- Allow staff to show prospective tenants to view the property before it becomes void
- Have a clear rent account
- Return all the keys to the property as stated in the tenancy agreement
- Have all utility meters read before moving out. If key meters are fitted, leave the keys in the meters with no debts
- Provide a forwarding address
- Allow access to carryout minor repairs before you vacate the property

### **Cleaning and Clearing:**

- Make sure that the garden is tidy and free of rubbish
- Remove all furniture, belongings and any rubbish from the property - including the loft, the garden, and sheds
- Leave the property in a clean condition – windows, floors, cupboards, worktops and all sanitary ware

### **Decorations / Fixtures and fittings:**

- Make sure the property is in good decorative order
- Repair any damage caused by moving fittings and fixtures
- Repair everything that has been damaged
- Agree with staff and clearly mark any items they wish to leave behind for the next incoming tenant
- Overpaint any bold and bright wall or ceiling colours with an obliterating emulsion

### **Pre-Void Inspection**

Any adaptations to the property, such as a flush-floor shower, wheelchair height kitchen cupboards and handrails etc. will be noted at this time. This information will be shared with both the Housing Options team and the Adaptations Officer, so that they are able to offer the property to an appropriate prospective tenant.

The outgoing tenant should put any queries regarding rechargeable repairs raised at the time of the pre-void inspection to the Building Services Manager via the complaints procedure.

## **Void Inspection**

As soon as the property becomes void it will be re-inspected to confirm if the former tenant has:-

- Complied with all their end of tenancy obligations

It will also enable the inspecting officer to identify any repairs that may have been missed or hidden by furniture etc during the pre-void inspection that need to be recharged.

## **Repairs to Void Properties**

The Council aims to identify and complete all necessary repairs to enable a property to be re-let as soon as possible.

All works undertaken in the property will be completed to the Void Standard (Appendix A), which has been agreed with our tenants, and to the Decent Homes Standard as laid out by the Government.

All properties will be issued with electrical and gas safety certificates in compliance with legal requirements.

To speed re-let times, repairs will be classified into two categories:-

1. Essential repairs that must be completed while the property is empty (including safety checks)
2. Non-essential or minor repairs that could be completed once the new tenant has moved into the property or prior to the outgoing tenant moving out. Any further damage to the property would be recharged back to the outgoing tenant.

The Council will ensure that properties are checked against the planned works programme to make the most cost effective use of resources. If a property falls into a geographical area where planned maintenance work is being undertaken, the property will be moved to the top of the planned maintenance list for these works to be completed as soon as possible.

Major repairs and any necessary Health and Safety works that would cause a high level of disruption to tenants or put their safety at risk, such as the removal of asbestos, and any damp or rot treatments will be completed prior to the start of the new tenancy.

Every attempt will be made to complete all repairs prior to the new tenant taking up their tenancy; however, in some circumstances minor, non-essential repairs will be undertaken once the tenancy has commenced. These repairs and the timescales for their completion will be agreed with the new tenant. In all cases, these will be charged to the voids budget.

All void properties must have had a gas and electrical check and have the necessary certificates in place before they can be deemed as ready to let. Copies of these are given to the new tenant as part of the sign up process.

### **Internal Decoration**

The Council do not decorate general needs properties.

Where the vacating tenant has left the property with bold or hard to cover colours consideration will be given to the need to apply an obliterating emulsion prior to re-letting.

The Council will provide a 'Paint Pack' (Appendix B) to the new tenant in order to help them start to decorate their new home.

The Council will undertake internal decoration if required to our sheltered housing stock before being let.

### **Building Sustainable Neighbourhoods**

All prospective tenants are provided with information about the property attributes, and local neighbourhood facilities prior to viewing.

When a prospective tenant has indicated their acceptance of a vacant property, the tenancy will commence as soon as possible after all essential repairs are completed. All tenancies start on a Monday.

All new tenants are given opportunity to feed back their satisfaction with the void management process and standard of the property when let. New tenants will be visited within the first 6 weeks of their tenancy commencing. In summary the purpose of this visit will be:-

- To welcome the tenant and give an opportunity for them to ask any questions, raise any concerns, follow up on any outstanding issues etc;
- To establish if they need any extra help setting up their home and Identify any support needs the tenant may have;
- To offer any advice about benefit that the tenant may be entitled to;
- To discuss rent payment options or delays with outstanding Housing Benefit payments
- To reinforce the terms of the tenancy agreement and the tenants' rights and responsibilities.

The sign up process and settling in visit has a significant impact on the sustainability of tenancies. The Council will ensure a range of supportive procedures and services are in place to ensure effective delivery.

## **Diversity Issues**

The Council is committed to providing a fair and equitable service to its tenants and leaseholders. Through the management of our empty properties the council aims to treat all customers fairly, and with respect and professionalism regardless of their gender, race, age, disability, religion, sexual orientation and marital status.

## **Monitoring and Customer Involvement**

Satisfaction with the Service provided will be monitored through “settling in” visits and repairs satisfaction forms. Feedback received from these surveys will be used to inform amendments to the policy and thus improve the Service provided.

## **Appendix A**

### **Our Standard of Repair for Empty Properties**

We aim to provide a high quality repairs service to all our tenants and we rely on your comments and suggestions to help us improve.

We want our new tenants to move into properties that are safe and secure, clean and in good condition.

All our empty properties will meet our statutory and contractual obligations and the government's Decent Homes Standard.

#### **Generally:**

Our properties will have:

- Clean, hygienic facilities for preparing food
- Sanitary ware that is clean, functioning and hygienic
- An efficient heating system that is safe and easy to use
- Good thermal insulation
- Modern UPVC double glazed windows
- A mains-powered smoke alarm
- A mains-powered carbon monoxide alarm (if property has gas or solid fuel heating)

#### **Decoration:**

You are responsible for all internal decorations.

#### **Safety:**

When you sign your tenancy agreement you will receive the following documents relating to your new home:

- Electrical test certificate
- Gas appliance safety certificate (if the property has a gas supply)
- Solid fuel appliance safety certificate (if fitted)

#### **Gardens:**

- If the property has a garden, all debris will be removed and grass will be 'rough cut'
- Fencing (if provided) will mark the boundaries of the property

#### **Doors:**

- External doors to the property will be secure with at least 2 sets of keys
- Security chains will be fitted to the front and rear doors



- All doors in the property will open and close easily

#### **Internal Woodwork:**

- All internal woodwork will be free from serious damage or decay
- All new woodwork will be primed ready for painting

#### **Windows and Glazing:**

- Windows that are designed to open and close will do so
- All glazing will be intact

#### **Floors and Stairs:**

- All solid floors and floor tiling will be free of cracks or other faults that may cause injury
- All floorboards will be sound and secured. (We cannot guarantee that floorboards will not have some slight movement or creaking)
- All parts of staircases will be secure and free from defects

#### **Kitchen:**

- If there is space in the kitchen, we will provide water and waste connections so that you can plumb in a washing machine. We will also provide a convenient power point below the worktop
- All kitchen units will be clean and in good condition
- Worktops will be clean and hygienic
- The kitchen sink top will be clean and in good condition
- All kitchens will have an electric cooker connection point (If the property has a gas supply, the kitchen may have a gas cooker connection as well)

#### **Bathroom and Toilet:**

- The property will have a clean, functioning bath (or shower) and a wash hand basin
- Each toilet in the property will flush properly and have a new seat fitted

#### **Mains Service:**

- The property will have an electricity supply that has been tested prior to letting and is safe
- If the property has a gas supply, all fitted appliances will have been tested for safety prior to letting

- The property will have a water stopcock that is easy to operate and in working order (we will tell you where it is when you sign your tenancy agreement)

### **Heating and Hot Water:**

The property will have space and water heating that is safe and ready to use. We will give you a manual on how to use the heating system when you sign your tenancy agreement.

- All gas appliances (where fitted) will be safe and serviced within the last 12 months
- Any solid fuel appliances (where fitted) will be safe and serviced in the last 12 months
- All electric storage heaters (where fitted) will be tested and be safe

### **Energy Efficiency:**

- All light fittings will have low energy light bulbs fitted
- Loft spaces will be insulated to current standards

### **Cleaning:**

- The property will be clean and any rubbish and unwanted items left by the previous tenant will be removed
- If the property has a working chimney, it will be swept

### **External Condition:**

- One and two storey properties will have the rainwater gutters cleared of any debris
- Chimneys, external brickwork, pointing, rendering and cladding will be checked for defects that could result in water penetration
- Front and rear paths will be safe without trip hazards
- Entrance gates and front fencing (where provided) will be sound and secure

### **Quality Control:**

If the property that you have been offered does not meet this Standard please let us know as soon as possible.

## **Appendix B**

### **Decoration Pack**

Paint Pack - 1 & 2 Bedroom Properties

Paint Pack - 3 & 4 Bedroom Properties

Colour	Type	Qty	Unit
Brilliant White	Vinyl Matt	1	5 ltr
Magnolia	Vinyl Matt	3	5 ltr
White	Gloss	1	2.5 ltr
White	Undercoat	1	2.5 lt
Brush Cleaner	-	1	1 ltr
Brush	25mm	1	item
Brush	50mm	1	item
Brush	75mm	1	item
Roller + Tray	Plastic	2	item
Sandpaper	Sheets	1	Pack 5
Filler	Pack	1	Pack
Dust sheet	4m x 3m	1	item
Filling knife	50mm	1	item

Colour	Type	Qty	Unit
Brilliant White	Vinyl Matt	2	5 ltr
Magnolia	Vinyl Matt	4	5 ltr
White	Gloss	1	2.5 ltr
White	Undercoat	1	2.5 lt
Brush Cleaner	-	1	1 ltr
Brush	25mm	1	item
Brush	50mm	1	item
Brush	75mm	1	item
Roller + Tray	Plastic	2	item
Sandpaper	Sheets	1	Pack 5
Filler	Pack	1	Pack
Dust sheet	4m x 3m	1	item
Filling knife	50mm	1	item

## Tenants Together Voids Service Review

### A Briefing Paper Summarising the Work of the Voids Scrutiny Working Group

#### 1.0 Introduction

- 1.1 The Regulatory Framework clearly states that tenants should have opportunities to shape service delivery and to hold Councillors to account. To achieve this, stock holding local authorities are expected to engage meaningfully with their tenants and to offer them opportunities to mould the tailoring of services to shape local priorities. In particular, the Council, as a landlord, is expected to give tenants an opportunity to scrutinise performance, identify areas for improvement and influence future delivery.

## **2.0 Reason for the review**

- 2.1 The Voids Service was selected for scrutiny review by Tenants Together as we are striving to improve performance in this area. Whilst performance is improving, it is still under performing against our annual target. It is important that properties are re-let on a timely basis to maximise income for the Housing Service. Failure to address this issue will have an impact on the Housing Revenue account (HRA).

## **3.0 Who we are**

- 3.1 We are a group of tenants, called Tenants Together, who are working closely with the Mid Devon District Council's Housing Services.
- 3.2 We take in depth look at various services provided by the Housing Service in the running of its homes and services.
- 3.3 We investigate our chosen topics and report recommendations to the Decent & Affordable Homes Policy and Development Group (D&AH PDG).
- 3.4 The Tenants Together members agreed to undertake a service review on voids and set up a Scrutiny Working Group. The members involved in undertaking this service review were:
  - Patricia Cowie
  - Trudy Saunders

## **4.0 The scope of the review**

- 4.1 The report details the findings of the Voids Service Review Working Group. The subject was chosen by the Tenants Together in partnership with the landlord.
- 4.2 This is a tenant-led project with the aim of reviewing the current performance and quality of the voids process and making recommendations for improvements.
- 4.3 The Voids Service Review Working Group produced an Action Plan set out in Appendix A.
- 4.4 The Voids Service Review Group has assessed data and information provided including:
  - Reviewing our policies, procedures and literature relating to our voids
  - Interviewing Mark Baglow, Patrick Hyde, Michael Parker, Sian Sandy, Tanya Webber and the DLO's Voids Team
  - Comparing our procedure with other landlords and visited North Devon Homes and East Devon District Council to investigate how they undertake their voids process
  - Viewing a void property
  - Accompanying a Tenant Inspector for Voids on a void inspection
  - Speaking with tenants who had recently taken a tenancy with us

## **5.0 Overview of Scrutiny Findings and Recommendations**

The Scrutiny Working Group's Findings	The Scrutiny Working Group's Recommendations
1.1 17 day target – already a tight turnaround this includes a possible wait of 7 days for asbestos check and a gas check.	<p>Leave target as it is.</p> <p>Management response: The Cabinet Member wishes to reserve the right to reduce the target in the future, if necessary</p>
1.2 Properties not visited sometimes for several years. The risk of tenants feeling they can adapt properties as they wish.	<p>Tenancy home checks key to stopping this. Employ someone just for this role, saving money on voids. Recruit more Tenant Reps for all areas who could help.</p> <p>Management response: It is unlikely that one person would have the capacity to visit every single property. It is agreed that Tenancy Home Checks are important</p>
1.3 Paint Packs – cost £58.50 + £52.00 per decoration essentials + paint £10.50 £5.25. This is not having a positive impact on condition of voids returned. Many tenants not having the appropriate skills required to paint to government standard.	<p>Stop this system. Employ apprentices to paint all properties that require it.</p> <p>Management response: The Decent &amp; Affordable Homes PDG (PDG) will be asked to make a decision on this as part of the discussion relating to the new policy on void management. Managers feel that paint packs can offer value for money because it is cheaper than paying someone to paint the property. Apprentices still need supervision and training and there is an issue about whether or not it would be appropriate to employ apprentices to do this type of work. Paint packs can also be useful if there is a hard to let property.</p>
1.4 Clean & Clear Reward £100 per property. Nothing to suggest this has a positive outcome of void properties returned. This requirement is also part of the Tenancy Agreement.	<p>Stop this system or reinforce inspection process. If a property has obtained a clean &amp; clear reward it shouldn't need a paint pack etc.</p> <p>Management response: The PDG will be asked to discuss this.</p>
1.5 Decoration Grant (internal) – given to tenants after they have painted £75 – 1 bed, £100 – 2 bed, £150 – 3 bed.	<p>Scrap this system. Tenants are currently being given money to decorate their properties and this is already a requirement in their tenancy agreement.</p> <p>Management response: The PDG will be asked to discuss this.</p>
<p>1.6 Voids Managements Policy out of date. We took a thorough look at this policy and matched it against interviews of staff for best practice.</p> <p>Areas highlighted:</p> <p>A further £20 will be offered if.....</p> <p>Additional works to hard to let properties.</p>	<p>Update as per recommendations below.</p> <p>This doesn't happen (MB).</p> <p>This doesn't happen.</p> <p>Management response: A new policy has been drafted and this is to be presented to the PDG.</p>

<p>1.7 Voids Policy - A mains powered Carbon Monoxide alarm</p> <p>Decorating.</p> <p>Heating &amp; Hot Water.</p>	<p>This should read 'or battery'.</p> <p>Update this if systems are scrapped.</p> <p>The property will have space and water heating that is safe and ready to use. This does not make sense.</p> <p><b>Management response: A new policy has been drafted and this is to be presented to the PDG</b></p>
<p>1.8 Our Standard of Repair for Empty Properties leaflet.</p> <p>Standard was developed with the help of Council tenants on the Repairs &amp; Maintenance focus group. This is now out of date.</p> <p>Your comments.</p> <p>Whole leaflet out of date.</p> <p>Ensure tenants know legalities around tenancy.</p>	<p>Out of date – update as below. Make more user friendly.</p> <p>Review the standard.</p> <p>Not user friendly or very informative.</p> <p>Update as necessary.</p> <p>Decent Home standard.</p> <p><b>Management response: Agreed. The leaflet needs updating.</b></p>
<p>1.9 Where are materials sourced from? Are we getting best value?</p>	<p>Look into this further to get a better deal. Possibly join the Devon Wide consortium like East Devon District Council are part of.</p> <p><b>Management response: we take great care to achieve good value for money in relation to procurement and negotiate directly with manufacturers, in many cases. Therefore, it is felt that there is little to be gained by joining a procurement club. The Cabinet Member has suggested procurement as a topic for a future service review.</b></p>
<p>1.10 When a prospective tenant applies on Devon Home Choice to live in Mid Devon the property is given to them subject to references being satisfactory. If a prospective tenant is privately renting - they would have to give at least four weeks notice - this can mean that they are paying on two properties.</p>	<p>When a person applies to become a Mid Devon tenant references should be taken immediately. This will also help to eliminate tenancy fraud.</p> <p><b>Management response: The Council receives approximately 20 requests for rehousing each week. We need to limit the work associated with registering these cases. All cases in Band B are visited and their circumstances verified. Furthermore, there are approximately 700 cases in Band D most of whom are unlikely to be rehoused. We need to focus on those who are rehoused.</b></p>
<p>1.11 Tenancies can be ended online with other housing providers – after keys have been returned.</p>	<p>Now that we have a new system can this be done in Mid Devon.</p> <p><b>Management response: the Council insist on notice of 4 weeks, in all cases. We can look at</b></p>

	whether or not this is feasible but there may be issues in terms of legality and also compatibility on our system.
1.12 New tenant questionnaire – not user friendly. Doesn't ask key questions.	Please refer to NDH questionnaire – Appendix C. Offer the forms in other formats  Management response: the questionnaire needs updating and we will review it, with reference to the NDH document, as an example of good practice.

## 2 Conclusion

The TT Members involved in this review would like to thank the housing staff and tenants who gave their time to assist them in this review.

**Contact for more information:**  
Leader)

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**Mid Devon District Council**

**Housing Options**

**Activation of the Severe Weather Emergency Protocol (SWEP) and Extended Winter Protocol**

Policy Number: HSG 1

**September 2015**

## Version Control Sheet

**Title: Activation of the Severe Weather Emergency Protocol (SWEP) and Extended Winter Protocol – Housing Options**

**Purpose:** To review the provisions available to Homeless applicants within Mid Devon District during the winter months.

**Owner: Housing Options Manager**  
[mparker@middevon.gov.uk](mailto:mparker@middevon.gov.uk)

Telephone number 01884 234906

**Date: September 2015**

**Version Number: v1.1**

**Status: DRAFT Policy**

**Review Frequency: Every 2 years or sooner if required and in accordance with changes in legislation, case law or other joint partnership working.**

**Next review date: September 2017**

**Consultation This document was sent out for consultation to the following:**

Management Team  
Cabinet Member  
PDG Decent and affordable Homes

## Document History

This document obtained the following approvals.

Title	Date	Version Approved
Head of Service		
Management Team		
PDG Decent and Affordable Home		
Cabinet		
Council		
Audit	09/10/2015	0.1

## 1.0 Background

- 1.1 The Devon and Cornwall Rough Sleeper Partnership (DCRSP) has been operational since 2011. Its membership is made up of Local Authorities, Street Outreach Providers, Homeless Link and other voluntary organisations providing services to rough sleepers throughout Devon and Cornwall.
- 1.2 The aim of the group is to provide a co-ordinated service to rough sleepers who migrate through the two counties ensuring that they are supported in a positive and appropriate way.
- 1.3 In November 2012 a young women aged 21 who was sleeping rough in Exeter died when a tree fell on her tent during a storm. Two men, aged 27 and 35, were also injured in the incident.
- 1.4 These tragic events led to the DCRSP developing the Activation of the Severe Weather Emergency Protocol (SWEP) and Extended Winter Provision incorporating No Second Night Out (NSNO) reconnection principles. The Devon and Cornwall Housing Options Partnership (DCHOP) have now drafted a briefing paper to help prevent future incidents.

## 2.0 Introduction

- 2.1 Members of the DCHOP recognise that local areas should have adequate provision to prevent rough sleeping at any time of the year, however, the winter period often presents greatest risks to people's health. The winter period also provides increased opportunities to engage with entrenched rough sleepers and other hard-to-reach groups, as they may be more likely to accept support at this time of the year. This protocol therefore has two aims:
  - I. To ensure that no one dies on the streets due to extreme cold or severe weather
  - II. To ensure that every effort is made to engage individuals with support services during the winter months.
- 2.2 There is no strict definition of what constitutes severe weather, but Local Housing Authorities should proactively react to any weather that could increase the risk of serious harm to people sleeping rough and put measures in place to minimise this. This includes extreme cold, wind and rain. It is important not to presume when, or in what form, severe weather will occur. A common sense approach should be taken.
- 2.3 The intention of this protocol is that Local Housing Authorities across Devon and Cornwall will standardise the system for activation of the SWEP and extended winter provision. It is not intended to affect the type of accommodation provided by each local area.

### **3.0 When should this protocol be activated?**

- 3.1 This protocol will be activated during the winter months when the Met Office issues a RED warning for severe weather or extreme cold.

### **4.0 Who should receive assistance?**

- 4.1 SWEP and the extended winter provision will operate outside the usual eligibility and entitlement frameworks that govern access to housing. Assistance should be applied to all those who may otherwise be excluded from services; people with no recourse to public funds, people who have previously been banned and those with no local connection. Targeting of particular individuals should be on the basis of need and not on-going housing entitlement and, where possible, authorities should work closely with outreach teams to identify and target those who are known to be rough sleeping.
- 4.2 Where individuals have not been verified by outreach teams, all attempts should be made to confirm homelessness. Only once a non-priority decision has been made, or a judgement that this decision is likely to be made, should accommodation options be considered under SWEP.

### **5.0 Reconnection consideration**

- 5.1 For clients who are, or likely to be, considered as non-priority, the Devon and Cornwall NSNO reconnection principles could be invoked.
- 5.2 The reconnection principles state that the purpose of reconnection is to allow rough sleepers, particularly new arrivals, to return in a planned way to an area where they have accommodation, support networks and some other connection in order to provide the best chance for moving away from a street lifestyle to a more settled life.
- 5.3 It will not be appropriate to reconnect every rough sleeper or single homeless person with out-of-area connections. An individual not having a local connection with the area where they present should not be an obstacle to being assessed and offered advice and assistance which may include support with a referral to services in their local area. Where a local housing authority has accepted a duty to secure accommodation for a rough sleeper or single homeless person under Part 7 of the Housing Act 1996, *reconnections principles should not be applied*.
- 5.4 As part of a range of measures in place to tackle rough sleeping, reconnection plays an important role in reducing rough sleeping and it helps to:
- I. Prevent people rough sleeping at an early stage from becoming entrenched.
  - II. Enable people to move away from the street through accessing accommodation and support in a known area.
  - III. Ensure agencies provide a coordinated multi agency approach to support.

IV. Ensure that there are enough resources to meet local need.

5.5 When considering reconnection, SWEP service providers, in conjunction with outreach teams as appropriate, will undertake to follow the Devon and Cornwall reconnection principles as set out below:

- I. To identify new rough sleepers and reconnect rapidly before individuals become entrenched in a street lifestyle.
- II. To ensure that appropriate accommodation and support is arranged prior to the reconnection.
- III. To raise awareness of the difficulties of remaining on the streets in an area where they do not have support in place.
- IV. To challenge services in the area people are connected with, to take responsibility for supporting them.
- V. Reconnection can include a wide range of interventions including reconnections to family, friends, supported accommodation projects, LA temporary accommodation, tied work with accommodation, therapeutic communities, detox or rehab programs.
- VI. Reconnection can be national or international destinations.
- VII. Reconnection involves building an offer for each individual that is credible and realistic, based on assessment and includes the support required to ensure that the individual will not have to sleep rough.
- VIII. In some cases people will refuse the offer of reconnection and a multi-agency approach will need to take place to ensure the offer is reiterated. It may need to be reviewed at a later point if circumstances change.
- IX. If an individual cannot return due to a threat in the area they have left, which is evidenced through contact with the police or other agencies in that area, then the area where the individual is presenting should provide support and accommodation.

## 6.0 People refusing assistance

6.1 Services often report difficulties in persuading some individuals to access accommodation. These people should always be provided with information about health risks associated with severe weather, which are increased if they are using substances. Continued monitoring and support to rough sleepers who refuse to accept shelter could be provided by outreach teams, with frequent visits, offer of provisions and information about services. Individuals can be encouraged to access SWEP facilities, even if they chose not to sleep in the shelter – however priority will be given to those clients who are accessing services. In extreme weather or cold circumstances and continued refusal of accommodation, it may be appropriate to consider a rough sleeper's mental capacity in conjunction with the Police and other Statutory Agencies.

## 7.0 Definitions

Winter months - 1 November to 31 March

Extreme cold - The Met office has forecast that the temperature will be at zero or below for 3 consecutive nights

Severe weather - The Met Office issues a RED warning for the local area in relation to rain, snow or wind. However, Local Authorities may wish to activate this protocol when there are AMBER warnings.

## 8.0 Recent Statistics:

8.1 In 2014 a total of 143 local rough sleepers were included in the return to Homeless Link, with 103 in Devon and 40 in Cornwall. This had increased by 4.4%, from a total in 2013 of 137, with 60 in Devon and 77 in Cornwall. The increase in Devon is particularly significant at 71.7%, whereas in Cornwall there has been a decrease of almost 50%.

8.2 The breakdown of counted rough sleepers by LA area for 2010 – 2014 is shown in Figure 1 below.

Area	2010	2011	2012	2013	2014
Cornwall	80	88	50	77	40
East Devon	3	9	5	4	6
Exeter	21	29	30	23	34
Mid Devon	0	5	3	1	4
North Devon	12	16	11	7	11
Plymouth	9	18	10	9	14
South Hams	5	6	7	8	7
Teignbridge	3	8	4	0	4
Torbay	6	4	6	5	16
Torridge	10	4	4	3	4
West Devon	3	3	2	0	3
<b>D &amp; C Total</b>	<b>152</b>	<b>190</b>	<b>132</b>	<b>137</b>	<b>143</b>
<b>National total</b>	<b>1768</b>	<b>2181</b>	<b>2309</b>	<b>2414</b>	<b>2744</b>

8.3 This report has been compiled from data gathered from the rough sleeper count, using the HRIA (housing risk impact assessment) tool, which is now in use by the Housing Options teams and partners across the Devon district council areas, for individuals with complex needs.

8.4 More information on Devon and Cornwall Rough Sleeping Statistics can be obtained from the Housing Options Manager at Mid Devon District Council.

# CABINET

17<sup>th</sup> December 2015

## Council Tax Reduction Scheme 2016/17

**Cabinet Member:** Cllr Peter Hare-Scott  
**Responsible Officer:** Benefits Manager & Revenues Manager.

### Reason for Report:

Council Tax Reduction is a local scheme for working age customers. Section 13A of the Local Government Finance Act 1992, requires the Council to approve a council tax reduction scheme by 31 January each year. No changes are proposed from the existing scheme.

### RECOMMENDATIONS:

1. The Council Tax Reduction Scheme for working age customers is approved for 2016/17.
2. The Council's revised Council Tax Reduction, Section 13A policy, enclosed in Appendix 1 is approved for 2016/17. ( Within the Policy, the Council's Section 151 Officer has delegated authority to take into account any further changes in law, government guidance or policy)
3. That Mid Devon's Penalty policy (Appendix1) is noted and adopted.
4. That the criteria contained in the Council Tax Reduction (CTR) scheme for the forthcoming year 2016/17 will remain the same as the previous financial year 2015/16. Future DWP uprating of applicable amounts for CTR claimants and DCLG Non-dependant deduction requirement regulations will be amended in line with our scheme once the regulations are in place.

**Relationship to Corporate Plan:** This report is in line with the Council's Corporate Plan objectives

**Financial Implications:** The estimated cost of the scheme for 2016/17 is estimated to be £465K based on 2015/16 criteria. The cost has reduced from previous years due to a drop in the number of claimants

**Legal Implications:** Section 13A of the Local Government Finance Act 1992, as amended by the Local Government Finance Act 2012, requires the Council to approve a council tax reduction scheme by 31 January each year.

## **Risk Assessment:**

### **1. Introduction**

- 1.1 Council Tax Reduction (CTR) (also known as Council Tax Support) was Introduced on 1 April 2013 and replaced Council Tax Benefit, which was Previously fully funded by Department for Work and Pensions.
- 1.2 CTR is a local reduction scheme. The scheme for Working-age customers (those below the age to claim State Pension Credit) is set out in our CTR Scheme Policy. The requirement to have a policy is within S13A and Schedule 1a of the Local Government Finance Act 1992.
- 1.3 The scheme for pension-age customers is a national scheme and is prescribed within Government legislation. Pensioners are protected to receive the same level of support they received under the DWP Council Tax Benefit Scheme up to 31 March 2013.
- 1.4 When the Council Tax Reduction scheme (CTR) was introduced an in depth Equality Impact Assessment was carried out by the Benefits Manager and was included with the original CTR report to members. Mid Devon does not intend to change its CTR scheme for the forthcoming financial year 2016/17.
- 1.5 Prior to making any recommendations which would propose changes to the current CTR scheme, a full and detailed Equality Impact Assessment will need to be carried out during the year 2016/17.
- 1.6 At the end of the current financial year 2015/16 the Revenues Manager will prepare a report for the Head of Finance on Council Tax and Business Rate collection for 2015/16 which will include up to date information regarding the effect of the current CTR scheme on Council Tax collection since its introduction.

### **2. Current Scheme**

- 2.1 Mid Devon, as part of a Devon-wide group agreed that our scheme for working age customers would contain the following criteria:
  - Everyone should pay something so our claimants will be required to pay a percentage of their Council Tax liability. In Mid Devon we set this minimum at 20%.
  - We would limit the amount of Council tax support paid out to a Band D charge.
  - We would reduce the savings limit from £16,000 to £8,000.
  - We would cease Second Adult Rebate.
  - We recognise some of the community would need additional support and after consultation we introduced a discretionary exceptional hardship policy to help those struggling to pay.



2.2 The number of CTR claims has reduced due to improving employment levels and changes to pension age and the overall impact of the CTR scheme.

Year	Pensioner claims	Working Age claims	Total Amount CTB / CTR
2013/14 (31st Mar 2014)	2768	2429	4,325,741
2014/15 ( 28th Sept 2014)	2703	2340	4,210,917
2015/16 ( 5thOct 2015)	2600	2200	4,100,000
2016/17 Estimated	2600	2200	4, 074,260

2.3 Unlike some Local authority schemes to date we have received no legal challenges to our scheme or appeals

2.4 As the number of CTR claims has reduced during 2015/16 the estimated Band D equivalents have remained constant for the last year therefore will can use 2495 band D Equivalents for 2016/17.

### 3. Estimated cost of the Council Tax Reduction Scheme (CTR)

3.1 Mid Devon's CTR scheme for 2016/17, is estimated to cost in the region of £465k based on the existing schemes criteria.

3.2 The cost of the CTR scheme must be reflected in the Tax Base calculation and the cost of the CTR scheme equated to 2495 band D equivalents for the 2015/16 year

3.3 To reflect the fact that CTR has levelled off a CTR claims figure of 2,495 Band D equivalents has been applied for 2016/17.The total Band D equivalents for the other precepting authorities will be calculated proportionally.

3.4 While we continue to assess Housing Benefit the administration of CTR is kept to a minimum. As working age claimants become Universal Credit claimants the numbers of Housing Benefit claims administered by the Benefit team has reduced therefore next year we may need to consider simplifying our scheme further.

### 4. Conclusion

4.1 The Devon Framework which includes officers from all Devon authorities (including the Unitaries, Police and Fire) agreed they would be reluctant to make changes to the scheme until 2017/18 for the following reasons

- The scheme has only been running for 2 years therefore customers should be given longer to adjust to the new rules
- The Government review in October 2015 is taking place and changes may be applied by the Government to the local schemes from 2017/18.
- Changing schemes may require further reduction in entitlement which could impact vulnerable groups and as a result transitional protection

could have to be built in to reduce any equality impacts. This would add to CTR expenditure.

- This will provide minimal disruption for the council and claimants, creates no additional administrative costs and involves no additional risk

Contact for more information: John Chumbley, Revenues Manager 01884 234301  
Dawn Harris, Benefits Manager 01884 234372

Background Papers: CTB1 and supporting documentation

Circulation of Report: Cabinet member for Finance  
Councillor Peter Hare-Scott.

**Council Tax and Housing Benefit Civil Penalties Policy  
(Failure to notify or supply information)**

**1 Introduction**

- 1.1 Failure to notify a change of circumstances or provide information for Council tax billing or Housing Benefit purposes are an offence. The offence is committed if the customer fails to notify us of a change affecting their liability to pay Council Tax within 21 days of the change occurring or if they fail to notify us of a change affecting their entitlement to Housing Benefit within one calendar month.
- 1.2 For practical purposes the Council will not impose a penalty if the customer notifies us, or provides the requested information, within one calendar month or both Housing Benefit and Council tax. There is currently no penalty scheme for Business Rates.
- 1.3 During the first year of operation the additional penalty should only be imposed after discussion and approval from either the Revenues or the Benefits Manager.

**2 Council Tax penalties**

- 2.1 The law allows Councils to impose a £70 penalty to any person who;
- 2.2 Fails to notify the council that an exemption on a dwelling should have ended
- 2.3 Fails to notify the council that a discount (including single person discount and Local Council Tax Support) should have ended
- 2.4 Fails to notify the council of a change of address or fails to notify the council of a change in the liable party.
- 2.5 Fails to provide information requested to identify liability.
- 2.6 Fails to provide information requested after a liability order has been obtained

Where a penalty has already been imposed on their Council Tax and a further request to supply the same information is made, a further penalty of £280 may be imposed for each subsequent failure, provided the information is in the debtor's possession. The authority requests him to supply it and it falls within a prescribed description of information.

An example of when a further penalty may apply would be a large landlord or letting agent who continually fails to tell us about a new tenant moving in to their property.

### 3 Housing Benefit (Council Tax Benefit) penalties

- 3.1 A Civil Penalty can be imposed on Customers who receives an overpayment of Housing Benefit (or Council Tax Benefit) caused by either;
- 3.2 Negligently making incorrect statements, or Fails without reasonable excuse to provide information or disclose changes in their circumstances
- 3.3 A civil penalty of £50 can be added to the amount of an overpayment of benefit if the overpayment (after underlying entitlement) is more than £65 and where the claimant is viewed as being at fault.

For the purposes of this policy a penalty will be considered if the overpayment is more than £100

- 3.4 A civil penalty cannot be applied where the claimant has, in respect of the overpayment, been charged with an offence, been cautioned or been subject to a penalty as an alternative to prosecution under section 115A of the Social Security Administration Act 1992. (Fraud cases)
- 3.5 A penalty applies to overpayments wholly arising **on or after 1 October 2012**. Where there has been an overpayment of Housing benefit of more than £100 (after underlying entitlement)
- 3.6 East Devon and Teignbridge have already introduced Penalties for Council tax charge payers Housing Benefit and CTR claimants where they have failed to notify the Local Authority of the change within the statutory time limit.
- 3.7 The adoption of the Council Tax and Housing Benefit Civil Penalties Policy in this appendix brings Mid Devon into line with other Devon Authorities and the Revenue raised from imposing Penalties will be retained wholly by Mid Devon.

### 4 Appeals

- 4.1 If a customer disagrees with the imposition of a Council Tax penalty they may discuss it with the Council. They do however have the right to appeal directly to the Valuation Tribunal. They have two months in which to appeal after a penalty is imposed.
- 4.2 If a penalty is imposed, we must advise the customer why we have applied a penalty and provide them with information about how to appeal and the date by which any appeal should be made. If the taxpayer appeals, recovery of the penalty should be suspended until the appeal is decided.
- 4.3 Housing Benefit penalties may be appealed in the same way as any benefit decision, and with the same times scales as the Housing or Council Tax benefit appeal, with appeals being dealt with by the reconsideration process or the Tribunal Service.

## **5. Exclusions**

- 5.1 It is the Council's policy to exclude taxpayers with mitigating family/personal reasons e.g. death or illness, from the imposition of penalties.
- 5.2 Council Tax payers or benefit recipients who are severely mentally- impaired are also excluded from the penalty scheme.
- 5.3 Exclusion from a penalty should also be considered in cases where:  
The customer or their partner:-
  - 5.3.1 Has a significant degree of physical or mental infirmity, such as a terminal illness, severe clinical depression, hearing/sight/speech problems, learning difficulties or frailty due to old age.
  - 5.3.2 Has made a voluntary disclosure of the alleged offence before the Council had any suspicions regarding the validity of their entitlement to a Council Tax discount or exemption, Local Council Tax Support Reduction Scheme or their Housing Benefit entitlement.
  - 5.3.3 Could be dealt with more effectively without redress to a penalty, for example due to age or immaturity, although youth in itself is not a good enough reason not to instigate proceedings.
- 5.4 All identified exclusion cases should be verified by the Benefit Manager or the Revenues Manager

## **6. Application of the penalty.**

- 6.1 The Council Tax bill clearly shows that we have awarded discounts, exemptions and or Local Council Tax Support. It makes clear that the taxpayer must tell us straight away about any change in their circumstances that could affect their bill or a penalty could be imposed.
- 6.2 The Benefit decision letter also clearly states that failure to advise the Council of changes in circumstance that may affect their entitlement to Housing Benefit may result in an overpayment and the imposition of a penalty.
- 6.3 A Council Tax penalty will be collected by applying the penalty to the Council Tax account for collection via the normal billing process.
- 6.4 A Housing Benefit Penalty will be applied to the claim by a manual adjustment and recovered from ongoing benefit. A manual adjustment sheet will be completed and approved by the Benefit Manager.
- 6.5 A letter must be sent in all cases advising of the application of the penalty and the reason.
- 6.6 Where the penalty relates to an overpayment no penalty will be applied until one month after the notice of the overpayment has been issued. This is

because the overpayment may fall below the £65 threshold when underlying entitlement has been applied.

## **7. Awareness**

- 7.1 Effective publicity of this policy will ensure customers are aware of their responsibilities.
- 7.2 By adopting this policy we are sending a clear message our claimants and chargepayers that failure to notify the Local Authority of changes in circumstances will result in the issue of a penalty thereby acting as a deterrent to claim fraudulently.

## **8 Relevant Legislation**

*Section 14(2) of the Local Government Finance Act 1992*

*Regulation 12 & 13 of the Council Tax reduction schemes (Detection of Fraud and Enforcement) (England) 2013 SI 2013/501*

**Version 1. November 2015**

# CABINET

17th December 2015

## Tax Base Calculation 2016/17

**Cabinet Member:** Cllr Peter Hare-Scott  
**Responsible Officer:** Revenues Manager

**Reason for Report:** This paper details the statutory calculations necessary to determine the Tax Base for the Council Tax. The calculations made follow a formula laid down in Regulations.

### RECOMMENDATIONS:

1. That the calculation of the Council's Tax Base for 2016/17 be approved in accordance with The Local Authorities (Calculation of Tax Base) (England) Regulations 2012 at **27,507.03** see Appendix 1

### Relationship to Corporate Plan:

1. This report sets out how the Tax Base is calculated for 2016/17. This calculation is then used as a basis to set the Council's budget for the forthcoming year.
2. This report is in line with the Council's Corporate Plan objectives.

**Financial Implications:** Mid Devon District Council is a Statutory Billing Authority and must set its Council tax each year. If it were not to set a Council Tax then the Authority and all Precepting authorities would be unable to raise money to pay for all the services they provide.

**Legal Implications:** This is a statutory function and is a legal requirement. The Council must now set its budget annually using Council Tax information as at 30<sup>th</sup> November each year in accordance with The Local Authorities(Calculation of Council Tax Base)(England) Regulations 2012 calculating the relevant amount by applying the formula set out in the above regulations.

**Risk Assessment:** If the Council fails to carry this duty out then the Council Tax cannot legally be set. In accordance with the LGF Act 2012 above and SI 2914 of 2012 The Local Authorities(Calculation of Council Tax Base)(England) Regulations 2012, The Council Tax Base calculation includes a deduction for the CTR scheme within its Tax Base calculation.

The calculation shows the estimated annual cost of the CTR scheme, shown as the number of Band D equivalents. For the 2016/17 year this is estimated as 2,495 Band D equivalent properties.

### **The Collection Rate calculation (A)**

It is necessary to estimate a 'collection rate', which is the proportion of Council Tax due that will actually be paid. It is recommended that a collection rate of 98.0% be estimated for the year 2016/17, which is consistent with previous years.

Any variation from the collection rate of 98% is pooled in a collection fund, which is distributed in the next financial year to all precepting authorities.

### **Calculation of the relevant amount (B)**

#### *Number of Properties per Valuation Band*

The starting point will be the total number of properties within Mid Devon set out in the Valuation List.

#### ***Less Exemptions***

Properties are exempt from Council Tax under certain circumstances. The calculated tax base uses the information currently held in deciding the level of exempt properties that are likely to apply for 2016/17.

#### ***Add Appeals, new properties and deletions from the Valuation List***

The Valuation Officer has dealt with the vast majority of Council Tax appeals to date and so no further allowance is believed to be necessary at this time. At the 5<sup>th</sup> October 2015 we have estimated a net increase in properties within Mid Devon of **100** Band D properties to go live on or before 1<sup>st</sup> April 2015 and a further **200** during the financial year, totalling (300) This estimate is based on the current number of reports outstanding with the Valuation Officer; the actual bandings may differ when the properties are eventually entered into the Council Tax Valuation list.

#### ***Disabled Allowance (move down a Band)***

Where a disabled resident has made structural alterations to their property to help with their disability or they use a wheelchair internally at the premises, the property is entitled to a reduction and is afforded by moving the property to the next lowest band. Existing Band A properties are also entitled to a reduction by reducing the 6/9ths charge down to 5/9ths Charge.

#### ***Less 25% Discounts***

##### *Single Persons Discounts*

If only one person lives in the dwelling as their main residence then a discount of 25% is allowed.



### ***Less 50% discount***

A discount of 50% is allowed where two or more persons who can be disregarded for Council Tax purposes occupy the property, e.g. care workers.

### **Second homes now pay full Council tax.**

### ***Long Term Empties***

After a three month free period no further discount is allowed.

### ***50% premium after 2 years***

If a property remains empty of furniture and residence for two years or more the Council will apply an additional 50% premium to the Council tax charge, so the Chargepayer will have to pay 150% of the Council Tax charge in that area.

### **Estimated cost of the Council Tax Reduction Scheme (CTR)**

Before we convert the properties to Net Band D equivalents we must reduce the total properties by the estimated cost of the CTR Scheme amount. This has been calculated in the following way:

Mid Devon's CTR scheme for 2016/17, is estimated to cost in the region of £4.075m based on the existing schemes criteria. The average Band D Council Tax charge for 2015/16 was £182.15; divide Mid Devon's proportional cost of the CTR scheme by the total Band D equivalents to arrive at 3191.3 properties equivalent to **2495** Band D properties for 2016/7. The total Band D equivalents for the other precepting authorities will be calculated proportionally.

The cost of the CTR scheme must be reflected in the Tax Base calculation so the following calculation is carried out for each valuation band to arrive at the net chargeable Dwellings:

### **Calculation of the Relevant Amount**

	<b>2015/16</b>	<b>2016/17</b>
Number of Properties per valuation list	34,754.00	35,056.00
Exemptions	-424.00	-433.00
Single Occupier and 25% Disregards	-2,637.75	-2,696.75
50% Discount (57)	-28.50	-27.00
100% exempt 3 months only (248)	-62.00	-70.50
Additional LTE at 150% (111)	+55.50	+52.00
Additional net new properties	+330.00	+300.00
65 properties Class D 50% loss	-32.50	-29.00
Annexes (new)	-5.00	-6.50
Chargeable Dwellings before CTR	31,949.75	32,145.25

### **Conversion to Band D equivalents**

The net chargeable dwellings are then converted to Band D equivalents. This is carried out by multiplying the Net chargeable dwellings by the appropriate factor

(A=6, B=7, C=8, D=9, E=11, F=13, G=15, H=18) for the band and dividing by that for Band D (9). The Table below details the Net Chargeable Dwellings converted to Band D equivalents.

The Tax Base is finally calculated by applying the collection rate to the total Band D equivalents. When summarised below for the 2015/16 financial year. The properties within each band are as follows:

Band	Properties	CTR Properties	Revised Properties	Band D Equivalent
@	10.75	-6.91	3.8	2.10
A	5083.50	-1346.99	3736.5	2491.00
B	7933.25	-1015.11	6918.1	5380.80
C	5933.50	-477.55	5456.0	4849.70
D	5893.25	-230.58	5662.7	5662.70
E	4168.00	-80.15	4087.9	4996.30
F	2185.75	-27.75	2158.0	3117.10
G	886.00	-5.76	880.2	1467.10
H	51.25	-0.46	50.8	101.60
	32,145.25	-3191.26	28954.0	28068.40

Therefore, in accordance with SI 2914 of 2012 the Tax Base is to be calculated as:  
Total relevant amounts (A) **28,068.40** X Estimated collection rate (B) (98%)

And Mid Devon District Council's Council Tax Base for 2016/17 will be **27,507.03**  
Contact for more information: John F Chumbley 01884 234301

Background Papers: CTB1 and supporting documentation

File Reference: JFC/G/CTB1

Circulation of Report:

Cabinet member for Finance

Councillor Peter Hare-Scott.

APPENDIX 1																																													
Calculation of the Tax Base			2015/16		Total Equivalent Dwellings												NOT BAND D EQUIVALENTS pre Annexes, CTR and New Properties																												
Parish	@	@	A	B	C	D	E	F	G	H	Total Properties	Total Band D EQUIVALENTS																							0.98										
													Band D LCTS	Band D After LCTS																					Collection										
Bampton	0.00	0.00	88.00	58.67	197.00	153.22	168.25	149.56	131.75	131.75	124.50	152.17	80.75	116.64	36.00	60.00	2.00	4.00	828.25	826.00																									
Bickleigh	0.00	0.00	8.00	5.33	7.75	6.03	11.75	10.44	12.25	12.25	28.75	35.14	20.00	28.89	11.25	18.75	0.00	0.00	99.75	116.83																									
Bow	0.00	0.00	21.00	14.00	145.00	112.78	125.75	111.78	138.25	138.25	40.75	49.81	29.75	42.97	5.00	8.33	3.75	7.50	509.25	485.42																									
Bradninch	1.00	0.56	47.00	31.33	249.25	193.86	254.75	226.44	117.25	117.25	122.00	149.11	39.50	57.06	24.75	41.25	1.00	2.00	856.50	818.86																									
Brushford	0.00	0.00	1.00	0.67	0.00	0.00	1.75	1.56	7.00	7.00	5.00	6.11	4.00	5.78	2.75	4.58	0.00	0.00	21.50	25.69																									
Burlescombe	1.00	0.56	41.75	27.83	82.75	64.36	56.75	50.44	83.00	83.00	56.50	69.06	22.00	31.78	8.50	14.17	0.00	0.00	352.25	341.19																									
Butterleigh	0.00	0.00	5.75	3.83	3.50	2.72	1.75	1.56	8.25	8.25	8.50	10.39	13.75	19.86	4.50	7.50	0.00	0.00	46.00	54.11																									
Cadbury	0.00	0.00	2.50	1.67	2.00	1.56	1.75	10.44	9.50	9.50	9.25	11.31	11.00	15.89	10.00	16.67	0.00	0.00	56.00	67.03																									
Cadeleigh	0.00	0.00	5.25	3.50	5.00	3.89	8.00	7.11	15.50	15.50	19.50	23.83	14.75	21.31	8.75	14.58	0.00	0.00	76.75	89.72																									
Chawleigh	0.00	0.00	26.75	17.83	53.50	41.61	50.75	45.11	52.25	52.25	53.00	64.78	21.25	30.69	5.00	8.33	1.00	2.00	263.50	262.61																									
Cheriton Bishop	0.00	0.00	24.50	16.33	39.75	30.92	41.50	36.89	51.25	51.25	71.75	87.69	38.00	54.89	10.00	16.67	1.00	2.00	277.75	296.64																									
Cheriton Fitzpaine	0.00	0.00	28.50	19.00	31.25	24.31	66.25	58.89	89.25	89.25	71.00	86.78	33.00	47.67	14.00	23.33	0.00	0.00	333.25	349.22																									
Clannaborough	0.00	0.00	3.75	2.50	7.50	5.83	1.00	0.89	4.00	4.00	2.00	2.44	4.00	5.78	4.50	7.50	0.00	0.00	26.75	28.94																									
Clayhanger	0.00	0.00	1.00	0.67	3.50	2.72	9.50	8.44	12.75	12.75	14.50	17.72	8.00	11.56	3.00	5.00	0.00	0.00	52.25	58.86																									
Clayhidon	0.00	0.00	9.00	6.00	5.50	4.28	15.75	14.00	34.25	34.25	55.50	67.83	56.00	80.89	15.75	26.25	0.00	0.00	191.75	233.50																									
Coldridge	0.00	0.00	11.00	7.33	21.75	16.92	37.00	32.89	26.75	26.75	34.00	41.56	21.75	31.42	5.75	9.58	0.00	0.00	158.00	166.44																									
Colebrooke	0.00	0.00	4.50	3.00	9.50	7.39	32.25	28.67	27.25	27.25	39.00	47.67	36.00	52.00	8.75	14.58	1.75	3.50	159.00	184.06																									
Copplestone	0.00	0.00	80.75	53.83	131.75	102.47	119.25	106.00	120.50	120.50	32.00	39.11	25.50	36.83	3.75	6.25	1.00	2.00	514.50	467.00																									
Crediton	2.25	1.25	681.00	454.00	881.00	685.22	717.75	638.00	630.00	630.00	303.50	370.94	86.00	124.22	20.50	34.17	0.00	0.00	3322.00	2,937.81																									
Crediton Hamlets	0.75	0.42	15.50	10.33	47.75	37.14	83.00	73.78	148.50	148.50	109.75	134.14	74.25	107.25	24.00	40.00	1.50	3.00	505.00	554.56																									
Cruwys Morchard	0.00	0.00	11.75	7.83	25.00	19.44	11.75	10.44	35.25	35.25	47.00	57.44	39.75	57.42	12.50	20.83	1.00	2.00	184.00	210.67																									
Cullompton	0.75	0.42	607.25	404.83	1174.00	913.11	746.00	663.11	783.50	783.50	360.25	440.31	79.50	114.83	35.25	58.75	5.00	10.00	3791.50	3,388.86																									
Culmstock	0.00	0.00	45.75	30.50	54.50	42.39	58.25	51.78	81.25	81.25	70.00	85.56	35.75	51.64	18.50	30.83	0.00	0.00	364.00	373.94																									
Down St Mary	0.00	0.00	9.50	6.33	27.75	21.58	23.25	20.67	27.50	27.50	24.00	29.33	25.25	36.47	10.00	16.67	0.00	0.00	147.25	158.56																									
Eggesford	0.00	0.00	1.00	0.67	7.75	6.03	10.00	8.89	4.00	4.00	4.50	5.50	3.50	5.06	0.75	1.25	0.00	0.00	31.50	31.39																									
Halberton	0.00	0.00	72.00	48.00	113.25	88.08	77.00	68.44	108.00	108.00	123.25	150.64	84.00	121.33	38.00	63.33	1.75	3.50	617.25	651.33																									
Hemyock	0.75	0.42	88.25	58.83	111.00	86.33	234.75	208.67	182.25	182.25	141.25	172.64	95.75	138.31	23.25	38.75	0.00	0.00	877.25	886.19																									
Hittisleigh	0.00	0.00	6.50	4.33	1.75	1.36	5.00	4.44	9.50	9.50	17.50	21.39	8.50	12.28	5.75	9.58	0.00	0.00	54.50	62.89																									
Hockworthy	0.00	0.00	3.75	2.50	1.75	1.36	13.50	12.00	12.00	12.00	15.25	18.64	17.50	25.28	6.50	10.83	1.00	2.00	71.25	84.61																									
Holcombe Rogus	0.00	0.00	14.25	9.50	22.25	17.31	45.75	40.67	26.25	26.25	36.75	44.92	39.00	56.33	16.00	26.67	2.00	4.00	202.25	225.64																									
Huntsam	0.00	0.00	4.25	2.83	5.00	3.89	6.50	5.78	16.50	16.50	14.25	17.42	12.50	18.06	2.00	3.33	0.00	0.00	61.00	67.81																									
Kennerleigh	0.00	0.00	0.00	0.00	0.75	0.58	2.75	2.44	7.00	7.00	11.50	14.06	6.50	9.39	4.00	6.67	0.00	0.00	32.50	40.14																									
Kentisbeare	0.00	0.00	24.25	16.17	51.75	40.25	57.50	51.11	85.25	85.25	89.25	109.08	53.50	77.28	8.25	13.75	1.00	2.00	370.75	394.89																									
Lapford	0.00	0.00	55.50	37.00	132.00	102.67	87.25	77.56	88.75	88.75	52.25	63.86	28.75	41.53	9.75	16.25	0.00	0.00	454.25	427.61																									
Loxbeare	0.00	0.00	4.25	2.83	3.75	2.92	5.75	5.11	9.00	9.00	17.75	21.69	13.50	19.50	9.50	15.83	1.00	2.00	64.50	78.89																									
Morchard Bishop	0.00	0.00	39.75	26.50	53.25	41.42	66.25	58.89	103.00	103.00	96.25	117.64	43.50	62.83	19.50	32.50	0.00	0.00	421.50	442.78																									
Morebath	0.00	0.00	8.25	5.50	21.50	16.72	34.50	30.67	19.75	19.75	23.00	28.11	18.00	26.00	14.25	23.75	2.75	5.50	142.00	156.00																									
Newton St Hayes	0.00	0.00	30.25	20.17	61.25	47.64	72.50	64.44	54.25	54.25	72.75	88.92	47.00	67.89	24.50	40.83	1.50	3.00	364.00	387.14																									
Nymet Rowland	0.00	0.00	2.50	1.67	5.50	4.28	5.75	5.11	9.50	9.50	9.75	11.92	8.75	12.64	4.75	7.92	0.00	0.00	46.50	53.03																									
Oakford	0.00	0.00	21.50	14.33	11.00	8.56	33.25	29.56	30.00	30.00	27.25	33.31	25.25	36.47	19.25	32.08	1.00	2.00	168.50	186.31																									
Poughill	0.00	0.00	6.50	4.33	16.25	12.64	10.50	9.33	10.75	10.75	21.75	26.58	11.00	15.89	3.00	5.00	0.00	0.00	79.75	84.53																									
Puddington	0.00	0.00	1.50	1.00	7.00	5.44	7.75	6.89	28.00	28.0																																			

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **SCRUTINY COMMITTEE** held on 30 November 2015 at 2.00 pm

### **Present**

#### **Councillors**

F J Rosamond (Chairman)  
Mrs H Bainbridge, Mrs J B Binks,  
Mrs C P Daw, Mrs S Griggs, T G Hughes,  
B A Moore, Mrs J Roach, Mrs E J Slade,  
T W Snow, N A Way and Mrs N Woollatt

### **Also Present**

#### **Councillor(s)**

R Evans

### **Also Present**

#### **Officer(s):**

Liz Reeves (Head of Customer Services), Jenny Clifford (Head of Planning and Regeneration), Simon Johnson (Legal Services Manager), Jill May (Head of HR and Development), Simon Newcombe (Public Health and Professional Services Manager), Amy Tregellas (Head of Communities and Governance and Monitoring Officer) and Julia Stuckey (Member Services Officer)

## 85 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

## 86 **PUBLIC QUESTION TIME**

There were no members of the public present.

## 87 **MINUTES OF THE PREVIOUS MEETING**

The minutes of the last meeting were approved as a correct record and **SIGNED** by the Chairman.

## 88 **MEMBER FORUM**

There were no issues raised under this item.

## 89 **DECISIONS OF THE CABINET**

The Committee **NOTED** that none of the decisions made by the Cabinet at their last meeting had been called in.

## 90 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman informed the Committee that he had received several requests from Members that meetings be shorter in length than had been the case of late and that written papers be issued with the agenda rather than officers providing verbal updates. He appreciated that verbal updates could sometimes be useful but he considered it better that Members received written reports in advance of the meeting.

#### 91 RIPA (0.03.33)

Councillor Mrs J Roach had requested that the Committee consider the RIPA report in terms of effective scrutiny. The Committee had before it a report \* from the Office of Surveillance Commissioners which detailed their observations from the inspection and provided recommendations.

The Legal Services Manager explained that changes had been implemented following receipt of the report and that RIPA was no longer used other than in exceptional circumstances.

Cllr J Roach informed the Committee that she had asked that this item be on the agenda as the report had been received whilst she was Chair of Scrutiny. She did not consider that full scrutiny had taken place and felt that there were issues that had not been addressed and questions that had not been asked. She suggested that this was used as a learning curve to help improve future scrutiny. Scrutiny Committees elsewhere in the country had failed by taking reports at face value and not questioning them and she did not want that to happen in this authority.

Cllr Roach expressed a concern that officers putting together reports regarding services were also the officers responsible for the service, which led to Members having a willingness to accept what was put in front of them. She had requested training for the Committee in the previous year to help with questioning skills.

Discussion took place regarding;

- Lack of staff resource to support the Committee;
- The minimal use of RIPA within Mid Devon due to the restrictions on the type of surveillance that could be undertaken;
- A recommendations from the 2012 report that had not been discharged;
- The RIPA Policy had been reviewed by the Community Well Being PDG and the Cabinet in October 2015;
- Training was being arranged for key officers;
- All recommendations within the 2015 report had, or were in the process, of being completed.

It was **RESOLVED** that:

- a) It be ensured that any reports to the Committee contain full details, be presented at the appropriate time and that Members be equipped to undertake any forensic examination required;

- b) That the RIPA report be reviewed in three months' time to monitor recommendations within it;
- c) That RIPA be a standing six monthly agenda item.

(Proposed by the Chairman)

Note: - Report previously circulated and attached to Minutes.

## 92 ANAEROBIC DIGESTERS

At a meeting of the Committee on 10<sup>th</sup> September 2015 public concerns over operational anaerobic digester (AD) schemes in respect of noise, smell, pollution and traffic were discussed. It was resolved that a report be prepared to address issues raised in connection with anaerobic digesters.

The Committee therefore had before it a report \* from the Head of Planning and Regeneration and the Head of Human Resources and Development detailing how the Authority would address resident's concerns over the impact on them of existing operational schemes within parts of the district, how such concerns were investigated, liaison between different organisations with a regulatory role and what lessons could be learnt as a result.

The Head of Planning and Regeneration explained that the report contained an introduction to anaerobic digestion, details of current schemes within Mid Devon, roles and responsibilities of the Local Planning Authority, Environmental Health Service, Devon County Council, the Environment Agency, Public Health England and the Driver Vehicle Standards Agency (DVSA). She also explained that a majority of complaints to Planning Enforcement, regarding activities associated with AD Plants, had turned out to be activities taking place on agricultural land away from the actual site and which could take place, in planning terms, quite lawfully.

The Public Health Manager further explained that another agency, the Animal and Plant Health Agency (with enforcement through Trading Standards), had been identified since the issue of the report, with a responsibility for animal health such as the use of bi-products from AD, for example the spreading of digestate on land or use as litter in poultry houses.

Discussion took place regarding:

- The benefits to the public in knowing where to report issues;
- The need to undertake stronger enforcement;
- The need to look at other planning applications, such as those for poultry sheds, if they were connected to the AD plants;
- The need to liaise with neighbouring authorities when appropriate;
- A recent AD case in Ramsbottom which had been called in by the Secretary of State;

- Whether there was potential for enforcement if AD plants were operating on a different basis to that set out at application stage.

It was **RECOMMENDED** to Cabinet that:

- a) A request be made to the Environment Agency for the opportunity for MDDC to feed into the environmental permitting regime and that a copy of the approved permit be given to this authority.
- b) That where enforcement issues were raised with an AD plant, that related to more than one agency, coordination take place between relevant agencies and that MDDC take a lead role in that coordination.
- c) That a review of the scope of planning conditions to control AD plants be undertaken in order to develop best practice for future applications.

(Proposed by the Chairman, seconded by Cllr Mrs J Roach)

Note: - Report \* previously circulated and attached to Minutes.

### 93 **PARTNERSHIP WORKING (0.51.36)**

The Head of Communities and Governance informed the Committee that at a Programming Panel meeting on the 14<sup>th</sup> September 2015 it was agreed that the subject of partnership working be discussed by the Scrutiny Committee to see if members felt it appropriate to set up a working group to consider this topic in more detail.

The Officer explained that as the Council's funding from Government became less and less partnership working could be an area that the Council would wish to consider further in order to make savings and enable the setting of a balanced budget in future years.

There were many Councils that were already working in partnership with others and the models used and services being shared could vary from partnership to partnership.

The Officer suggested that in order for the Council to gain more of an understanding in terms of the types of partnership models available, including the costs, benefits and risks, that a Working Group be set up.

Discussion took place regarding:

- a) Partnerships in place with North Devon District Council for IT Services and Building Control and with Exeter, East Devon and Teignbridge for Economic Development;
- b) The problems encountered in the past in finding other authorities to work with;
- c) The need for benchmarking;



- d) A report of a previous working group that had looked at Shared Services;
- e) The possibility of working with the private sector.

It was **RESOLVED** that a Working Group be put in place to look at partnership working and that the Members of the Group be Cllrs Mrs H Bainbridge, Mrs J Binks, F J Rosamond and N A Way.

(Proposed by the Chairman)

#### 94 **CULLOMPTON AND CREDITON TOWN CENTRE IMPROVEMENTS (1.05.00)**

The Committee had before it and **NOTED** a briefing paper \* from the Head of Communities and Governance outlining plans for the improvement of Cullompton and Crediton Town Centres.

The Officer outlined the contents of the report, adding that funding from the High Street Innovation Fund has been awarded to Cullompton Farmers Market, to enable them to set up a community shop and to the Crediton Town Team to fund projects.

Discussion took place regarding:

- Events such as the Food Festival in Cullompton which had brought a lot of people into the town;
- The ownership of the Town Square in Crediton;
- The Tiverton Town Centre Manager was working with Crediton and Cullompton to share good practice;
- Officers were working well with the Town Councils and local groups to promote the towns;
- Shop front improvement grants;
- The risk to existing businesses if community shops sold the same products with lower overheads.

Notes: - i) Briefing paper \* previously circulated and attached to Minutes.

ii) Cllr Mrs N Woollatt declared a personal interest as she was involved with the Devon Kitchen.

ii) Cllr N A Way declared a personal interest as he was a Crediton Town Councillor

#### 95 **TIVERTON PANNIER MARKET (1.20.50)**

The Committee had before it a briefing paper \* from the Head of Communities and Governance providing an update regarding the Tiverton Pannier Market. The paper outlined some of the work that had taken place since the last update and some of the plans for 2016.

Discussion took place regarding:

Electric Nights events which had proved very successful and would resume next year;

- Disappointment that the Pannier Market had not been open for the Christmas Lights event and plans already being put in place for Christmas 2016;
- A review of the Pannier Market that was currently part way through, delays had been caused by the level of work undertaken by the team running Electric Nights and the appointment of the Town Centre Manager;
- An action plan which was being worked on by the Town Centre Manager, which would be presented to Cabinet in the New Year, the Chairman requested that this report be reviewed by the Scrutiny Committee prior to going to Cabinet. The Head of Communities and Governance explained that it was also being reviewed by local traders and local interested groups;
- Whether or not Electric Nights increased footfall in the town centre and plans to extend the events to include the shops next year;
- A Food Festival being planned for 4<sup>th</sup> June 2016 titled 'Around the World in 80 Flavours'.
- The need for an Events Manager to co-ordinate events in the District;
- Whether or not the roof project would go ahead, which depended on the Masterplan;
- The Sci-Fi event and publicity for it;
- The Market accounts and the need for them to be split to identify key areas.

It was **AGREED** that a six-monthly update on the Pannier Market be added to the agenda as a standing item.

- Notes: - i) Briefing paper \* previously circulated and attached to Minutes.  
ii) Cllr Mrs S Griggs declared a personal interest as she was the Chairman of the Portas Group and the Christmas Lights Committee.

## 96 **PERFORMANCE AND RISK (1.40.22)**

The Committee had before it a report \* from the Head of Communities and Governance providing Members with an update on performance against the corporate plan and local service targets for 2015/16 as well as providing an update on the key business risks.

The Officer outlined the contents of the report and Members worked through the document on a page by page basis. The Officer highlighted performance from the Waste Service, which had not been available at the time of issue, for missed collections and fixed penalty notices.

Discussion took place regarding:

- Right to Buy figures, which the Authority had no influence over but would impact on future budgets;
- Housing Repair performance was recorded as a percentage but Members would also like to see the actual number of repairs completed;
- Empty shops and whether there was anything that could be done to find out why shops were closing;
- Leisure membership retention was performing well in comparison to national bench marking;
- Performance for building control was below target which was a concern when it was an area of joint working;
- The Planning report indicated the number of enforcement cases closed but members requested further information to state why;
- Members requested information regarding the cost to the authority for failed performance;
- Staffing levels in the Planning Service;
- Enforcement issues, some of which had been outstanding for a considerable amount of time:
- The drop in the value of recycle materials.

It was **AGREED** that the Head of Planning and Regeneration report to the Committee regarding the Enforcement Service, delays in enforcement taking place and plans to rectify this.

Note: - Report previously circulated and attached to the Minutes.

#### 97 **UPDATE ON ACTIONS TAKEN BY NEIL PARISH MP (2.04.31)**

The Committee had before it updates \* regarding actions taken by the MP for Tiverton and Honiton Constituency, Mr N Parish, following his attendance at a meeting of the Committee in August 2015.

The MP had been asked his views regarding the cost to local authorities of removing travellers from their land. It was **AGREED** that a report detailing Policy for the removal of Gypsies and Travellers be an agenda item for the next meeting of the Committee.

Note: - Updates \* previously circulated and attached to Minutes.

#### 98 **IDENTIFICATION OF ITEMS FOR FUTURE MEETINGS**

Cabinet Member for Housing and Property Services  
Whistleblowing Update  
Safeguarding update  
Closure of Hospital Wards  
Rural Broadband  
Digitalisation for Members  
Town Hall Development Site  
St Andrews Street Project  
Policy for the removal of Gypsies and Travellers from Council owned land  
Planning Enforcement Performance

(The meeting ended at 4.10 pm)

**CHAIRMAN**

## MID DEVON DISTRICT COUNCIL

MINUTES of a MEETING of the AUDIT COMMITTEE held on 17 November 2015 at 5.30 pm

### Present

**Councillors** R Evans (Chairman)  
Mrs C Collis, R M Deed, T G Hughes, F W Letch and  
R F Radford

### Apology

**Councillor** Mrs J B Binks

### Also Present

**Councillor** P H D Hare-Scott

### Present

**Officers** Andrew Jarrett (Head of Finance), Amy Tregellas (Head of Communities and Governance and Monitoring Officer), Catherine Yandle (Internal Audit Team Leader) and Sarah Lees (Member Services Officer)

## 38. APOLOGIES

Apologies were received from Councillor Mrs J B Binks.

## 39. PUBLIC QUESTION TIME

There were no members of the public present.

## 40. MINUTES OF THE PREVIOUS MEETING

The Minutes of the previous meeting were confirmed as a true and accurate record and **SIGNED** by the Chairman subject to the following amendments:

- Minute 31, first bullet point under 'Legal Services', the word 'Member' to be inserted after 'elected'.
- Minute 31, last bullet point under 'Insurance' should read 'Staff had to sign a mandate to allow a private company to check that the details of their driving licence were in order'.

## 41. CHAIRMAN'S ANNOUNCEMENTS

The Chairman had the following announcements to make:

1. He had attended an Audit Committee training course on 21 October 2015 which had been excellent. There had been an impressive speaker named Jason Vaughan who was the Strategic Director for North Dorset District Council, West Dorset District Council and Weymouth & Portland Borough Council. Cllr Radford had attended the same training and was also impressed with Mr Vaughan who was described as having a no nonsense attitude. Cllr Radford had approached him to ask if he could come and speak to Members of this Council and he had said that he would. The Chairman stated that he would follow this up.

2. He had found the budget monitoring briefing for all Members informative and well delivered.
3. He and the Head of Finance would be attending an income generation seminar in London on 1 December 2015.

#### 42. PERFORMANCE AND RISK Q2 (00:07:00)

The Committee had before it, and **NOTED**, a report \* from the Head of Communities and Governance updating it on performance against the Corporate Plan and local service targets for 2015/16 as well as providing an update on the key business risks.

The Internal Audit Team Leader stated that figures had not been available at the time of the agenda despatch for the Managing the Environment Portfolio. Figures had now been received and an update was displayed via the whiteboard to Members of the Committee:

- The number of fixed penalty notices were discussed and the fact that this did not just relate to parking offences but also to such matters as litter offences. This was a difficult area to set a meaningful target for. The most meaningful measure might be to just state how many had been issued.
- Performance indicators would be reviewed as part of the work on the new Corporate Plan.
- It was expected that waste and recycling figures would improve as the new scheme settled down.

Discussion took place regarding the rest of the portfolio areas performance indicators:

- It was confirmed that the 14 affordable homes reported were the ones in St Andrews Street in Tiverton. 30 more Council properties were due to be built at Palmerston Park in Tiverton. A number of planning applications had been approved across the district for more affordable homes but these were still in the very early planning stages.
- Gas safety certificates had expired on 6 properties as at 30 September.
- A survey was conducted every quarter of all the business premises within the towns to ascertain the number of empty shops. It was reported that there was almost 100% occupancy of Council owned business premises.
- The Council was working closely with the Portas Team to improve footfall figures. The Portas Team were focussed on specific projects such as the 'Coopera-tiv' and the 'Creativ' hub which were in empty shops.
- It was noted that the number of major applications to be determined was below target as was listed building consent. The question was asked as to why this was, one of the reasons being that a number of Planning Officers had been on maternity leave at the same time. The Chairman stated that the lack of cover during this period was 'disappointing' and expressed concern regarding any financial penalty that the Council may incur as a result of not meeting national timescales. The Head of Finance stated that to have brought agency staff into the organisation to cover the maternity leave would have involved a significant cost detrimentally affecting the budget. Nevertheless the Chairman requested that the comments raised during the meeting be taken back to the Head of Planning and Regeneration.

- This Committee had approved the Risk and Opportunity Management Strategy that required any risks scoring a '5' on potential impact, such as the risks associated with asbestos, be reported.

Note: \* Report previously circulated; copy attached to the signed Minutes.

#### 43. **INTERNAL AUDIT PROGRESS REPORT (00:44:10)**

The Committee had before it, and **NOTED**, a report \* from the Internal Audit Team Leader updating it on the work performed by Internal Audit for the 2010/16 financial year.

She outlined the contents of the report stating that it included the audit opinion for 4 internal audits relating to Payroll, Housing Rents, Grants and Donations and Gifts and Hospitality. She stated that the Council Tax and NNDR internal audit was complete and the Treasury and Cash Collection were almost finished.

There were no overdue outstanding high priority audit recommendations at this time which was mentioned as being an improvement worthy of note. 15% of all recommendations were overdue compared to 39% reported last time.

The Chairman commented that there was still one outstanding action from 2012 in relation to Standby. It was explained that this was to do with risk assessments for Standby Operatives and a decision was awaited on the out of hour's telephone call back procedure before this could be completed.

Overall, progress was being made and required actions were being managed in a far more proactive way.

Note: \* Report previously circulated; copy attached to the signed Minutes.

#### 44. **INTERNAL AUDIT REPORTS (STANDING ITEM)**

Discussion regarding internal audit reports had taken place under the previous item. There had been no need to move into Part II.

#### 45. **GRANT THORNTON - ANNUAL AUDIT LETTER (00:51:08)**

The Committee had before it, and **NOTED**, a report \* from Grant Thornton summarising the key findings arising from their work for the year ended 31 March 2015. This included comments in relation to the Financial statements audit (including the audit opinion) and their Value for Money conclusion.

Note: \* Report previously circulated; copy attached to the signed Minutes.

#### 46. **GRANT THORNTON - REPORT OF FINANCIAL RESILIENCE (00:53:52)**

The Committee had before it, and **NOTED**, a report from Grant Thornton summarising their findings from the work supporting their Value for Money conclusion. This report complimented their Audit Findings report as presented on 28 July 2015 by providing additional detail on the themes that underpin their Value for Money conclusion.

Discussion took place regarding:

- Staff sickness – there had been a few instances of long term sickness which had the effect of distorting the overall figures which were showing above target. The external auditors had identified this as a potential risk to the organisation. A Member briefing would be held on 1 December 2015 providing more information on this subject.
- Financial planning had improved.
- Member engagement had also improved with a now larger trained Audit Committee.

Note: \* Report previously circulated; copy attached to the signed Minutes.

**47. GRANT THORNTON - EXTERNAL AUDIT UPDATE (01:02:49)**

The Committee had before it, and **NOTED**, a \* report from Grant Thornton updating it on the progress made in delivering their responsibilities as the Council's external auditors.

It was hoped that the external audit findings for the 2015/16 financial year would be presented to the Committee in July 2016, two months ahead of the current schedule for the second year running.

Discussion took place regarding a number of Grant Thornton publications:

- Devolution and how councils are progressing with income generation and creating growth. A report would be going to the next Cabinet meeting regarding devolution but it was unlikely that any more detail would be known about business rates.
- Audit Committee effectiveness review, that is, how Members were selected, the skills and training they require and the optimum number on the Committee. The Committee requested that they receive a hard copy of this publication.
- Improving efficiency of Council Tax collection.
- Grant Thornton had been working with the Centre for Public Scrutiny to produce a member training programme.

Note: \* Report previously circulated; copy attached to the signed Minutes.

**48. IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (01:24:14)**

In addition to the items already listed in the work programme, the following items were requested to be on the agenda for the next meeting:

- Members Motor insurance disclosures
- Grant Thornton – Grants and Certification report
- Update on the Annual Governance Statement Action Plan
- Update on the Financial Regulations

(The meeting ended at 7.00 pm)

**CHAIRMAN**



## MID DEVON DISTRICT COUNCIL

### MINUTES of a MEETING of the MANAGING THE ENVIRONMENT POLICY DEVELOPMENT GROUP held on 24 November 2015 at 2.00 pm

#### Present

**Councillors** R F Radford (Chairman), D R Coren, Mrs C P Daw, R Evans, Mrs E J Slade, J D Squire, Mrs N Woollatt, R Wright and Mrs A R Berry

#### Also Present

**Councillor(s)** N V Davey

#### Also Present

**Officer(s):** Andrew Jarrett (Head of Finance), Andrew Busby (Property Services Manager), Jenny Clifford (Head of Planning and Regeneration), Adrian Cook (Open Spaces Manager), Stuart Noyce (Waste and Transport Manager), Nick Sanderson (Head of Housing and Property Services), Catherine Yandle (Internal Audit Team Leader) and Julia Stuckey (Member Services Officer)

### 36 APOLOGIES AND SUBSTITUTE MEMBERS

There were no apologies.

### 37 PUBLIC QUESTION TIME

Referring to item 10 on the agenda, Mrs M Dennis asked if a small amount of the income gained from the rates generated from all of the new build properties at Willand could be used towards the maintenance of play areas.

Referring to item 10 in the agenda, Cllr B Warren from Willand Parish Council, informed the Group that in January 2014 Willand Parish Council wrote to the Chief Executive offering to take over the ownership or lease of the Mid Devon owned half of the Parish Field and to maintain it. This would save Mid Devon money and give the Parish a much improved facility as we would provide more regular maintenance. We received no acknowledgement until we asked. We then heard no more until an intervention by one of our Ward Councillors and then there was a meeting with an officer which resulted in the Parish being offered some of the field provided it supported MDDC in a planning application to build housing on some of the field. This was declined by the Parish Council as there is already a shortfall of green public open space in Willand as confirmed by the MDDC commissioned report. Nothing further has been heard from officers on that point.

As part of our suggested package in relation to offering to take responsibility for some of the play areas in the Parish we included the Parish Field proposals. Apart from attaching our letter to the report, no mention, let alone a recommendation is

made in relation to this part of the proposal after 22 months and in doing so potentially misleading Members as to the overall proposal.

Referring to agenda item 10, Mr K Grantham said that Willand Parish Council has sought to engage with officers and obtain clarification of certain issues ever since this process review and trying to close play areas started. In the absence of clear answers Members of Willand PC have appeared before this Committee on two occasions (March and June 2015) and asked public questions. These questions have not been fully answered. Two officers came and met with the Parish Council at which a number of members of the public and Ward Members were present but yet again some questions remained unanswered, particularly in relation to the future use of the land.

In the absence of answers and clear proposals from officers the Parish Council have tried to move the process forward with the submission of a complete proposal which is before you:- That proposal is detailed and clear and in paragraph 6 of the letter states "we feel that this option is a positive way forward but will not be viable if 'tinkered with'." In paragraph 1.1 of Appendix A it states: "The proposed offers are put forward as a complete package for the duration of the initial arrangement (3 years)."

What is not understood as to these two sentences? What is there to negotiate?

Referring to item 10 on the agenda, Mr R Ursell stated that his question referred in particular to recommendations contained in Annex 2, page 163.

Willand Parish Council has made a very clear and compelling case for MDDC to retain and maintain Chestnut Drive play area. That case points the way to future funding as well as the case for retention. The recommendations in the table will, if adopted by Committee, lead to the imminent closure of the area as the equipment is described as in poor condition and need of refurbishment.

Are MDDC prepared to retain and maintain the equipment in the area in a proper and serviceable manner, at least at its current level, to prevent it being closed or made unserviceable through lack of equipment?

Referring to item 10 on the agenda, Mrs S Taylor informed the Group that her question referred in particular to recommendations contained in Annex 2 on page 163.

Willand Parish Council has put forward firm proposals to officers in the absence of an alternative plan by them to close the areas at Mallow Court and Worcester Crescent. The proposals are part of the whole complete package which has support within the community.

What are the acceptable terms for the transfer of selected play areas to Willand Parish Council to be negotiated by the Head of Housing and Property Services? He has had ample opportunity before now to identify those terms and it is the lack of clear and unequivocal proposals from officers that led to Willand Parish Council submitting their proposals in an attempt to resolve the issues. What is there to negotiate?

The Chairman thanked the members of the public for their questions and explained that answers would be given either at the agenda item or at a meeting to be arranged with Willand Parish Council. The Chairman apologised to those that considered they had not received a satisfactory response and reiterated that there would be further negotiations.

### 38 **MINUTES OF THE PREVIOUS MEETING**

Subject to an amendment to Minute 33 to read “it was **RESOLVED** that the Open Spaces Manager implement the setting aside of land within each of the Authority’s main public parks for a wild flower bed.” (Proposed by Cllr Mrs N Woollatt and seconded by Cllr Mrs E J Slade), the Minutes were approved as a true record.

### 39 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had no announcements to make.

### 40 **MEETING MANAGEMENT**

The Chairman indicated that he intended to take items 9 and 10 on the agenda before item 5.

### 41 **GRASS CUTTING CONSULTATION**

The Group had before it a report \* from the Head of Housing and Property Services updating Members on the consultation with Town and Parish Councils regarding the future arrangements of grass cutting of Devon County Council highway verges.

The Property Services Manager explained that this authority had provided a grass verge cutting service on behalf of Devon County Council (DCC) for over 20 years and had been receiving contributions from DCC to provide this service. The cutting of the rural and urban highway verges was a requirement of the highway authority in order to maintain a safe environment for all users of the highway.

DCC had already reduced the frequency for grass cutting on their verges on previous financial years prior to the Tough Choices decision from six cuts and subsequently to four cuts in 2014-15. To maintain a good standard of grass verge cutting across the District, and to mirror adjacent District Council managed grass areas, this Authority’s grounds maintenance team had been providing seven to eight cuts in the Towns and larger parishes, with some of the smaller parishes receiving four cuts per annum, despite the year on year financial reduction and the specification on the number of times the grass verges are cut.

The DCC ‘Tough Choices’ consultation resulted in the decision to reduce the specification on cutting grass verges on land owned by DCC across the District to maintain visibility at road junctions and to restrict the width of the grass that was cut on the roadside verges to approximately one meter from the 1st of April 2015. This decision resulted in reduced funding for grass cutting verges in the 2015/16 year and a funding gap of £30k. The Cabinet approved to meet the funding gap of £30k imposed by DCC from the budget for the 2015-16 financial year. This enabled the authority to maintain standards across the District and to allow time to consult with Town and Parish Councils.

The Property Services Manager had subsequently been consulting with Town and Parish Councils.

Discussion took place regarding:

- Mapping that was available to identify which land was the responsibility of which council was, at times, out of date and officers had spent time with Town and Parish Councils to rectify this;
- The complexity of the proposals and the 'pick and mix' of agreements. The Head of Property Services explained that this was due to the variety of areas of land that needed cutting and their proximity to land belonging to this authority that would be dealt with at the same time, saving on travel expenses and economies of scale;
- The need for ongoing review.

It was **RECOMMENDED** to Cabinet that this authority:

- a) Continue to provide grass verge cutting on Devon County Council highway land in Town and Parishes that have contributed funding based on the 2015/16 budget as detailed in 3.3 and Option 1.
- b) To negotiate with those Town and Parishes Councils who have resolved on Option 1 for a reduction of one cut per annum or to contribute towards one additional cut per annum with reference to 3.4 and 5.5.
- c) To withdraw from the Devon County Council grass verge cutting agreement, where the Town and Parish Councils have resolved to accept funding directly from Devon County Council as detailed in 3.3 /Option 2.
- d) To withdraw from our grass verge cutting agreement with Devon County Council where Town and Parish Councils have resolved to accept Option 3 due to the financial shortfall forecast in Annex A.
- e) Review the ongoing service provision of grass verge cutting in response to the reduction of funding as detailed at 5.6 by March 2016.

(Proposed by the Chairman and seconded by Cllr R Evans)

Note: - \* Report previously circulated and attached to signed Minutes.

## 42 **PLAY AREA CLOSURES**

The Group had before it a report \* from the Head of Housing and Property Services providing Members with an update on consultation with Town and Parish Councils regarding play areas identified for potential closure. The report informed Members of the options and restrictions to be considered when identifying play areas for closure, and identified play areas for closure.

The Open Spaces Manager informed the Group that a report had been brought to it on 22 September 2015 to update Members on the consultation with Town and Parish Councils regarding the future provision of play areas, and offering them the opportunity to take them over.

As a result of that report, the Group had requested that officers highlight any issues that may affect the closure of the play areas identified and make recommendations.

Officers had carried out a search on each of the play areas to identify any restrictions that have been placed onto the sites considered for closure.

The annual play area condition survey was carried out in October which categorised the condition of each piece of play equipment, surfacing and fencing; this allowed sites in poor condition to be easily identified.

The Open Spaces Manager explained that the report contained a recommendation for each of the play areas that had been identified for potential closure, as follows:

**Close** – the play areas in this category were not currently equipped, the play equipment was beyond repair, or the closures were in agreement with the relevant Town or Parish Council.

**Managed decline** – these play areas had been considered for closure, however the equipment was still in a usable condition. Items in these play areas were considered too good to remove at present. They would be inspected to ensure that they are safe to use, but would not receive maintenance. The equipment would be removed at a time when it became beyond economic repair.

**Remain open** – these play areas would receive regular inspections and maintenance.

The Officer indicated on maps the play areas proposed for closure and their proximity to other play areas.

Discussion took place regarding:

- The cost of decommissioning equipment;
- What was meant by an open space;
- The purpose of managed decline;
- The possibility of planting wild flowers in decommissioned areas;
- The recommended managed decline of play areas which had received a number of responses during the consultation period and the need for Town and Parish Councils to work with the authority regarding this;
- Tiverton Town Council and other Parish Councils had offered to make a financial contribution to the running of play areas in their area;

- The need for officers to meet with Willand Parish Council as soon as possible to clarify an agreement regarding play areas in the village.

It was **RECOMMENDED** that the Cabinet:

- a) Approve the recommendations within Annex 2 of the report;  
(Proposed by Cllr R Evans and seconded by Cllr D R Coren)
- b) That the contributions from Town and Parish Councils towards the running and maintenance cost be noted;  
(Proposed by Cllr D R Coren and seconded by Cllr R Evans)
- c) That the Head of Housing and Property Services, in consultation with the Cabinet Member for the Environment, be given delegated authority to negotiate acceptable terms for the transfer of selected play area in Willand to the Parish Council by the end of December 2015.  
(Proposed by Cllr R Evans and seconded by Cllr Mrs C P Daw)

Note: - i) \* Report previously circulated and attached to signed Minutes.  
ii) Cllr R Wright declared an interest as he owned land which lay to either side of a play area in Crediton.  
iii) A proposal to remove play areas in Cullompton from the managed declined list was not supported.  
iv) Cllr N Woollatt requested that her vote against the decision in (a) be recorded.

#### 43 **FINANCIAL MONITORING**

The Committee had before it and **NOTED** a report \* from the Head of Finance presenting a financial update in respect of the income and expenditure so far in the year.

The Officer informed the Group that nothing had changed dramatically since the previous report, there was a projected overspend of £150k mainly due to a change in the valuation of GP surgeries which required a partial refund in business rates.

Funding streams were holding up well although income from the sale of recycling materials had dropped due to market forces.

Note: - \* Report previously circulated and attached to Minutes.

#### 44 **DRAFT BUDGET 2016-17**

The Group had before it and **NOTED** a report \* from the Head of Finance presenting options available for it to consider in order for the Council to set a balanced budget for 2016/17.

The Officer outlined the contents of the report stating that Service Managers had been tasked with producing savings and substantial savings had been found,

however there was still a budget gap of £827k. It had been reported that the Treasury had reached agreement with four government departments, including the Department for Communities and Local Government, for an average of 30% cut in government funding over the next four years. There was no question that the formula grant would be cut and it was now likely that the Revenue Support Grant of £1.7m would disappear entirely by 2019/20.

Consideration was given to the following table:

#### Reconciliation of Major 2016/17 Budget Variances

<b>Variances</b>	<b>Amount £000</b>
<b><i>External items outside of our control</i></b>	
Reduced formula grant settlement	597
Increased pension contributions - auto enrolment	110
NIC rebate removed from contracted out pensions	180
NNDR GP surgery appeals	100
Pay award circa	100
Falling commodity prices for recycling	125
<b><i>Subtotal</i></b>	<b>1,212</b>
<b><i>Other changes</i></b>	
Deficit on our 2015/16 budget taken from reserves	187
Increase in sinking funds for asset replacement	132
Increased interest payable	78
Decrease in Collection Fund surplus	32
Income from garden waste scheme	(250)
Increased leisure income	(155)
Increased income from investments	(102)
Contributions from town and parish councils	(100)
Increase Council tax income	(95)
Other net savings	(112)
<b>Draft budget gap for 2016/17</b>	<b>827</b>

Discussion took place regarding:

- Proposed capital spend for the Pannier Market, for which £400k had been set aside. The Officer explained that this would be subject to a robust business case being presented;
- The loss of income from the sale of recycling materials but an increase in tonnage and therefore an increase to income from Recycling Credits;
- Assumptions that had been made for areas such as Council Tax, salary increases and income from areas such as Leisure;

The Head of Finance explained that a further report would be presented in the new year.

Note: - \* Report previously circulated and attached to Minutes.

#### 45 CAR PARKING WORKING GROUP

The Group had before it a report \* from the Head of Finance updating it with regard to proposals being recommended by the Car Parking Working Group.

The Officer reminded the Group that the Car Parking Working Group had met on several occasions and had discussed pricing, opening hours, amenity car parks and how to maximise income.

He explained that the main recommendation within the report was the pricing strategy and that this was based on current vends, which could be variable.

The Working Group recommended that prices were agreed for one year, to allow for changes to be made before the next financial year where required. The Group had been strategic, ensuring that pricing in the short stay, medium stay and long stay car parks was consistent across the District.

Discussion took place regarding:

- The success of the £1 for 5 hours and £2 for 10 policy;
- Existing dispensations that were in place and the need to formalise them, along with the process for future agreements;
- Discounting for permits and the need for consistency;
- Overnight charging remaining, but a 30 minute free period to be put in place to allow for the collection of takeaways.

It was **RECOMMENDED** to the Cabinet that the pricing proposals within the report be approved, along with the recommendations in section 3.2 of the report.

(Proposed by Cllr R Evans and seconded by Cllr D R Coren)

Note: - \* Report previously circulated and attached to Minutes.

#### 46 **PLANNING GUIDANCE FOR WASTE STORAGE**

The Group had before it a report \* from the Head of Planning and Regeneration providing guidance for developers on how adequate refuse storage facilities could be incorporated into the design of new residential development schemes both for individual properties and also for communal schemes.

The Officer explained that the design guide had been produced at the request of the Group.

Discussion took place regarding;

- The varying containers that were needed for waste and recycling and the fact that this had been taken into consideration when producing the guide;
- Whether or not the guidance would be enforceable and the role of Building Control;



- Assisted collections for waste and recycling for the elderly and disabled;
- Problems with containers being left out on the street and refuse being put out early.

It was **RECOMMENDED** to the Cabinet that the design guidance be agreed and that officers develop the guidance as a supplementary planning document.

(Proposed by Cllr Mrs N Woollatt and seconded by Cllr Mrs R Berry)

Note: - \* Report previously circulated and attached to signed Minutes.

#### 47 **PERFORMANCE AND RISK**

The Group had before it and **NOTED** a report \* from the Head of Communities and Governance providing Members with an update on performance against the corporate plan and local service targets for 2015-16 as well as providing an update on the key business risks.

The Audit Team Leader explained that due to the roll out of the new waste and recycling scheme it had not been possible for officers to compile and report performance indicator figures in time for the Quarter 2 deadline. This performance information would be provided in the next report.

The officer also requested that Members discuss whether or not they considered it appropriate to set a target for the issue of fixed penalty notices.

Discussion took place regarding:

- Future work that would be undertaken by the Enforcement Officer;
- Targeting of specific areas with regard to dog fouling and littering;
- The need for Members to be able to identify the number of fixed penalty notices issued but that they should be as and when necessary and not as part of a target for an officer to meet.

It was **AGREED** that performance for fixed penalty notices should be noted within the Performance and Risk report but that the target should be removed.

Note: - \* Report previously circulated and attached to signed Minutes.

#### 48 **FIXED PENALTY NOTICES**

At a meeting of the Scrutiny Committee on 5<sup>th</sup> October 2015 Members requested that the Managing the Environment Policy Development Group consider whether or not officers should be set a target for the issue of fixed penalty notices or whether the emphasis should be on prevention as a priority.

This item had already been discussed in full under the previous agenda item.

49 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Draft Budget Update  
Climate Strategy and Action Plan  
Clinical Waste

(The meeting ended at 4.50 pm)

**CHAIRMAN**

## MID DEVON DISTRICT COUNCIL

### MINUTES of a MEETING of the DECENT AND AFFORDABLE HOMES POLICY DEVELOPMENT GROUP held on 1 December 2015 at 2.15 pm

#### Present

##### Councillors

P J Heal (Chairman)  
Mrs H Bainbridge, W J Daw, Mrs G Doe, J D Squire and  
L D Taylor

#### Apologies

##### Councillors

R J Dolley and R Evans

#### Also Present

##### Councillor

R L Stanley

#### Present

##### Officers

Nick Sanderson (Head of Housing and Property Services),  
Claire Fry (Housing Services Manager), Andrew Cawdron  
(Finance Manager), Michael Parker (Housing Options Manager),  
Mark Baglow (Repairs Manager), Angela Barrett (Accountant)  
and Sarah Lees (Member Services Officer)

#### 40 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Councillors R J Dolley and R Evans.

#### 41 PUBLIC QUESTION TIME

There were no members of the public present.

#### 42 MINUTES

The Minutes of the meeting held on 6 October 2015 were confirmed as a true and accurate record and **SIGNED** by the Chairman.

#### 43 CHAIRMAN'S ANNOUNCEMENTS

The Chairman wished everybody present a Happy Christmas.

#### 44 FINANCIAL UPDATE FOR THE SIX MONTHS TO 30 SEPTEMBER 2015 (00:02:04)

The Group had before it, and **NOTED**, a report \* from the Head of Finance presenting a financial update in respect of the income and expenditure so far in the year.

Significant variances from the Council's overall budget were highlighted within the report as follows:

- Non Domestic Rates: in a recent high level appeal tribunal case, which considered the business rate valuation of GP surgeries, the District Valuer lost the case. The impact is that nationally GP surgeries after a revaluation of their

business rates, will see their business rates fall and can request a refund of the excess of their business rates paid in earlier years. All Councils with GP surgeries will be affected.

- Two refunds had already been arranged by Mid Devon District Council but it had 46 in the District and the impact of this rerating exercise, in terms of refunds, for Mid Devon over the next two years could be in excess of £500k. The Council had currently estimated an impact this year of £100k.
- Recycling tonnages had increased, however, nationally prices had fallen and despite less going into landfill this area was currently showing an overspend.

The Housing Revenue Account (HRA) was currently showing a surplus of £38k due to some small movements including community alarm income being up.

Discussion took place regarding the new audio visual equipment in the Phoenix Chambers being £20k more than originally budgeted for. The Head of Housing and Property Services explained that further opportunities had been taken to enable the room to be better equipped in the future.

Note: \* Report previously circulated; copy attached to the signed minutes.

#### 45 DRAFT BUDGET 2016/17 (00:11:41)

The Group had before it, and **NOTED**, a report \* from the Head of Finance considering options for the Council to set a balanced budget for 2016/17 and agree a future strategy for further budget reductions for 2017/18 onwards.

The Officer outlined the contents of the report stating that Service Managers had been tasked with producing savings and substantial savings had been found, however there was still a budget gap of £827k. It had been reported that the Treasury had reached agreement with four government departments, including the Department for Communities and Local Government, for an average of 30% cut in government funding over the next four years. There was no question that the formula grant would be cut and it was now likely that the Revenue Support Grant of £1.7m would disappear entirely by 2019/20.

Consideration was given to the following table:

#### Reconciliation of Major 2016/17 Budget Variances

<b>Variances</b>	<b>Amount £000</b>
<b><i>External items outside of our control</i></b>	
Reduced formula grant settlement	597
Increased pension contributions - auto enrolment	110
NIC rebate removed from contracted out pensions	180
NNDR GP surgery appeals	100
Pay award circa	100
Falling commodity prices for recycling	125
<b><i>Subtotal</i></b>	<b>1,212</b>
<b><i>Other changes</i></b>	
Deficit on our 2015/16 budget taken from reserves	187

Increase in sinking funds for asset replacement	132
Increased interest payable	78
Decrease in Collection Fund surplus	32
Income from garden waste scheme	(250)
Increased leisure income	(155)
Increased income from investments	(102)
Contributions from town and parish councils	(100)
Increase Council tax income	(95)
Other net savings	(112)
<b>Draft budget gap for 2016/17</b>	<b>827</b>

These figures had been based upon a number of assumptions:

1. Council Tax has been increased by 1.0% as an illustration and increased property growth.
2. Nil transfer from the general Fund Balance.
3. Most of the savings and cost pressures proposed in the budget review meetings had been included.
4. 2016/17 salary budgets include an increase of 1%
5. All earmarked reserves had been reviewed and adjustments made based upon existing need.
6. All income flows had been reviewed and adjusted for changes in demand and unit price.
7. Investment income had been
8. Investment income had been based upon the existing lending criteria now in force.
9. Support services had been inflated in accordance with the pay award.
10. No reductions to grant budgets had been made.
11. Car parking fees were based upon 2015/16 fees and vends.

A revised position would be presented to the Cabinet and Policy Development Groups in January 2016.

Note: \* Report previously circulated; copy attached to the signed minutes.

#### 46 MEETING MANAGEMENT

The Chairman indicated that he would take item 8 before item 7 since the Group needed to be made aware of all the relevant financial facts before considering the HRA budget for 2016/17.

#### 47 HOUSING REVENUE ACCOUNT MEDIUM TERM FINANCIAL PLAN (00:20:12)

The Group had before it, and **NOTED**, a report \* from the Head of Finance and the Head of Housing and Property Services providing an estimate of the budget required for the operation of the Housing Revenue Account (HRA) from 2016/17 – 2019/20.

The Officer outlined the contents of the report stating that it looked at future income and expenditure and where the Council was likely to be in the next 4-5 years. A significant issue affecting the HRA going forwards would be the reduction of 1% in the Formula Rent each year for the next four years. There was also still 21 years left to pay on the Public Works Liability Loan. The Council had circa 3000 properties all

of which would need repairs and maintenance, therefore money had to be set aside for this. Added to this, inflation may start to rise as well as the cost of running the housing service.

Discussion took place regarding ear marked reserves and the fact that these were set aside for specific projects such as Waddeton and Palmerston Park.

Note: \* Report previously circulated; copy attached to the signed minutes.

#### 48 **HOUSING REVENUE ACCOUNT BUDGET 2016/17 (00:32:03)**

The Group had before it a report \* from the Head of Finance and the Head of Housing and Property Services providing an estimate of the budget required for the operation of the Housing Revenue Account (HRA) in 2016/17. Most of the specifics were now known and the remaining uncertainty was the ongoing effect that welfare reform would have.

The Officer outlined the contents of the report drawing the Group's attention to the following key issues:

- It was envisaged that Right to Buy property sales would increase.
- The effects of Universal Credit would lead to increased costs in collection. Guidance on the 'Pay to Stay' initiative was still awaited, this would be an additional burden to the Housing Service.
- Increases had been included in relation to the lifeline alarm scheme charge as well as garage ground rents.

**RECOMMENDED** to the Cabinet that the budget proposals within the report be approved.

(Proposed by Cllr W J Daw and seconded by Councillor Mrs H Bainbridge)

Note: \* Report previously circulated; copy attached to the signed minutes.

#### 49 **PERFORMANCE AND RISK REPORT FOR THE SECOND QUARTER OF 2015-16 (00:38:40)**

The Group had before it, and **NOTED**, a report \* from the Head of Communities and Governance providing Members with an update on performance against the Corporate Plan and local service targets for 2015/16 as well as providing an update on the key business risks.

The Internal Audit Team Leader presented the report stating that there were 3 performance indicators that were performing below target. The number of affordable homes delivered continued to be less than the target although developments were in the pipe line. Six gas safety certificates had expired. All recommendations made by the Health and Safety Executive with regard to asbestos had been implemented.

Note: \* Report previously circulated; copy attached to the signed minutes.

50 **SEVERE WEATHER EMERGENCY PROTOCOL AND EXTENDED WINTER PROVISION PROTOCOL (00:42:05)**

The Group had before it a report \* from the Head of Housing and Property Services. As a member of the Devon and Cornwall Housing Options partnership (DCHOP) the Housing service recognised that local areas should try to prevent rough sleeping at any time of year. However, the winter period could present greatest risks to the health of rough sleepers. Therefore a protocol had been agreed with the other local authorities in the county.

The Housing Options Manager outlined the contents of the report stating that the death of a homeless person in Exeter had led to the drawing up of a protocol whereby emergency shelters would be provided for rough sleepers. It was explained that in previous years the Council had used empty corporate buildings to provide emergency shelter. Bed and Breakfast establishments were also used as shelter units. It was further explained that to the Council's knowledge there were 7 homeless people across the district but it was difficult to track them as they tended to roam from area to area.

Discussion took place regarding whether it was possible to provide specific shelters in the Crediton area. It was explained that not every Bed and Breakfast would take every clientele and it may be that some would have to come to Tiverton, however, public transport costs could be paid.

It was confirmed that the Housing Options Manager was the Council's responsible officer who worked with the joint strategic partnership for the area as well as local charities. His team were proactive in trying to engage with rough sleepers in order to try and avoid emergency situations when bad weather was predicted.

**RECOMMENDED** that the Cabinet recommends to full Council that the new Housing Options Severe Weather Emergency Protocol (SWEP) and Extended Winter Provision Protocol be approved.

(Proposed by Councillor Mrs J Doe and seconded by Councillor Mrs H Bainbridge)

Note: \* Report previously circulated; copy attached to the signed minutes.

51 **SUPPLY AND DEMAND POLICY (00:48:53)**

The Group had before it a report \* from the Head of Housing and Property Services. On 2<sup>nd</sup> April 2015, the Supreme Court found against Westminster Council in a case relating to how it had made a decision on where to place a family to which it owed a duty to accommodate under the Housing Act 1996. The *Nzolamesco v City of Westminster* judgement had significant ramifications for local authorities who were now required to develop policies to show how they would procure accommodation both in and outside their local authority boundaries and how they would decide who has priority accommodation in or close to their operational districts.

The Housing Options Manager further outlined the contents of the report stating that the policy had been drafted under the new legislation with the intention of preventing a risk to the Council being challenged in the future.

**RECOMMENDED** that the Cabinet recommend to full Council that the new Housing Options Supply and Demand Policy be approved.

(Proposed by Councillor Mrs H Bainbridge and seconded by Councillor Mrs J Doe)

Note: \* Report previously circulated; copy attached to the signed minutes.

## 52 **VOID MANAGEMENT POLICY (00:51:25)**

The Group had before it a report \* from the Head of Housing and Property Services advising Members of the Void Management Policy. It was explained that the policy had been drafted on the basis of a recent tenant consultation. The results of the consultation had indicated that the provision of a decoration pack and the decoration reward grant could be stopped without any detrimental effect upon the letting process. It was therefore suggested that a 50% reduction be made which would save somewhere in the region of £85k over 4 years.

Discussion took place regarding tenants decorating their properties. When improvements were made to kitchens and bathrooms the Council would as a matter of course ensure that the surrounding decoration was up to an acceptable standard, however, they would not redecorate bedrooms or living rooms, this would be up to the tenants themselves. All properties were expected to be returned to a decent standard of decoration upon vacation of the property.

**RECOMMENDED** that the Cabinet recommend to full Council that the new Void Management Policy be approved subject to Appendix B showing a 50% reduction in the costs relating to the paint packs and decoration grant.

(Proposed by Councillor W J Daw and seconded by Councillor J D Squire)

Note: (i) \* Report previously circulated; copy attached to the signed minutes.

(ii) Councillor Mrs J Doe requested that her abstention from voting be recorded.

## 53 **ABOLITION OF CASH INCENTIVE SCHEME (01:03:00)**

The Group had before it a report \* from the Housing Services Manager seeking permission to end the payment of incentives to encourage tenants to downsize.

She outlined the contents of the report stating that the abolition of the cash incentive scheme for downsizing was recommended on the basis that income into the HRA was likely to reduce in coming months. National housing policy and welfare reform would have a negative impact upon income and all areas of work had to be reviewed to ensure that value for money was being achieved.

The use of flexible tenancies meant that less people were likely to be under-occupying larger homes going forward.

With regard to downsizing, the removal of the spare bedroom subsidy was now a “push” factor which was likely to influence people who were under-occupying. The award of high priority for such people who applied to join the DHC scheme was also an incentive and enabled them to resolve their housing needs.



Discussion took place regarding:

- The Housing Service acting as a signposter to the Local Welfare Assistance Scheme and local charities who provided support to those with little income.
- The legislation relating to flexible tenancies was very prescriptive with the intention that people whose tenancy was not going to be renewed at the end of the fixed period would have adequate notice to enable them to find alternative accommodation. In accordance with the Council's own procedures, Officers will start investigations with tenants at least a year before the end of a tenancy.
- There was only a limited amount of stock and people would sometimes have to be realistic and compromise on the type of property allocated as well as its location.

**RECOMMENDED** to that Cabinet that the cash incentive scheme whereby downsizing tenants are given payments for giving up larger homes is discontinued.

(Proposed by Councillor Mrs H Bainbridge and seconded by Councillor Mrs J Doe)

Note: \* Report previously circulated; copy attached to the signed minutes.

#### 54 **IMPROVEMENTS TO COUNCIL PROPERTIES POLICY (01:14:23)**

The Group had before it a \* report from the Housing Services Manager reviewing the Improvements to Council Properties Policy. The contents of the report was outlined by the Housing Services Manager with reference to the fact that Council houses were the biggest asset to the Council, alterations needed to be to the highest possible standard thereby protecting the fabric of buildings for as long as possible. The revised policy was needed in order to provide clarity to both officers and tenants as to what was and what was not allowed.

Discussion took place with regard to the onus being placed upon the tenant to appoint a suitable contractor to undertake improvement works. It was confirmed that permission was needed first from the Council to undertake any improvements to Council owned properties.

**RECOMMENDED** to the Cabinet that the revised Improvements to Council Properties Policy be approved.

(Proposed by Councillor W J Daw and seconded by Councillor Mrs J Doe)

Note: \* Report previously circulated; copy attached to the signed minutes.

#### 55 **LEASEHOLD MANAGEMENT POLICY (01:22:30)**

The Group had before it a report \* from the Housing Services Manager reviewing the Leasehold Management Policy. The contents of the report were outlined by the Housing Services Manager who stated that the Council had a different relationship with lease-holders than it did with tenants. The policy reflected changes in good practice and identified the Council's approach to meeting its obligations to lease-holders in accordance with the terms of their lease and the relevant legislative

requirements. The revised policy also brought clarity to the lease-holders themselves and officers.

**RECOMMENDED** to Cabinet that the revised Leasehold Management Policy be approved.

(Proposed by Councillor Mrs H Bainbridge and seconded by Councillor W J Daw)

Note: \* Report previously circulated; copy attached to the signed minutes.

## 56 **DEVON HOME CHOICE WORKING GROUP REPORT (01:26:35)**

The Group had before it a report \* from the Devon Home Choice Working Group including its recommendations in relation to Band E.

The Chairman of the Working Group outlined the contents of the report summarising the work that had taken place and the conclusions reached by the working group.

Discussion took place with regard to some amendments needed to the recommendations within the draft report. It was therefore:

**RECOMMENDED** to the Cabinet that:

Band E be retained only on the following assumptions:

1. All applicants to be reviewed annually on Devon Home Choice, this will also include contacting applicants to remind them that they may not have logged onto the Devon Home Choice system or have never placed a bid on the system. This will take out some of the “*dead wood*” on the system and remove those who have moved and not notified Devon Home Choice of their changes. Applicants will be given 21 days in which to respond. Should they not reply then the application will be suspended.
2. Contact applicants who have not logged onto the system to ascertain the reasons behind this.
3. Applicants who have refused 3 properties will be investigated as to the reasons for the refusal, to determine if they should remain in their current band or suspended.
4. Mid Devon goes out for consultation on its Housing Allocation Policy proposing that the policy be rewritten to include the following points:
  - Applicants will be removed from the Devon Home Choice waiting list if they do not bid for properties over a 12 month period subject to availability of properties within their required location or adjacent parishes.
  - Applicants will be removed from the waiting list if they refuse 3 *suitable* offers of accommodation subject to availability of properties within their required location or adjacent parishes.

- Whilst carrying out a consultation, the working group may wish to include other elements to the review.
- That there be a review of progress in June 2016.

(These changes can be implemented ready for the 1<sup>st</sup> April 2016. This would allow for the consultation period of 6 weeks (as recommended by DCLG), a new allocation policy to be written and sent to the PDG for agreement).

(Proposed by Councillor W J Daw and seconded by Councillor J D Squire)

Note: \* Report previously circulated; copy attached to the signed minutes.

#### 57 **UPDATE ON THE WESSEX PARTNERSHIP (01:39:50)**

The Group were provided with, and **NOTED**, an update from the Cabinet Member for Housing and the Public Health and Professional Services Manager regarding Council's partnership with Wessex Homes. It was explained that 4 years ago the Council had entered into a partnership with Wessex Homes to provide loans to people wanting to upgrade. Interest rates for those entering into this type of agreement had been very low. Recent uptake of this facility had been very poor but the Council was still having to pay an annual fee to continue this facility. This meant that the situation was becoming financially unsustainable going forwards. A report would come to the Policy Development Group in the new year setting out proposals for the future.

#### 58 **MOVING TO A 52/53 WEEK RENT CHARGE (01:55:47)**

The Group were provided with a briefing paper \* from the Housing Services Manager outlining the proposed changes to the rent collection period.

She outlined the content of the proposed operational changes stating that the proposal was to spread out rent charges over a full calendar year. This would bring clarity and simplicity to existing and potential tenants. The proposals would form a part of the consultation on the Tenancy Agreement which would be undertaken early in the new year with a revised Tenancy Agreement coming into force in April 2016.

Note: \* Briefing paper previously circulated; copy attached to the signed minutes.

#### 59 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

In addition to the items already listed in the work programme, the following items were requested to be on the agenda for the next meeting:

- Update on the Wessex partnership
- Update on the Devon Homes Choice recommendations from the Working Group

(The meeting ended at 4.25 pm)

**CHAIRMAN**

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## MID DEVON DISTRICT COUNCIL

### MINUTES of a MEETING of the COMMUNITY WELL BEING POLICY DEVELOPMENT GROUP held on 3 November 2015 at 2.00 pm

#### Present

##### Councillors

Mrs B M Hull (Chairman)  
Mrs A R Berry, Mrs J B Binks, R M Deed,  
B A Moore, Mrs E J Slade and N A Way  
(substituting for Cllr F W Letch)

#### Apologies

##### Councillor(s)

Mrs E M Andrews, F W Letch and Miss C E L Slade

#### Also Present

##### Councillor(s)

Mrs H Bainbridge, R F Radford, F J Rosamond and  
C R Slade

#### Also Present

##### Officer(s):

Amy Tregellas (Head of Communities and Governance and  
Monitoring Officer), Julia Stuckey (Member Services  
Officer) and Andrew Cawdron (Finance Manager)

## 36 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Councillor Mrs E M Andrews, Councillor Miss C L Slade and from Councillor F W Letch, who was substituted by Councillor N A Way.

## 37 PUBLIC QUESTION TIME

Referring to item 5 on the agenda Mr A Pilgrim informed the Group that he took exception to the funding for the canal being considered as payment to an external agency and that the canal was imbedded in the psyche of our communities, beneficial to Mid Devon District Council and geographically very important to Mid Devon. Mid Devon District Council proposed completely removing funding over the next couple of years, this was unhelpful, the canal was an economical and far reaching facility, with all people able to dip into a free at point of use facility. The total budget for the canal compared to the cost of leisure services was economical and leisure centres did not have such a broad catchment area. Mr Pilgrim stated that he was opposed to the cut, that the County Council could not top it up and the impact assessment suggested that in a very few years the canal would decline in its ability to provide a service. He said that it would be a disservice to the community if cuts were made, to mental and health benefits. Many people took solace from using the canal; it was one of the best in the country and provided wide ranging benefits.

Mr R Gould, referring to item 5 on the agenda stated that he was opposed overall to the proposals to cut grants, he stated that this was meant to be a Community Well Being Policy Group but it was not a development to cut grants, nor was it good for wellbeing. He pointed out the impact assessment matrix within the report. He

informed the Group that the payment in respect of the canal was never a grant, it went back to 1971 when Tiverton Borough was a partnership with Devon County Council, and Mid Devon had gradually reduced support over time. He stated that all of the agencies being cut were necessary and that the intended reduction of grants next year almost depleted the whole purpose of the committee.

Mr M Lucas, referring to item 5 on the agenda stated that he had lived in the area for 33 years and had been involved with the canal for 28 years. This was a tourist attraction which brought in many, many tourists. He said that he met people along the canal that had travelled from all over the country. The cuts proposed meant it was time to turn round and say enough is enough to central government. He urged that the council not cut this grant, destroying something that has been worked hard on for 25 years by everyone. The facilities were enjoyed by one and all and something to behold. He asked that the Group please look at the amount being taken away, people love the canal, we should love the canal, it is a hard task to make but the canal brings people into this area and helps prosperity in this part of the world.

Referring to item 5 on the agenda, Mr M Baker reminded the Group that last year he had been invited to give a presentation about the canal and that he had given some background to the funding arrangements and some of the pressures being faced. He believed that there had been some changes to membership of this group, so recapped a few of the key points made. The Annual revenue budget for the canal for this year was £174k. Devon County Council provided £71k of that, Mid Devon District Council (MDDC) provided £45k and the canal generated £58k through various sources of income (such as car parking, leases, log sales, and the like).

One of the slides showed that overheads were increasing year on year (utilities, fuel, insurance, waste disposal were all going up). When coupled with the funding cuts totalling £10k imposed by MDDC in recent years, there was now a situation where available budget for maintaining the canal was extremely tight – around one third of what it was 5 years ago. Nowadays it really just paid for the 3 staff members and the resources they needed to do the basic maintenance work along the canal, plus the upkeep of visitor facilities in the Canal Basin and some specialist contractors for doing the few jobs that they couldn't (such as specialist tree surgery work). All improvement works were now reliant on finding external funding.

Any cuts to the remaining revenue budget would impact directly on the Canal Ranger Service and the ability to maintain the 11 ¼ miles of the canal to a good standard and obviously the depth of the cut would determine the extent of the impact.

Given the financial pressures that all levels of local government were facing they had anticipated some further cuts to funding either from Mid Devon or Devon County and so had made plans for further increasing income to try and cover any shortfall over the coming years.

However, not only was the rate of increase in income that we can generate fairly limited but there had been absolutely no indication of the massive scale of funding withdrawal being proposed by Mid Devon in such a short timescale – 50% cut next year and nothing thereafter.

There was simply no scope for such cuts to be made up by increasing the income that we generate. There is also probably very little chance of Devon County Council stepping in and increasing its budget for the canal.

The only possible responses that I can see given the scale of cuts being proposed are to close down and cut back on some of the visitor facilities and to reduce staffing levels.

This would see a switch in emphasis away from managing the Canal as a destination for tourism and day trips, to simply one of managing the health and safety of visitors and trying to keep the canal free of weed in the highest priority areas. Undoubtedly there would be a severe impact on the businesses that are based along the canal, as well as an impact in the wider local economy.

Reducing staffing would also have the effect of reducing capacity to manage volunteers who play a crucial role in helping manage the canal. Also capacity to generate and collect the income which makes up such a significant proportion of our budget – would be badly damaged.

It seems that the canal is currently at something of a crossroads. If funding was severely cut, we really could see a reversal of all the good work and investment achieved in recent years. A downward spiral of declining funding, declining standards and declining income could take hold, and the impacts of this would be felt almost entirely by Mid Devon residents and Mid Devon businesses.

I'd like to ask the group if they could consider recommending that Mid Devon District Council and Devon County Council meet to discuss the joint funding arrangements for the canal and find a way to manage the situation in partnership, as they have done for the last 40 years.

Mr Hodgson, referring to item 5 on the agenda stated that he firmly believed that nothing in report should be cut, in particular the canal. He stated that he was speaking on behalf of 300,000 visitors that came each year to enjoy the canal – he said that death by a 1000 cuts would follow soon.

Councillor Mrs H Bainbridge, referring to item 5 on the agenda said that everyone was now fully aware of the implications that these cuts would have on the canal. She stated that the canal was a major asset to Mid Devon and even more important now that the authority was charged with public health and walking was popular and easy on the canal. If the ranger service was cut the facilities would deteriorate. She informed the Group that even when the Council was in special measures money was still found to save the Walronds. She asked if there was any other funding pot within Mid Devon which could go to the canal. She said that there had been a pledge to give £100k towards the repairs to the breach and asked if this funding was still available.

Mrs R Stephenson, referring to item 5 on the agenda stated that she was opposed to the cut of £1k, the total grant, to the Crediton Arts Centre. She asked what Crediton would be like without an Arts Centre and said that proportionally £1K was a lot to a small organisation which was already operating on a knife edge. She informed the Group that the Arts Centre was a major contributor to cultural and economic life in Crediton and had been involved with the food festival, Shakespeare in the Square,

Youth Theatre, the Flag Project and Christmas events. She also said that losing the grant from Mid Devon sent a message to other supporters and made it more difficult to get funding from elsewhere.

Ms N Rowe from the Citizens Advice Bureau asked if the Group were aware that the Citizens Advice Bureau had supported 2592 clients within Mid Devon in the last year and had dealt with 6300 issues. They had helped clients to claim a considerable amount of money that they were due, which meant income into the community. She asked how the Council planned to replace this money.

Mr D Margets, referring to item 5 on the agenda, asked the Group to be aware of paragraph 2.1 within the report which stated that this council sought to protect allocations to agencies providing a reliable service to the districts most vulnerable residents. He asked whether the Group considered that the Citizens Advice Bureau did that.

The Chairman indicated that the answers to the questions raised would be provided at agenda item 5.

### **38 MINUTES OF THE PREVIOUS MEETING**

The Minutes of the last meeting of the Group were approved as a correct record and **SIGNED** by the Chairman.

### **39 CHAIRMANS ANNOUNCEMENTS**

The Chairman, referring to comments made by Mr Gould in public question time, explained to those in attendance that the Group looked at more than just grants and had a full agenda of other items throughout the year.

The Chairman informed those in attendance that any recommendation made today would go forward to the Cabinet meeting scheduled for 19<sup>th</sup> November 2015.

### **40 GRANT PAYMENTS TO EXTERNAL ORGANISATIONS 2016/17**

The Group had before it a report \* from the Grants and Funding Officer seeking Member approval for the level of grant awards to external organisations for 2016/17.

The Head of Communities and Governance outlined the contents of the report, explaining that the authority had paid grants for a number of years and that in 2011 there had been 25 organisations that received grants totalling £250K. In 2012/13 a fundamental review of the grants process was undertaken and this prioritised the recipients into three groups, high priority, medium priority and low priority. Those of low priority received a tapered reduction in their grants to the end of 2014/15. At this time Members also agreed to allocate £32K to a seed fund so that organisations could put in bids for projects. Since then the Authority had worked with organisations to help them become more self-sufficient. The Grants and Funding Officer had brought in a considerable level of funding to the District over the last few years.

Last year a reduction of £20k was made to the grant budget and remaining funds in the Seed Fund were allocated.



In accordance with the process previously agreed by the Group organisations were asked to submit annual accounts, which formed appendix 4 of the report, along with an impact assessment. Each organisation had been/were being given the opportunity to come along to a meeting of the Group to explain what they did and how the grant was spent.

The Officer went on to remind the Group that it was a reality that cuts had to be made and that it was not possible to fund community grants at the same level as in the past. A balanced budget had to be set by the authority and grants were discretionary and not a statutory service.

Referring to appendix 1 of the report the Officer worked through the list of recommended grant allocations for 2016/17, highlighting the following areas:

- Records submitted indicated that the Blackdown Support Group showed a profit and healthy reserve;
- The Citizens Advice Bureau had dealt with a lower number of queries in the last year than in previous years and the council itself was providing advice from Moneywise;
- Detailed financial information provided by the Crediton Arts Centre showed a healthy turnover, a profit of £40k and a healthy reserve;
- Sunnymead Community Association generated a substantial income and had healthy reserves;
- Grants payable to the Tiverton Museum and Tourist Information Service had been set for a three year period and were now in their final year of protection.

Discussion took place regarding:

- The overall budget for both discretionary and statutory services;
- The need to look at income and reserves within financial information provided by the organisations;
- The percentage of cuts to some organisations being higher than others;
- The need to maintain a presence in Crediton;
- The need to make savings in order to set a balanced budget;
- £100k that had been pledged towards the repair of the canal breach;
- The need for robust impact assessments;
- The previous 'unofficial' partnership with Devon County Council regarding the canal;
- The possibility of future partnership working regarding the canal.

It was **RESOLVED** that

- 1) A meeting based on a partnership approach be set up between Mid Devon District Council and Devon County Council, to discuss the ways in which a settlement could be agreed that kept the canal viable, and that the whereabouts of the £100k that was pledged to the breach be investigated.

(Proposed by Cllr N A Way and seconded by Cllr Mrs J D Binks)

- 2) A working group be put in place to review the grants report, in particular appendix 5 and that the group membership comprise of Cllrs Mrs E J Slade, N A Way, Mrs B M Hull, Mrs R Berry and that Cllr R Radford be co-opted to the group as a County Councillor.

(Proposed by Cllr Mrs J B Binks and seconded by Councillor Mrs R Berry)

Note:- i) Report \* previously circulated and attached to Minutes.

ii) Councillors R F Radford and N A Way declared a personal interest as Devon County Councillors.

iii) Councillor Mrs J D Binks declared a personal interest as she was on the Panel of the Citizens Advice Bureau.

iv) Councillor Mrs E J Slade declared a personal interest as she was a committee member at the Tiverton Museum.

vi) Councillor C R Slade declared a personal interest as a member of the Grand Western Canal Joint Advisory Committee.

#### 41 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Anti-Social Behaviour Stats  
Performance and Risk  
Financial Monitoring  
Grant Recipient Presentation  
Update from the Grant Working Group

(The meeting ended at 3.45 pm)

**CHAIRMAN**

## **MID DEVON DISTRICT COUNCIL**

### **MINUTES of a MEETING of the COMMUNITY WELL BEING POLICY DEVELOPMENT GROUP held on 8 December 2015 at 2.15 pm**

#### **Present**

##### **Councillors**

Mrs B M Hull (Chairman)  
Mrs E M Andrews, Mrs H Bainbridge  
(substituting for Miss C E L Slade),  
Mrs A R Berry, Mrs J B Binks, R M Deed,  
F W Letch and Mrs E J Slade

#### **Apologies**

##### **Councillor(s)**

B A Moore and Miss C E L Slade

#### **Also Present**

##### **Councillor(s)**

C J Eginton, C R Slade and R L Stanley

#### **Also Present**

##### **Officer(s):**

Jill May (Head of HR and Development), Andrew Jarrett (Head of Finance), Amy Tregellas (Head of Communities and Governance and Monitoring Officer), Rob Fish (Principal Accountant) and Julia Stuckey (Member Services Officer)

## **42 APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr B A Moore and from Cllr Miss C E L Slade (who was substituted by Cllr Mrs H Bainbridge).

## **43 PUBLIC QUESTION TIME**

There were no members of the public present.

## **44 MINUTES OF THE PREVIOUS MEETING**

The Minutes of the last meeting of the Group were approved as a correct record and **SIGNED** by the Chairman.

## **45 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had no announcements to make.

## **46 MEETING MANAGEMENT**

The Chairman indicated that she intended to take item 10 on the agenda before item 6.

## **47 DRINK WISE AGE WELL**

The Chairman welcomed Mr Darren Walker, Prevention Worker from Drink Wise, Age Well to the meeting.

Mr Walker explained that the Drink Wise Age Well project was self-funded through the National Lottery and was one of five throughout the country that had been set up as a trial. There was an aspirational aim to be country wide. This was a seven year project, the first year had been research and they were now in the second year which was implementation. Year 7 would be evaluation.

The project had three strands. The first strand covered prevention and involved marketing, education and knowledge. The project looked specifically at the over 50's and their relationship with alcohol. Research had shown that the over 50's were the fastest growing group that had a harmful relationship with alcohol. In Devon, rural isolation, lack of transport and life changing events that happen in that age group were all a cause. The prevention team were working in the community spreading the word, through events, festivals, stalls and by talking to employers.

The second strand of the project was the Resilience Team which was community driven, aiming to get to those that may be isolated out into the community, trying to connect with them to avoid the triggers that might lead to drink.

The third strand involved working with hospitals and GP surgeries to work with those that already had an alcohol problem.

Mr Walker explained that the group worked as a signpost to direct clients to options such as Alcoholics Anonymous, Age UK and other agencies that could support them.

Mr Walker thanked the Committee for their time.

#### **48 GRANT PAYMENTS TO EXTERNAL ORGANISATIONS 2016/17 (0.30.23)**

The Group had before it a report \* from the Grants and Funding Officer regarding Grant Payments to External Organisations 2016/17, the minutes of a meeting of the Grants Working Group, which had met following the last meeting of this Group and an amended proposed recommendation.

The Head of Communities and Governance explained that funding for the Grand Western Canal had been removed from the Grants Budget. Future funding for this would be from the New Homes Bonus and a meeting would be put in place for January to allow a longer term business case to be discussed.

The Officer explained that the Working Group had met and their recommendations were included within the report.

Discussion took place regarding:

- The grant to the Crediton Arts Centre that the Working Group had recommended remain unchanged although its main purpose was not to help vulnerable people;

- The grant to Community Housing Aid Nightstop that was recommended to be cut by 20% and the fact that most of their clients were Exeter based but Mid Devon was contributing a higher grant.

It was **RECOMMENDED** to the Cabinet that:

- a) The grant for the Grand Western Canal be removed from the grants budget and be paid from the New Homes Bonus;
- b) The revised grant allocations for 2016/17 be approved.

(Proposed by Cllr R M Deed and seconded by Cllr Mrs H Bainbridge)

and

- c) That the authority put in place procedures to ensure that monitoring of activity and finances of those in receipt of grants took place in the future;
- d) And that the Community Well Being Policy Development Group, Grants Working Group, be involved in any initial discussions regarding the setting of proposed cuts to future grants.

(Proposed by the Chairman)

Note:- i) Report previously circulated and attached to Minutes.

ii) A proposal to remove the grant for the Crediton Arts Centre was not supported.

iii) Cllr J B Binks declared a personal interest as she knew some members of the Crediton Arts Centre.

#### 49 **FINANCIAL MONITORING (0.52.27)**

The Committee had before it and **NOTED** a report \* from the Head of Finance presenting a financial update in respect of the income and expenditure so far in the year.

The Officer informed the Group that there was an adverse variance of £229k at the time of the report. Areas under the responsibility of this PDG with a negative variance were Planning Services at £120k and Leisure at £70k. Planning was due to enforcement action that had taken place in Cullompton and Leisure was predominantly due to a decrease in income and some extra maintenance at the centres.

The Officer further explained that monitoring since the report had been produced showed a larger variance, which was in part due to the cost of restructuring at Leisure Centres.

The Head of Human Resources and Development explained that the Leisure Service had been through a robust reorganisation and was now undertaking a more strategic approach. This would free-up officer time to promote the business. Some long-term

members of staff had left and the centres were in a transition period at the moment. A strong steer from Finance stated that the Leisure Service needed to break even by 2019-20. Cuts in formula grant meant that discretionary services must break even. The service needed to get new customers and not alienate existing customers. A very experienced management team was now in place with specific targets and aims, new teams of duty managers would be more efficient and more stream lined.

Discussion took place regarding free parking in the long stay car parks leading up to Christmas and the need to ensure that this was clearly signed.

Note: - \* Report previously circulated and attached to Minutes.

## 50 DRAFT BUDGET 2016-17 (1.07.06)

The Group had before it and **NOTED** a report \* from the Head of Finance presenting options available for it to consider in order for the Council to set a balanced budget for 2016/17.

The Officer outlined the contents of the report stating that Service Managers had been tasked with producing savings and substantial savings had been found, however there was still a budget gap of £827k. It had been reported that the Treasury had reached agreement with four government departments, including the Department for Communities and Local Government, for an average of 30% cut in government funding over the next four years. There was no question that the formula grant would be cut and it was now likely that the Revenue Support Grant of £1.7m would disappear entirely by 2019/20.

Consideration was given to the following table:

### Reconciliation of Major 2016/17 Budget Variances

<b>Variances</b>	<b>Amount £000</b>
<b><i>External items outside of our control</i></b>	
Reduced formula grant settlement	597
Increased pension contributions - auto enrolment	110
NIC rebate removed from contracted out pensions	180
NNDR GP surgery appeals	100
Pay award circa	100
Falling commodity prices for recycling	125
<b><i>Subtotal</i></b>	<b>1,212</b>
<b><i>Other changes</i></b>	
Deficit on our 2015/16 budget taken from reserves	187
Increase in sinking funds for asset replacement	132
Increased interest payable	78
Decrease in Collection Fund surplus	32
Income from garden waste scheme	(250)
Increased leisure income	(155)
Increased income from investments	(102)
Contributions from town and parish councils	(100)
Increase Council tax income	(95)
Other net savings	(112)

Discussion took place regarding:

- Take up of the garden waste collection scheme had been higher than expected and to date 6000 permits had been sold, it was hoped that there would be further uptake in March;
- The salary bill was reduced by £130k due to redundancies;
- It was hoped that Devon County Council would enter an agreement for the savings made by a reduction in waste to landfill;
- Customer Services providing for more and more areas to be completed on line, which was a cheaper service to provide;
- Areas of uncertainty such as the level for the Council Tax Freeze Grant, the New Homes Bonus and the level of the Council Tax referendum;
- A number of assumptions such as the level of salary increase, car parking fees and income flows.

The Head of Finance explained that a further report would be presented in the New Year.

Note: - \* Report previously circulated and attached to Minutes.

## 51 **PERFORMANCE AND RISK (1.30.23)**

The Group had before it and **NOTED** a report \* from the Head of Communities and Governance providing Members with an update on performance against the corporate plan and local service targets for 2015-16 as well as providing an update on the key business risks.

Discussion took place regarding the number of empty shops in the main towns.

Note: - Report previously circulated and attached to Minutes.

## 52 **ANTI SOCIAL BEHAVIOUR STATISTICS (1.34.34)**

The Group had before it a briefing paper \* from the Head of Housing and Property Services updating Members on anti-social behaviour performance for the last 12 months.

The Officer outlined the Anti-Social Behaviour (ASB), Crime and Policing Act 2014, explaining that during February, March and April 2015, five training sessions had been arranged and run by the Community Safety Partnership (CSP) to inform local officers how the new ASB legislation would be implemented in Mid Devon. 55 staff had received this training including council staff from Housing, Environmental Health and the District Officers; Police Officers and PCSOs, and Housing Officers from seven different Registered Social Landlords (Housing Associations).

The Officer informed Members that the Closure Power had been used in Mid Devon, and had been reported in the local paper, to stop people living in a particular property. He explained that this process had taken approximately three weeks prior to a hearing at the Magistrates Court as statements had been needed from the Police, Social Services and neighbours had been interviewed. The Order was in place until March 2016; in the meantime the Housing Service would apply for possession on Absolute Grounds for Procession, for anti-social behaviour.

Note: - Report previously circulated and attached to Minutes.

### 53 IDENTIFICATION OF ITEMS FOR FUTURE MEETINGS

Leisure Pricing  
Budget  
Town Team Update (all three areas)  
Grant Recipient Presentation  
Young Carers  
Citizens Advice Bureau  
Inward Investment Strategy  
Public Health Update  
Single Equalities Policy  
Economic Development Strategy  
CCTV Annual Report

(The meeting ended at 4.05 pm)

**CHAIRMAN**



Committee Administrator  
Sally Gabriel  
Tel: 01884 234229  
E-Mail: [sgabriel@middevon.gov.uk](mailto:sgabriel@middevon.gov.uk)

**PLEASE NOTE:** Members of the public wishing to speak to a planning application are requested to contact the Committee Administrator before the meeting starts.

## MID DEVON DISTRICT COUNCIL

### PLANNING COMMITTEE

A MEETING of the PLANNING COMMITTEE will be held in the Council Chamber, Town Hall, Tiverton on Wednesday, 2 December 2015 at 2.15 pm

The next ordinary meeting of the Committee will take place on Wednesday, 16 December 2015 at 2.15 pm in the Phoenix Chamber, Phoenix House Tiverton

#### KEVIN FINAN

Chief Executive  
24 November 2015

**Councillors:** Mrs H Bainbridge, K Busch, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, J M Downes, S G Flaws, P J Heal, D J Knowles, F W Letch, R F Radford, J L Smith, J D Squire and R L Stanley

## A G E N D A

### MEMBERS ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE

- 1 **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of substitute.
- 2 **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the Agenda from members of the public and replies thereto.  
  
Note: A maximum of 30 minutes is allowed for this item.
- 3 **MINUTES OF THE PREVIOUS MEETING** (*Pages 5 - 18*)  
To receive the minutes of the previous meeting.
- 4 **CHAIRMAN'S ANNOUNCEMENTS**  
To receive any announcements the Chairman may wish to make.
- 5 **DEFERRALS FROM THE PLANS LIST**  
To report any items appearing in the Plans List which have been deferred.

- 6      **THE PLANS LIST** *(Pages 19 - 38)*  
To consider the planning applications contained in the list.
- 7      **THE DELEGATED LIST** *(Pages 39 - 60)*  
To be noted.
- 8      **MAJOR APPLICATIONS WITH NO DECISION** *(Pages 61 - 64)*  
List attached for consideration of major applications and potential site visits.
- 9      **APPEAL DECISIONS** *(Pages 65 - 68)*  
To receive for information a list of recent appeal decisions.
- 10     **INSTALLATION OF A GROUND MOUNTED PHOTOVOLTAIC SOLAR FARM TO GENERATE UP TO 6MW OF POWER (SITE AREA 11 HA) WITH ASSOCIATED INFRASTRUCTURE INCLUDING INVERTER CABINS, SUB-STATION BUILDINGS, ACCESS TRACKS, FENCING AND CCTV (REVISED SCHEME) AT LAND AT NGR 307922 118303 (WISEBURROWN FARM), BURLESCOMBE, DEVON** *(Pages 69 - 94)*  
To receive an implications report from the Head of Planning and Regeneration following discussions at the previous meeting where Members were minded to refuse the application.
- 11     **PRE- APPLICATION FEES** *(Pages 95 - 108)*  
To receive a report of the Head of Planning and Regeneration requesting the Committee to consider revised arrangements for our customers to gain pre-application advice from the Planning Service in terms of fees for heritage advice.

**The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. The reports within this agenda have been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.**

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available.

There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Sally Gabriel on:

Tel: 01884 234229

Fax:

E-Mail: [sgabriel@middevon.gov.uk](mailto:sgabriel@middevon.gov.uk)

Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **PLANNING COMMITTEE** held on 16 December 2015 at 2.15 pm

### **Present Councillors**

Mrs H Bainbridge, K Busch, Mrs C Collis,  
Mrs F J Colthorpe, R J Dolley, J M Downes,  
S G Flaws, P J Heal, F W Letch,  
R F Radford, J L Smith, J D Squire and  
B A Moore

### **Apologies Councillor(s)**

D J Knowles and R L Stanley

### **Also Present Councillor(s)**

Mrs A R Berry, R Evans and  
Mrs M E Squires

### **Present Officers:**

Jenny Clifford (Head of Planning and  
Regeneration), Tina Maryan (Area Planning  
Officer), Simon Trafford (Area Planning  
Officer), Daniel Rance (Principal Planning  
Officer), Jo Cavill (Enforcement Officer) and  
Sally Gabriel (Member Services Manager)

## 85 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr R L Stanley who was substituted by Cllr B A Moore.

Apologies were also received from Cllr D J Knowles.

In the absence of Cllr D J Knowles (Vice Chairman), the Chairman sought a proposal from the Committee for an Acting Vice Chairman.

**RESOLVED** that Cllr K I Busch be Acting Vice Chairman for the meeting.

(Proposed by the Chairman)

## 86 **PUBLIC QUESTION TIME**

There were no questions from members of the public present.

## 87 MINUTES OF THE PREVIOUS MEETING (00-3.00)

Subject to an amendment to Minute 81 in the notes removing the word “landowner” and replacing it with “site manager”, the minutes of the meeting held on 2 December 2015 were approved as a correct record and signed by the Chairman.

## 88 CHAIRMAN'S ANNOUNCEMENTS (00-04-32)

The Chairman informed the meeting that Luke Smith who had most recently been working as a Principal Planning Officer would be leaving the authority in January; the Committee wished him well.

## 89 ENFORCEMENT LIST

Consideration was given to the following cases in the Enforcement List \*:

Note: \*List previously circulated; copy attached to the signed Minutes.

Arising thereon:

No. 1 in the Enforcement List (***Enforcement case ENF/15/00158/UDUR – Agricultural buildings not being built in accordance with approved plans of 15/00784/FULL and 15/00785/FULL, resulting in the development being unauthorised – land at 97524 124069 (Fourwinds) Morebath.***)

The Planning Enforcement Officer outlined the contents of the report stating that the development had been granted planning permission in June 2015 however the site had been built out far in excess of the permission granted. Members viewed photographs from various aspects of the site and noted the height and position of the buildings and the impact on the visual amenity.

Consideration was given to the size of the unauthorised buildings and the impact on the local area.

It was therefore

**RESOLVED** that the Legal Services Manager be authorised to take any enforcement action, including the service of a notice or notices, seeking the removal of the unauthorised buildings from the land. In addition, in the event of a failure to comply with the requirements of any notice served, authorisation for prosecution, direct action and/or authority to seek a court injunction.

(Proposed by Cllr J L Smith and seconded by Cllr Mrs H Bainbridge)

Notes:

- a) Cllr P J Heal declared a Disclosable Pecuniary Interest in the application as he identified from the photographs that he had had business involvement with one of the contractors on the site and left the meeting during the discussion thereon;

- b) Cllr B A Moore declared a personal interest as he knew many of the local residents;
- c) The following late information was reported: The Council has received a request for a meeting for pre-application advice from the agent acting on behalf of the owner of the land. A site visit has been arranged for the 21<sup>st</sup> December 2015, where the agent wishes to discuss alternative options or changes that may be made to the buildings so that they are acceptable in planning terms.

Your Officers consider that the owner of the site has already been given ample opportunity to engage in discussion regarding the resolution of this matter, and no progress has been made. Therefore it is considered that formal enforcement action is the most appropriate way forward, and in the event that the owner should submit a planning application for an alternative scheme, such action can be held in abeyance until determination.

15<sup>th</sup> December 2015 - An email has been received from a nearby resident commenting on the adverse visual impact of the barns particularly on their views across the valley. The neighbour has also raised concerns about the notification procedure for the original planning applications. The neighbour has requested that the Committee ensure that the barns be removed and are not replaced with any alternative structures.

The recommendation refers to Head of Legal Services, but should read Legal Services Manager.

## 90 DEFERRALS FROM THE PLANS LIST

There were no deferrals from the Plans List.

## 91 THE PLANS LIST (00-14-55)

The Committee considered the applications in the plans list \*.

Note: \*List previously circulated; copy attached to the signed Minutes.

(a) No 1 on the Plans List (***(15/01327/FULL, Change of use of part of ground floor from existing pub Use Class A4 to create 2 dwellings Use Class C3 – the Ayshford Arms, Burlescombe)***).

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the existing and proposed ground floor plans and elevations and the reconfiguration of some of the windows. She stated that 230sqm of the floor space would remain as the public house with partial demolition of the skittle alley to make room for gardens for the new dwellings and emphasised that the village would not be losing the public house it would just be reduced in size.

Consideration was given to:

- Access to the public house
- The proposed ownership of the new dwellings

- The viability of the business
- Community involvement
- Possible loss of a community asset
- The internal layout of the public house

**RESOLVED** that planning permission be granted subject to the provision of a Section 106 agreement to secure financial contributions towards public open space of £2416.00 and conditions as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr F W Letch)

(Vote 7 for: 6 against – Chairman’s casting vote)

Notes:

- (i) Cllr R J Dolley declared a personal interest as the applicant was known to him;
- (ii) Cllr R F Radford made a declaration in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as he had had discussions with the objectors to the application;
- (iii) Mr Phillips (Applicant) spoke;
- (iv) Mrs Hill spoke in objection to the application;
- (v) Cllr Mrs H Bainbridge spoke as Ward Member;
- (vi) The following late information was reported: 14<sup>th</sup> December 2015

Total objections: 6  
Total representations: 1

Additions to the objections summary contained in report:

- The applicants has not been operating hours that would enable/encourage trade in an acknowledged tourism area, the demise in trade, or difficulty in providing a financially stable business are a result of the applicants actions.
- Low key marketing and an unrealistically high asking price
- Concern over noise of development, increased traffic as a result and the access safety for Ayshford Close

Confirmation of opening times prior to the pub closing:

7:00pm until 11:00pm seven days a week and from midday until 3:00pm on Saturdays and from midday until 6:00pm on Sunday. Closed all weekday lunchtimes.

Confirmation of permitted hours:

11:00am until midnight Sunday to Thursday and 11:00am until 2:00am on Friday and Saturday.



(b) No 2 on the Plans List **(15/01422/FULL, Erection of 4 dwellings with garages and alterations to access (Revised Scheme) – land at NGR 302666 114116 (West of Pullet) Turnpike, Sampford Peverell).**

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location, access, the proposed section plan, the extent of the conservation area, elevations and floor plans of each dwelling. Members were able to view photographs from various aspects of the site and the boundary treatments were considered. The officer informed the committee that the Highway Authority were happy with the proposal.

Consideration was given to:

- The settlement limit
- The width of the access
- The original outline application
- Boundary treatments
- The affordable home proposed on the site
- The collection of waste and recycling
- Justification for building in the conservation area
- Drainage issues
- Site density

**RESOLVED** that Members were minded to refuse the application and therefore wished to defer the decision to allow for a report to be received setting out the implications for the proposed reasons for refusal based on the following issues:

- The impact of Plots 1 and 2 on the amenity of existing property due to overlooking issues
- The proposed access and the impact of additional vehicular movements upon highway safety as a result of the proposed 4 dwellings.
- The impact upon visual amenity of refuse arrangements arising from 4 dwellings
- Insufficient drainage arrangements

(Proposed by Cllr Mrs H Bainbridge and seconded by Cllr J L Smith)

(Vote 6 for: 5 against)

Notes:

- (i) Cllrs: Mrs H Bainbridge, K I Busch, Mrs C Collis, Mrs F J Colthorpe, R J Dolley, J M Downes, S G Flaws, P J Heal, F W Letch, B A Moore, R F Radford, J L Smith and J D Squire made declarations in accordance with the Protocol of Good Practice for Councillors dealing with planning matters as they had received correspondence regarding the application;
- (ii) Cllr F W Letch declared a personal interest as residents were known to him;
- (iii) Mr Preston (Agent) spoke;
- (iv) Mr Dumble spoke in objection to the application;

- (v) Cllr Passey spoke on behalf of the Parish Council;
- (vi) Cllr Mrs H Bainbridge spoke as Ward Member;
- (vii) A proposal to grant permission was not supported;
- (viii) The following late information was reported: 14<sup>th</sup> December 2015  
Additional objection from neighbour (I believe they have already objected, Mr & Mrs Dinnage, no new points made)

Comment on drainage to be added: A Surface Water Drainage Strategy has been submitted and demonstrates that surface water can be dealt with sustainably through the use of soakaways on the site. A condition has been imposed requiring the submission of final design and maintenance details.

Additional response from Sampford Peverell Parish Council:

Sampford Peverell Parish Council has considered, yet again, the latest changes to this application. We have resolved to maintain our **objection** to it. Our detailed objections, set out several times previously on other amendments remain valid. In summary, the main grounds for our opposition are:

#### **Conservation Area**

We remain opposed to the reduction to the conservation area required by this application. Villagers have indicated in the past the importance they place on retaining the conservation area and to resist attempts to eat away at it.

#### **Rubbish, recycling, etc**

We consider that the proposals for dealing with waste and so on are totally unacceptable. That the plethora of boxes, bins, etc that householders now need to have should simply be left by the highway, outside other residents' homes cannot be seen as satisfactory.

#### **Wildlife**

We do not consider that the latest plans fully implement the recommendations of the wildlife survey.

#### **Number of dwellings**

Above all, we remain of the view that the site does not lend itself to the construction of four dwellings. We believe that three dwellings, as agreed in the outline planning permission, is the maximum that should be permitted. Most of the other problems we see with the current application would be removed or reduced if the application were for three dwellings.

Finally, we wish to express our irritation at the way this application has been allowed to change and develop. It is now fundamentally different to that initially submitted. The incremental changes have made it difficult for us as a parish council and, more importantly, for those residents affected by it to keep up to date with exactly what the latest proposals are. In our view, it would have been far better to deal with it as a fresh application.

Additional condition to read:

Notwithstanding the plans submitted, details of the proposed boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority. The agreed boundary treatments shall be provided prior to the first occupation of any of the proposed dwellings and shall be so retained thereafter.

(c) No 3 on the Plans List (***(15/01439/FULL, Removal of Conditions 7, 9 and 10 of planning permission 06/02131/FULL to allow the Class B1 unit to be incorporated into the main residential accommodation – Westcott Barn, Witheridge).***)

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the existing ground floor and first floor plans and he explained the condition that restricted the occupation of the building in question, he also highlighted the access to the site and the objection from the Economic Development officer.

Consideration was given to:

- Comparisons with other similar applications
- The difficulties of working in a rural area
- Policy issues

**RESOLVED** that planning permission be refused as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr K I Busch)

Notes:

- (i) Mr Archer (Agent) spoke;
- (ii) Cllr Mrs M E Squires spoke as Ward Member;
- (iii) Cllr F W Letch requested that his vote against the decision be recorded;
- (iv) The following late information was reported: Letter from Agent received 14<sup>th</sup> December 2015: key points

Attention is drawn to a previous application where a live/work tie had been successfully lifted (14/00047/FULL).

In that case, it is pointed out that no marketing of the unit was requested at the time and there had also been no similar objections raised by the Economic Development Officer.

The personal circumstances of the applicant had also been given due weight by the planning officer in this earlier application, when it had also been considered unlikely that any new occupier of the dwelling would be able to develop/sustain a new B1 business use.

In the present case, the applicant's employer, 'Icomera', planned to locate their UK administrative office at the property, which they did in 2007. However, following the acquisition of another company in 2008, his employer moved the

UK office to Sittingbourne in Kent; documentary evidence to confirm this is provided.

Evidence is restated that Mrs Kingsland operated a small cake-making and chocolate making business but that this was not financially viable and closed in 2012: Mrs. Kingsland now works in Exeter and undertakes no work from home.

The workspace available of 80 sq. metres is more than that required for any other normal 'home-working' arrangements by Mr. Kingsland in connection with his own work activities

The 'work' space area is now 'dead space' which they cannot utilise for their growing family.

The property was valued in 2014 by Helmores Estate Agents for re-mortgagee/life planning purposes: Helmores confirmed to the applicants that the marketability of the property would be affected by the continuing live/work tie.

There are no current plans to sell.

There would be no structural or internal/external alteration works required.

A statement has been signed by 5 neighbouring residents supporting the application.

Development planning policies are now less restrictive with regard to development of rural buildings than they were at the time of the original consent.

It is not practicable to rent the space out for B1 uses by third parties, separate from the dwelling.

There will be no business benefit by retaining the live/work unit tie: given previous precedent(s), it is seen as difficult to justify that the tie should now remain on Westcott Barn.

The Committee is advised of the following:

Does the statement raise any new issues for consideration?: much of the additional information provided has been taken into account in the consideration of this report. The statement however draws attention to a separate similar application and draws attention to what is considered by the Agent to be an inconsistency of approach in the views taken by the Planning Officer. However, it is a key principle that each planning application needs to be considered on its individual merit. In this instance, there have been clear concerns/ objections raised by the Economic Development Manager and the application has been assessed against current policy considerations as set out in the report which focus on the need to support the rural economy. It is for members to judge whether they wish to place further weight on the personal circumstances as now set out, or on the statement made by the Agent that the applicants currently have no plans to sell the property.

It is otherwise considered that the officer recommendation remains justified and for the reasons as set out in the reasons for refusal.

(d) No 4 on the Plans List ***((15/01496/FULL, Erection of a poultry house and feed bin and construction of access track – land and buildings at NGR 297741 108766 – (East of Butterleigh Cross,) Cullompton).***

The Head of Planning and Regeneration outlined the contents of the report by way of presentation highlighting the site location, block plans, the elevation and section drawing of the proposal, access arrangements and proposed landscaping to reduce visual impact. Members also viewed photographs from various aspects of the site and were shown priority routes to the site.

Consideration was given to:

- The location of the proposed poultry house
- Impact on local residents
- Communications between the applicant and local residents
- Possible odour issues

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration.

(Proposed by Cllr P J Heal and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Cllr R F Radford declared a personal interest as a local chicken farmer and chose to leave the meeting during the discussion;
- (ii) Cllr K I Busch declared a personal interest as he knew the applicant;
- (iii) Cllr Mrs A R Berry declared a personal interest as Ward Member who had been involved in discussions with both parties;
- (iv) Cllr Mrs A R Berry spoke as Ward Member.

(e) No 5 on the Plans List ***((15/01511/MFUL, Installation of a ground mounted photovoltaic solar farm to generate up to 5MW of power (site area 8.5 hectares and associated infrastructure – Viridor Waste management Ltd, Broad Path Landfill Site, Burllescombe).***

The Area Planning Officer outlined the contents of the report by way of presentation highlighting the site location and the proposed phases of the scheme, the tree and maintenance plan, the elevations, proposed fencing, site access tracks and Members viewed photographs from various aspects of the site including various viewpoints.

Consideration was given to:

- Phasing issues
- The use of Grade 5 agricultural land
- The fact that the site suited the application
- The lack of impact on local residents
- Additional landscaping

- A possible one way traffic proposal

**RESOLVED** that planning permission be granted subject to conditions as recommended by the Head of Planning and Regeneration with an additional condition regarding supplemental landscaping to screen the site; changes to Condition 3 to read: The development hereby permitted shall be carried out in accordance with the submitted Construction Management Plan and supporting drawing BP1030-D13 received by the Local Planning Authority on the 4<sup>th</sup> of December 2015.

REASON: In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with policy DM2 of Local Plan Part 3 (Development Management Policies).

An additional condition stating:

Prior to the commencement of phase 2 of the proposed development concerning fields 3 and 4 on the Indicative Layout for the Solar Array dated August 2015 and received on the 20<sup>th</sup> of November 2015 Drawing Figure P3 (Rev C), a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include the following details:

- (a) the timetable of the works;
- (b) daily hours of construction;
- (c) hours during which delivery and construction traffic will travel to and from the site;
- (d) areas on-site where delivery vehicles and construction traffic will load or unload building materials, finished or unfinished products, parts, crates, packing materials and waste with confirmation that no construction traffic or delivery vehicles will park on the County highway for loading or unloading purposes, unless prior written agreement has been given by the Local Planning Authority;
- (e) hours during which no construction traffic will be present at the site;
- (f) details of proposals to promote car sharing amongst construction staff in order to limit construction staff vehicles parking off-site
- (g) details of wheel washing facilities and road sweeping obligations
- (h) The proposed route of all construction traffic exceeding 7.5 tonnes.
- (i) Details of the amount and location of construction worker parking.

The works shall take place in accordance with the approved construction management plan.

REASON: In the interest of highway safety and to ensure that adequate on-site facilities are available for traffic attracted to the site in accordance with policy DM2 of Local Plan Part 3 (Development Management Policies).

Condition 7 to be changed to read:

The existing hedge and tree screening shall be retained and maintained for the life of development hereby permitted in accordance with the details set out in plan BP1030-D14v2 named Areas of retained woodland during solar array development (Phases 1 and 2), dated December 2015 and received by the Local Planning Authority on the 14<sup>th</sup> of December 2015. No trees or hedgerow shall be removed without prior consent from the Local Planning Authority.

REASON: To ensure adequate screening and to safeguard the visual amenities of the area in accordance with Mid Devon Core Strategy (Local Plan Part 1) COR2 and Mid Devon Local Plan Part 3 (Development Management Policies) DM2.

(Proposed by Cllr F W Letch and seconded by Cllr Mrs H Bainbridge)

Notes:

- (i) Mr Wishart (Applicant) spoke;
- (ii) Cllr R Evans spoke as Ward Member;
- (iii) The following late information was reported: A detailed hedge and tree screening maintenance plan has been submitted. All trees will be retained at their existing heights and the existing hedging will be maintained at a height not less than 2 metres.

(f) No 6 on the Plans List (***15/01632/FULL, Erection of a dwelling – Jersey Cottage, Sampford Peverell***).

The Area Planning Officer outlined the contents of the report stating that the revised application was the same as one previously refused except for mitigation provided to deal with noise issues. He presented the site location plan the sections and elevations of the proposal and photographs from various aspects of the site and stated that the proposal was outside the settlement limit of Sampford Peverell and was against Policy COR 18 and the National Planning Policy Framework.

Consideration was given to:

- Building outside the settlement limit
- The proximity of the station
- The possibility of setting a precedent of building in the countryside

**RESOLVED** that planning permission be refused as recommended by the Head of Planning and Regeneration (reason 1 as set out in the report).

(Proposed by Cllr Mrs H Bainbridge and seconded by the Chairman)

Notes:

- (i) Mrs Anning (Agent) spoke;
- (ii) Cllr Mrs C Collis spoke as Ward Member;
- (iii) Cllr Mrs H Bainbridge spoke as Ward Member
- (iv) The following late information was reported: 14<sup>th</sup> December 2015 Application 15/01632/Full has 2 reasons for refusal reason 2 is for non-payment of the Open Space Contributions and signing of the Unilateral Undertaking. This has now been paid and so this reason is no longer valid and should be ignored.

92 **THE DELEGATED LIST (3-19-00)**

The Committee **NOTED** the decisions contained in the Delegated List \*.

Note: \*List previously circulated; copy attached to signed Minutes.

93 **MAJOR APPLICATIONS WITH NO DECISION (3-20.00)**

The Committee had before it, and **NOTED**, a list \* of major applications with no decision.

Note: \* List previously circulated; copy attached to the Minutes.

94 **APPEAL DECISIONS (3-21-00)**

The Committee had before it and **NOTED** a list of appeal decisions \* providing information on the outcome of recent planning appeals.

Note: \* List previously circulated; copy attached to signed Minutes.

95 **PERMITTED SOLAR FARM SCHEMES - APPLICATIONS THAT REQUEST TO VARY TIMESCALES FOR LIFE TIME OF DEVELOPMENT. (3-22-00)**

The Committee had before it a \*report of the Head of Planning and Regeneration requesting it to consider the process for determining applications for existing solar farms (PV arrays) schemes where a request to extend the duration of the consent was applied for. The officer highlighted the fact that only the duration of the lifetime of the development was being considered. No changes to the layout were being proposed and the two applications before the committee today sought only an extension of 5 years.

**RESOLVED** that all ground mounted solar PV applications seeking an extension of time (including small applications) be brought before the committee for determination.

(Proposed by Cllr S G Flaws and seconded by Cllr R J Dolley)

Notes:

(i) Cllrs Mrs F J Colthorpe and P J Heal requested that their vote against the decision be recorded;

(ii) \* Report previously circulated copy attached to signed minutes.

96 **APPLICATION 15/01612/FULL - VARIATION OF CONDITION (1) OF PLANNING PERMISSION 12/01306/MFUL - SOLAR FARM AT NGR 274160 105292 ELLICOMBE FARM, MORCHARD ROAD (3-30-00)**

The Committee had before it a \* report of the Head of Planning and Regeneration regarding this application. She stated that the application related to the existing solar development, the scheme had been built out and was now operational. Conditions to the previous application stated that the PV facility should cease to generate electricity



on or before 25 December 2037; the application before the committee was not seeking to change any aspect of the development as built out but to seek to extend the lifetime of the development to 28 March 2043.

Discussion took place regarding:

- Material planning considerations
- Planning policy
- Possible appeals regarding this matter
- Whether 30 years of operational life for the scheme was now achievable and realistic
- The lack of objection to the proposal

**RESOLVED** that the application be deferred to allow for a briefing paper to be submitted investigating case histories of such applications at appeal.

(Proposed by Cllr P J Heal and seconded by Cllr R J Dolley)

Note: \* Report previously circulated copy attached to minutes.

97 **APPLICATION 15/01613/FULL - VARIATION OF CONDITION (1) OF PLANNING PERMISSION 12/01376/MFUL - LIGHTSOURCE SPV V 52 LTD SOLAR FARM AT NGR 296542 118012 (PALFREYS BARTON), COVE (4-09-36)**

The Committee had before it a \* report of the Head of Planning and Regeneration regarding this application. She stated that the previous application for the site had been built out and the current application sought to extend the lifetime of the development until 30 June 2043.

Members considered that similar issues had been considered in the previous item and therefore:

**RESOLVED** that the application be deferred to allow for a briefing paper to be submitted investigating case histories of such applications at appeal.

(Proposed by Cllr S G Flaws and seconded by Cllr R J Dolley)

Note: \* Report previously circulated copy attached to minutes.

(The meeting ended at 6.40 pm)

**CHAIRMAN**

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## **MID DEVON DISTRICT COUNCIL**

**MINUTES** of a **MEETING** of the **STANDARDS COMMITTEE** held on 15 December 2015 at 6.00 pm

### **Present**

#### **Councillors**

Mrs S Griggs (Chairman)  
N V Davey, Mrs J Roach, F J Rosamond,  
C R Slade, Mrs M E Squires,  
Mrs F J Colthorpe, L D Taylor and  
R J Chesterton

### **Also Present**

#### **Officer(s):**

Amy Tregellas (Head of Communities and Governance and Monitoring Officer), Philip Langdon (Solicitor and deputy Monitoring Officer) and Julia Stuckey (Member Services Officer)

## **1 PUBLIC QUESTION TIME**

There were no members of the public in attendance.

## **2 MINUTES**

The minutes of the last meeting of the Committee were approved as a true record and signed by the Chairman.

## **3 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had no announcements to make.

## **4 APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

## **5 DRAFT CONSTITUTION**

The Committee had before it a report \* from the Head of Communities and Governance and the updated Constitution for their consideration.

The Officer reminded the Committee that a Members working group had been set up and had worked to draft a revised Constitution. One of the areas that the working group had focused on was to make the Constitution more accessible and to improve the layout. The Committee had already reviewed the draft document at a previous meeting and agreed the changes that had been made.

The Officer explained that page numbering had not yet been entered into the index as the numbering would alter when the tracked changes were accepted. This would take place when all of the agreed changes had been made.

The Officer worked through the changes that had been made at the request of the Committee.

Discussion took place regarding the allocation of work to the Policy Development Groups (PDG's). There were currently three PDG's but the Corporate Plan contained four priorities, Environment, Housing, Community Well Being and Economy. The Committee discussed whether or not it would be appropriate to add another PDG to cover the economy or whether this could be absorbed by an existing PDG.

It was **AGREED** that the Head of Communities and Governance would prepare a further report for the Committee, outlining what came under each PDG and how it fitted with the Corporate Plan objectives, as well as recommendations regarding how many members should sit on each PDG and how often it should meet.

The Officer explained that she had undertaken research regarding what information other authorities used in their Constitutions to identify what constituted a key decision. She explained that most specified a figure that was 'significant' and it was **AGREED** that this amount should be £50k.

It was **AGREED** that the wording bi-monthly led to confusion and should be replaced by 'every two months'.

Discussion took place regarding sections 8 and 9 on page 92 regarding the process of decision making, and whether the section added any value. It was **AGREED** that this section should be removed.

The Officer informed Members that sections regarding Councillor Call for Action, the Scrutiny of Crime and Disorder Matters and Reports and Recommendations for Calls for Action, had been added to the document.

Discussion took place regarding the Call for Action and whether or not Members could request that an agenda item be added to the County Council Scrutiny agenda as well as to their own. It was **AGREED** that the Monitoring Officer would investigate this and report back to the Committee.

Page 136 contained information in table format which was considered unclear and difficult to read. It was **AGREED** that this be added as an appendix and text be added to the section.

The Committee discussed the matter of standing to speak at Council. The Officer informed them that she had spoken to the Facilities Manager who had confirmed that the new recording equipment was designed to be used from a seated position; however the Committee considered that it was difficult for the public to identify who was speaking if they did not stand. It was **AGREED** that this matter be reviewed following a Planning and Council meeting when the equipment would be used.

It was **AGREED** that the Head of Communities and Governance would investigate the reference to four Members of the Scrutiny Committee being required to call a meeting.

The Committee discussed the section on page 45 regarding who sanctions Councillors. The current version stated that this responsibility fell to the Chief

Executive but Members felt that the Standards Committee may be more appropriate. It was **AGREED** that the new Chief Executive be asked his opinion on this matter when he was in post.

It was **AGREED** that the availability of the Constitution, referred to on page 51, include a paper version.

Discussion took place regarding the section on page 114 regarding substitutions. The Constitution currently quoted that only two substitutions could be made per party group per meeting. The Committee requested that the Head of Communities and Governance investigate to find out if this was set out in legislation.

Members thanked the Officer for the work that had been undertaken.

It was **RECOMMENDED** to Council that subject to the following amendments:

A key decision to be £50k or over;  
The wording bi-monthly be replaced by 'every two months';  
The section on page 92 regarding decision making be removed;  
The removal of the table on page 136 and the addition of appropriate text;  
The inclusion of a paper version on page 51.

the Constitution be approved.

(Proposed by Cllr C R Slade and seconded by Cllr F J Colthorpe)

Note: - Report previously circulated and attached to Minutes.

## 6 **COMPLAINTS**

There were no formal complaints reported.

## 7 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Complaints  
Policy Development Group Review  
Review of the microphones

(The meeting ended at 7.00 pm)

**CHAIRMAN**

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## **STANDARDS COMMITTEE 15<sup>TH</sup> DECEMBER 2015:**

### **CONSTITUTION**

**Cabinet Member** Cllr Clive Eginton  
**Responsible Officer** Head of Communities & Governance (Monitoring Officer)

**Reason for Report:** To present Members with the updated Constitution and for them to consider a number of aspects before making recommendation to Full Council

**RECOMMENDATION:** That the Standards Committee reviews the updated Constitution and recommends it to Full Council for approval.

**Financial Implications:** None identified

**Legal Implications:** The Legislation listed within the Constitution and the Constitution itself has been checked by the Deputy Monitoring Officer (Solicitor)

**Risk Assessment:** It is important to ensure that the Council has a Constitution that is relevant, appropriate, fit for purpose and is legally sound.

#### **1.0 Introduction**

- 1.1 A Members working group was set up and has been working drafting a revised Constitution where the content of the Mid Devon District Council Constitution has been considered alongside the Association of Council Secretaries and Solicitors (ACSES). One of the areas that the working group focused on was to make the Constitution more accessible and to improve the layout.
- 1.2 The document attached is the culmination of this work and it is recommended that the Standards Committee review the document and then recommend to Full Council for approval.

#### **2. Items for consideration**

##### **Petitions**

- 2.1 The Constitution makes reference in several places to a Petition Scheme. The statutory petition scheme which came into force through the Local Democracy Economic Development and Construction Act 2009 was repealed by the Localism Act 2011. Therefore there is no statutory requirement to have a Petition Scheme, only arrangements relating to the Local Authorities (Referendums) (Petition) Regulations 2011. At the last Committee meeting in October it was agreed to retain a Local Petition Scheme and this has been reflected in the Constitution. Basic wording only has been left in the Council Procedure Rules with the guidance for the public proposed to be attached as Appendix D.

## **Articles relating to Scrutiny Committee, Policy Development Groups (PDGs), Audit Committee and Standards Committee**

- 2.2 At the last committee meeting it was agreed to split out former Article 6 out into separate Articles for Scrutiny Committee (Article 7), Policy Development Groups (Article 8), Audit Committee (Article 9) and Standards Committee (Article 10).
- 2.3 Another area that Members may wish to consider is the scope of the Policy Development Groups. The revision to the Corporate Plan contains four priority areas of Economy, Homes, Community and Environment – should the Policy Development Groups remit be reviewed to reflect the Corporate Plan?

### **Access to Information Procedure Rules**

- 2.4 In respect of the information relating to the meaning of exempt information within the Access to Information Procedure Rules this has been simplified within the document with the detailed table now being attached as Appendix E to the Constitution.

### **Scrutiny Procedure Rules**

- 2.5 Additional sections have been added to this section in respect of Councillor Call for Action and the Scrutiny of Crime and Disorder Matters.

### **Officer Employment Procedure Rules**

- 2.6 The current wording from the Mid Devon District Council Constitution has been added into this document and this will be revised once the situation regarding the Government changes has been confirmed.

### **Other Matters**

- 2.7 There are a number of other items noted in the Constitution for consideration by the Committee – these changes have been tracked on the document for ease of reference

**Contact for more Information:** Amy Tregellas, Head of Communities & Governance (Monitoring Officer) ext 4246



# **MID DEVON DISTRICT COUNCIL**

## **CONSTITUTION**

**December 2015**

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# Part 1 - Introduction

This constitution sets out how Mid Devon District Council (“the Council”) operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these procedures are required by the law, while others are a matter for the Council to choose.

The Council comprises 42 Councillors elected every four years. Councillors are democratically accountable to residents of their ward.

The Council operates a “Leader and Cabinet” system. The Council appoints the Leader of the Council, who then appoints between three and eight Cabinet Members to form the Cabinet. The functions for which the Cabinet will be responsible are identified in part three and it will be responsible for most decisions that affect the day-to-day operations of the Council.

The Planning Committee, Licensing Committee and Licensing Regulatory Committee will undertake the regulatory functions of the Council relating to determining planning applications and applications for public licences, e.g. caravan sites, gambling, liquor and public entertainment licenses, hackney carriages, etc. Meetings of all committees will be in public except where personal or confidential information is discussed.

The Council has established a Standards Committee, which oversees compliance with the Code of Conduct for Councillors within the district.

The constitution contains mandatory provisions required by central government and other relevant provisions which have been modified to suit the circumstances relating to this Council. The constitution is a living document intended to facilitate the work of the Council and will evolve and adapt over the years.

# Part 2 – Articles of the Constitution



## **Article 1– The Constitution**

### **1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

### **1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of Mid Devon District Council.

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

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) help Councillors represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (h) provide a means of improving the delivery of services to the community

### **1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 17.

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

### **2.1 Composition and Eligibility**

#### (a) Composition

The Council will comprise 42 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

#### (b) Eligibility

Only registered voters of the District or those living or working there will be eligible to hold the office of Councillor.

### **2.2 Election and Terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2011. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **2.3 Roles and functions of all Councillors**

#### Key roles

All Councillors will:

- (a) Irrespective of the ward to which they are elected, have as their over-riding duty the representation of interest of the whole community of Mid Devon collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions and will contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- (c) Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities and effectively represent the interest of their ward and of individual constituents;
- (d) Deal with individual casework and may act as an advocate for constituents in resolving particular concerns or grievances and respond to constituent's enquiries and representations, fairly and impartially;
- (e) Balance different interests identified within the ward and represent the ward as a whole

- (f)
- (g) Be involved in decision-making
- (h) Be available, where possible, to represent the Council on other bodies; and
- (i) Maintain the highest standards of conduct and ethics.

## 2.4 **Rights and Duties**

- (a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors shall not disclose information which is confidential or where disclosure is prohibited by law. If in doubt Councillors should seek guidance from the Monitoring Officer.
- (c) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

## 2.5 **Conduct**

Councillors must at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

Councillors must promote and maintain high standards of behaviour as per the seven Nolan principles:

- Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
- Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in performance of their official duties.
- Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict

information only when the wider public interest clearly demands.

**Honesty:**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protect the public interest.

**Leadership:**

Holders of public office should promote and support these principles by leadership and example.

**2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## **Article 3 – Citizens and The Council**

Citizens have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.

### **3.1 Citizens' Rights**

Citizens have the following rights. Their right to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

#### **(a) Voting and petitions**

- (1) Members of the public have the right to vote and sign a petition;
- (2) Citizens on the electoral roll may submit a petition requesting a referendum on whether the Council should change to a different form of Governance e.g. Cabinet, Committee or Mayoral system

#### **(b) Information**

Citizens have the right to:

- (1) Attend meetings of the Council, the Cabinet and its other Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (2) See agendas, reports and background papers, and any records of decisions made by the Council, the Cabinet and other Committees, except where confidential or exempt information is likely to be disclosed;
- (3) See the Cabinet forward plan containing major decisions to be decided
- (4) Have access to copy of the Council's Constitution
- (5) Contact their Councillor regarding a matter of concern
- (6) Inspect the Council's accounts and make their views known to the external auditor.
- (7) Expect courtesy and respect from officers and Councillors.

#### **(c) Participation**

Citizens have the right to participate in the Council's question time and contribute to investigations by the Scrutiny Committee in accordance with the procedures for these committees and, in particular:

- (1) Citizens should be helped to gain access to buildings and information

(2) Citizens have the right to record the meeting in accordance with the Local Authorities openness and transparency regulations 2014.

(3) Human Rights issues will be respected in accordance with Schedule 1 Part 1 of the Human Rights Act 1998

(4) Community Call for Action Section 21A of the Local Government Act 2000

(d) Complain

Citizens have the right to complain to:

(1) The Council itself under its Complaints Scheme;

(2) The Ombudsman after using the Council's own complaints scheme;

(3) The Monitoring Officer about a breach of the Councillor's Code of Conduct.

(4) Housing Ombudsman Service (Complaints from Council Housing tenants)

### **3.2 Citizens' Responsibilities**

Citizens must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

They should not say or publish anything about individual Councillors or officers that is slanderous or libellous

## **Article 4 – The Full Council**

### **4.1 Introduction**

The full Council is a formal meeting of all 42 Councillors. The full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of specific matters.

The full Council provides a central forum for debate for all Councillors and they are able to ask questions. Members of the public are able, to ask questions about the Council or matters affecting the Council at all full Council meetings with the exception of the Annual Meeting.

### **4.2 The Council**

#### **(a) Role**

A meeting of the Council is one which all 42 members are entitled to attend and to speak and vote. The Council is responsible for the Budget and Policy Framework of the Council and for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself but others will be delegated to Committees or named officers.

#### **(b) Plans and Budgets**

The Council is responsible for the determination of its Budget and Policy Framework. The Council is responsible for regulatory and other non-Cabinet functions and has a role in holding the Cabinet to account.

### **4.3 Policy Framework**

The Policy Framework means the plans and strategies which are approved by the Council annually and any other such plans and strategies adopted by Council as part of the policy framework:

- (a) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- (b) those other plans and strategies which Chapter 2 of Department for Communities Local Government Guidance recommends should be adopted by the Council as part of the Policy Framework;
- (c) other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.

### **4.4 Budget**

Responsibility for the Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, determining the Council tax base, setting the Council tax level, decisions relating to the control of the Council's borrowing requirements, investments, the control of its capital expenditure and the setting of expenditure limits and permitted budget transfers.

#### **4.5 Functions of the full Council**

Only the full Council will exercise the following functions:

- (a) Adopting and changing the Constitution;
- (b) Amending, approving, or adopting the Policy Framework and the Budget;
- (c) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter where the Cabinet is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- (d) Annual election of the Chairman and the Vice Chairman of the Council at the Annual General Meeting
- (e) Electing the Leader following the ordinary election of Councillors every four years.
- (f) Removing the Leader;
- (g) Annual election of the Chairman of the Scrutiny Committee at the Annual General Meeting
- (h) Determining which Committees, Sub-Committees, Boards, Panels etc. shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and making the necessary appointments to the bodies;
- (i) Appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- (j) Adopting a scheme for members' allowances under article 2.6;
- (k) Changing the name of the Council's area;
- (l) Conferring the title of honorary alderman or Freeman of the District;
- (m) Confirming the appointment of the Head of Paid Service; Chief Finance Officer and the Monitoring Officer and the taking of any disciplinary action against the these Officers and the designating of "Proper Officers";



- (n) The approval or adoption of applications to the Secretary of State for approval of a programme of disposal of 500 or more properties or where consent is required for disposal of land used for residential purposes;
- (o) The approval of an increase in rents for Council housing properties as part of the budget setting process;
- (p) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- (q) Adopting a Code of Conduct for Members (Councillors);
- (r) Taking decisions in respect of functions which are not the responsibility of the Executive or Leader and which have not been delegated by the Council to Committees, Sub-Committees or officers;
- (s) The making of Procedure Rules (except the Cabinet Procedure Rules) including in relation to Contracts and Finance;
- (t) The delegation of non-executive functions to Committees, Sub-Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required;
- (u) All other matters which, by law, must be reserved to the decision of the Council as a whole;
- (v) Provide a means whereby councillors may ask questions of matters relevant to the Council's functions and to bring forward motions for debate;
- (w) Receive an Annual Report from the chairmen of the Scrutiny Committee, Policy Development Groups and the Audit Committee and provide an opportunity for members to ask questions on the report;
- (x) Receive reports from the Leader, the Cabinet, the Scrutiny Committee and the Audit Committee which they have referred to Council;
- (y) Consider and decide on recommendations of Committees to Council;
- (z) Consider reports on lawfulness and maladministration;
- (aa) Consider decisions referred from the Scrutiny Committee in respect of Cabinet functions where decisions have not yet been implemented and the Committee considers the decisions may be contrary to the Budget or Policy Framework; (i.e. through the call-in procedure)
- (bb) Receive reports from the Leader or Cabinet on urgent decisions contrary to the Policy Framework;
- (cc) Take all decisions in respect of delegating non-executive functions to another local authority;
- (dd) Set the Council Tax base and the Council Tax;

- (ee) Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of The Local Authorities Functions and Responsibilities (England) Regulations, 2000 as amended;
- (ff) Applications to the Secretary of State under Section 10 of the Representation of the People Act 2000 for an Order to proceed with pilot election arrangements.

#### **4.6 Council Meetings**

There are three types of Council meeting:

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

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.7 Responsibility for Functions**

The Council will keep under review the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## **Article 5 – Chairing The Council**

The Chair and Vice-Chair of the Council will be elected by the Council annually. The Chair and in his absence the Vice-Chair, will have the following responsibilities, to:-

- (a) Uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) Preside over meetings of the Council impartially so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (c) Ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
- (d) Promote public involvement in the Council's activities;
- (e) Attend or be represented at such civic and ceremonial functions as the Council and he/she determines appropriate;
- (f) Determine any matter referred to him/her under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution; and
- (g) Be consulted on any matter to which consultation with the Chair of the Council is required under this Constitution.

## **Article 6 – The Executive (Cabinet)**

### **6.1 Introduction**

The term ‘Executive’ shall be the collective name for the Leader of Council and the members of the Cabinet, unless the context dictates otherwise. The terms ‘executive function’ shall mean those matters and functions that have been delegated to the Executive.

The Executive will exercise all of the local authority functions that are not the responsibility of any other part of the Council, by law or under this constitution.

Many decisions will be made by the Executive, rather than the full Council. For ease of reference in this Constitution the Executive will be referred to as the Cabinet

### **6.2 Form and Composition of the Executive**

The Executive (which is also known as the Cabinet) will consist of:-

- (a) The Leader of the Council (the “Leader”); and
- (b) The Deputy Leader of the Council together with at least three but not more than Councillors appointed to the Cabinet by the Leader.

### **6.3 Leader**

#### **(a) Election**

The Leader of the Council will be a Councillor elected to the position of Leader by the Council for a period of four years at the Annual Meeting immediately following the local government elections.

#### **(b) Term of Office**

- (1) The Leader of the Council will hold office until:-
  - (i) he/she resigns from the office; or
  - (ii) he/she is disqualified from being a Councillor; or
  - (iii) where the Council passes a resolution removing him/her from office.
- (2) In the event of any casual vacancy in the position of Leader the Deputy Leader shall act in the Leader’s place until the appointment of a new Leader by the Council.
- (3) If for any reason

- (a) the executive leader is unable to act or the office of the executive leader is vacant, and
- (b) the deputy executive leader is unable to act or the office of the deputy executive leader is vacant,

The Executive must act in the executive leader's place or must arrange for a member of the executive to act in the executive leaders place.

(c) Role of the Leader

The Leader will carry out all of the Council's executive functions, whether by law or under this Constitution, which are not the responsibility of any other part of the Council.

(d) Removal of the Leader

A motion must be passed to remove the Leader of the Council and this must have the support of the majority of those members voting and present in the room at the time that the question was put

#### **6.4 Deputy Leader**

(a) Appointment

The Leader may designate one of the members of the Cabinet as Deputy Leader.

(b) Duties of the Deputy Leader

The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

(c) Removal from Office

The Leader may, if he/she thinks fit, remove the Deputy Leader from office at any time.

#### **6.5 Other Cabinet Members**

Other Cabinet Members will be Councillors elected to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:-

- (a) He/she resigns from that office; or
- (b) They are no longer councillors; or
- (c) He/she is disqualified from being a Councillor
- (d) He/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or
- (e) He/she ceases to be a Councillor.

The Leader may at any time appoint a Cabinet Member to fill any vacancies.

#### **6.6 Proceedings of the Cabinet**

The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Part 4 of this Constitution.

#### **6.7 Delegation of Functions**

The Leader may exercise executive functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge as set out below:-

The Leader may delegate executive functions to:-

- (a) The Cabinet as a whole;
- (b) A Committee of the Cabinet (comprising executive members only);
- ;
- (d) A joint committee;
- (e) Another local authority or the executive of another local authority;
- (f) A delegated Officer.

## **Article 7 – Scrutiny Committee**

### **7.1 Introduction**

- (a) The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Overview and Scrutiny Committees should be powerful committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- (b) Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Overview and Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.
- (c) Mid Devon District Council has three Policy Development Groups which act as the overview function, developing and reviewing policy.
- (d) Mid Devon District Council also has a Scrutiny Committee which scrutinises internal and external matters as well as holding the Cabinet to account.

### **7.2 Scrutiny Committee: General role**

The Scrutiny Committee will:-

- (a) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council or any of its Committees;
- (b) Make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any functions;
- (c) Consider any matter which affects the Council's area or its citizens;
- (d) Make reports and/or recommendations to the Full Council on any matters of broad local concern or importance not otherwise specified within the remit of the Policy Development Groups; and
- (e) Exercise the right to call in for reconsideration decisions made but not yet implemented by the Cabinet/individual Cabinet Members or key decisions made but not yet implemented by Officers.

The Scrutiny Committee may arrange for the discharge of any of its functions by a sub-committee.

### **7.3 Scrutiny Committee: Specific Functions**

The Scrutiny Committee may:-

- (a) Review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council Officers in relation to individual decisions and over time;
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) Question members of the Cabinet and/or Committees and Chief Officers from the Council about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project;
- (d) Make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (e) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and
- (f) Question and gather evidence from any person with a relevant knowledge, expertise or responsibility (with their consent).

#### **7.4 Officers**

Scrutiny Committee will have continuity of administrative support and be able to call on other relevant officer support and external expertise where necessary.

#### **7.5 Annual Report**

The Scrutiny Committee must report annually to the full Council on their workings with recommendations for its future work programme and amended working methods if appropriate.

#### **7.6 Committee and Membership**

The Scrutiny Committee will comprise 12 Councillors, plus any additional members as the Council may see fit to appoint. Cabinet Members may not be members of the Scrutiny Committee.

#### **7.7 Proceedings of Overview and Scrutiny Committee**

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



## **Article 8 – Policy Development Groups (PDGs)**

### **8.1 Introduction**

- (a) The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Overview and Scrutiny Committees should be powerful committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- (b) Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Overview and Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.
- (c) Mid Devon District Council has three Policy Development Groups which act as the overview function, developing and reviewing policy.
- (d) Mid Devon District Council also has a Scrutiny Committee which scrutinises internal and external matters as well as holding the Cabinet to account.

### **8.2 Policy Development Groups: General role:**

Within their terms of reference Policy Development Groups may:

- (a) Make reports and/or recommendations to the full Council and/or the Cabinet and/or any other bodies of the Council in connection with the discharge of any functions;
- (b) Make reports and/or recommendations to the full Council on any matters of broad local concern or importance within their remit; and
- (c) Undertake the functions below within the thematic areas set out in the table below. These thematic areas will of necessity be broadly defined. Any potential confusion or duplication between the thematic areas of these bodies which may result in duplication of effort or omission will be resolved by the Programming Panel. The Programming Panel will also have discretion in ensuring that there is a reasonable division of issues for consideration between each of the Policy Development Groups.

Group	Thematic area
Managing the Environment	Waste collection and Recycling, Street cleaning, Air quality, Climate Change, Parks and Open Spaces, Cemeteries, Trees, car parking, environmental enforcement, flood defence and drainage, clocks and monuments, public conveniences

Decent and Affordable Homes	Council Housing, Neighbourhood and tenancy management, tenant involvement, homelessness prevention, housing needs and allocations, housing enabling, private sector housing
Community Well Being	Community Engagement and Consultation, Community Development, Grants and Funding, Equalities, Economic Development, Town Centre Regeneration, Tourism, Environmental Health, Health and Safety, Leisure, Anti-Social Behaviour

### **8.3 Policy Development Groups: specific functions:**

Policy Development Groups may:

- (a) Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of current provision, performance and policy issues;
- (b) Instigate and conduct research, community and other consultation in the analysis of policy issues, possible options and the development of policy;
- (c) Regularly involve members of the Cabinet and occasionally members of other bodies of the Council and officers to question them to find out their views on issues, proposals and policy affecting the area;
- (d) Consider reports from any individual councillor on matters relevant to the terms of reference of the group to enable the views of constituents and other organisations to be taken into account; and
- (e) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (f) Consider the impact of policies to assess if they have made a difference

### **8.4 Annual report**

The Chairmen of the Policy Development Groups must report annually to full Council on their workings and make recommendations to amended working methods if appropriate.

### **8.5 Committee and Membership**

The Policy Development Groups will each comprise 9 Councillors, plus any additional members as the Council may see fit to appoint. Cabinet Members may not be members of a Policy Development Group.

### **8.6 Proceedings of Policy Development Groups**

Policy Development Groups will conduct their proceedings in accordance with the Procedure Rules set out in Part 4 of this Constitution.

## **Article 9 – Audit Committee****9.1 Audit Committee: General Role**

Within their terms of reference, the Audit Committee may:

- (a) Provide independent assurance of the adequacy of the risk management framework and the associated control environment;
- (b) Provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment;
- (c) Oversee the financial reporting process;
- (d) Approve the Statement of Accounts, Annual Governance Statement and the Council's Final Accounts
- (e) Make reports and/or recommendations to full Council and/or Cabinet and/or any other bodies of the Council in connection with the discharge of its functions;
- (f) Make reports and/or recommendations to full Council on any matters of broad local concern or importance within their remit.

## **9.2 Audit Committee: Specific Functions**

The Audit Committee may:-

### ***Audit Activity:-***

- (a) Consider and approve the strategic audit approach and the annual audit programme;
- (b) Consider the annual internal audit report including an overall opinion on the adequacy of the Council's control environment, the extent to which the audit plan has been achieved, and a summary of any unresolved issues;
- (c) Consider summaries of specific internal audit reports as requested;
- (d) In the event of the audit service being contracted out, consider reports dealing with the management and performance of the providers of internal audit services;
- (e) Consider reports from internal audit on agreed recommendations not implemented within reasonable timescales;
- (f) Consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- (g) Consider specific reports as agreed with the external auditor;
- (h) Comment on the scope and depth of external audit work and to ensure it gives value for money;
- (i) Liaise with the Audit Commission over the appointment of the Council's external auditor should that become necessary;
- (j) Commission work from internal and external audit.

### ***Internal Controls***

- (k) Review any issues referred to by the Chief Executive or any Council body;
- (l) Monitor the Council's confidential reporting policies in relation to anti-fraud and anti-corruption, whistle blowing and Anti Money Laundering, including

monitoring the use of the Whistle Blowing policy and the Council's Complaint process;

- (m) Annually approve the Council's Risk Management Strategy and review the effectiveness of the Council's Risk Management process on a regular basis and gain assurance that appropriate action is being taken to ensure that corporate risks are being managed, including a report to the Council annually;
- (n) Oversee the production of the Council's Annual Governance Statement and to ensure that relevant and suitable evidence has been obtained to support the disclosures within the Statement;
- (o) Review and approve the Council's Annual Governance Statement and monitor the progress against the Annual Statement action plan on a regular basis;
- (p) Annually review and update the Council's Code of Corporate Governance to ensure compliance with best practice and legislative guidance;
- (q) Consider the Council's compliance with its own and other published standards and controls.

***To review and formally approve the Annual Statement of Accounts***

- (r) Consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from audit regarding the robustness of the accounts that need to be brought to the attention of the Council;
- (s) Consider the external auditor's reports to those charged with governance on issues arising from the audit of the accounts.

**9.3 Annual report**

The Chairman of the Audit Committee must report annually to full Council on their workings and make recommendations to amended working methods if appropriate.

**9.4 Committee and Membership**

The Audit Committee will comprise 7 Councillors, plus any additional members as the Council may see fit to appoint. Cabinet Members may not be members of the Scrutiny Committee.

**9.5 Proceedings of the Audit Committee**

The Audit Committees will conduct their proceedings in accordance with the Procedure Rules set out in Part 4 of this Constitution.

## **Article 10 – Standards Committee**

### **10.1 Standards Committee: General role**

The Council shall establish a Standards Committee to carry out its functions relating to ethical matters under the Localism Act 2011.

### **10.2 Standards Committee: Specific Functions**

The Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- (b) Assisting the Councillors and co-opted members to observe the Member's Code of Conduct;
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) Monitoring the operation of the Members' Code of Conduct;
- (e) Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) Granting some dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) Dealing with any reports from a case and any other report from the Monitoring Officer on any matter;
- (h) Exercising of (a) to (g) above in relation to the town and parish councils wholly or mainly in its area and the members of those town and parish councils;
- (i) Overview of complaints handling and Ombudsman investigations; and
- (j) Overview of the Constitution
- (k) Consider any recommendations put forward by the Standards Sub-Committee in respect of any hearings

### **10.3 Standards Committee: Composition**

- (a) The Standards Committee shall be composed of nine District Councillors
- (b) The Standards Sub-Committee shall be composed of three of the District Councillors on the Standards Committee

### **10.4 Standards Sub Committee: Specific Functions**

The Standards Sub-Committee will have the following roles and functions:

- (a) To conduct hearings into allegations regarding breaches of the Code of Conduct following referral from the Monitoring Officer
- (b) To make any recommendations back to the Standards Committee, such actions to include:

- (1) Publication of the findings of the Standards (Hearing) Sub-Committee in respect of the Subject Member's conduct
- (2) Reporting the findings of the Standards (Hearing) Sub-committee to Council for information
- (3) Recommendation to Council that the Subject Member should be censured
- (4) Recommendation to the Subject Member's Group Leader (or in the case of ungrouped members to Council) that the Subject Member should be removed from any or all Committees or Sub-Committees of the Council for a recommended period
- (5) Recommend to Leader that the Subject Member should be removed from the Cabinet, or removed from their Portfolio responsibilities
- (6) Instructing the Monitoring Officer to arrange training for the Subject Member
- (7) Recommendation to Council that the Subject Member should be removed from all appointments to which the Subject Member has been appointed or nominated by the Council
- (8) Withdrawal of facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and Internet access
- (9) Placing such restrictions on the Subject Member's access to council staff, buildings or parts of buildings as may be reasonable in the circumstances
- (10) No further action if appropriate

The caveat to the sanctions above is subject to circumstances where the Councillor has acted outside of their role as a Councillor – in this case the Head of Paid Service may determine a course of action if appropriate, following consultation with the Chairman and Vice Chairman of the Standards Committee.

## **Article 11 – Regulatory and Other Committees**

### **11.1 Introduction**

The Council will appoint committees to undertake a variety of regulatory and other functions that are the responsibility of the Council but which do not have to be carried out by the full Council.

### **11.2 Regulatory Committees**

The Council will appoint the following bodies:

- (a) Planning Committee
- (b) Licensing Committee
- (c) Licensing Regulatory Committee

### **11.3 Other Committees and Sub-Committees**

- (a) The Council will appoint such other committees as it considers appropriate to exercise any of its functions.
- (b) Any committee appointed by the Council may at any time appoint additional sub-committees and panels throughout the year. Their terms of reference and delegation of powers to them shall be explicit and within the Appointing Committee's terms of reference.



## **Article 12 – Area Committees**

### **12.1 Area Committees**

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of more efficient, transparent and accountable decision making. In the event of area committees being appointed, the following sub articles apply. The Council will consult with relevant Parish and Town Councils and the Chairmen of Parish Meetings when considering whether and how to establish Area Committees.

### **12.2 Conflicts of Interest – membership of Area Committees and Scrutiny Committee**

- (a) **Conflict of Interest** – If the Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the Area Committee of which the Councillor concerned is not a member, then the Councillor may not speak or vote at the Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee;
- (b) **General Policy Reviews** – Where the Scrutiny Committee is reviewing policy generally the member must declare his interest before the relevant agenda item is reached, but need not withdraw.

### **12.3 Form, Composition and Function**

The Council will determine the form and composition, in accordance with the statutory requirements, and function of the Area Committees following consultation with the community.

### **12.4 Area Committees – Access to Information**

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

### **12.5 Cabinet Members on Area Committees**

A member of the Cabinet may serve on an Area Committee if otherwise eligible to do so as a Councillor.

## **Article 13 – Joint Arrangements**

### **13.1 Introduction**

There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority.

### **13.2 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- (c) The Cabinet may appoint members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is member for a ward contained within the area. Political balance requirements do not apply to such appointments.

### **13.3 Access to Information**

- (a) The Access to Information Procedure Rules apply.
- (b) If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- (c) If the Joint Committee contains members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

### **13.4 Delegation to and from Other Local Authorities**

- (a) The Council can delegate non-executive functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.
- (b) The Cabinet can delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.

- (c) The decision whether or not to accept such a delegation from another local authority is reserved to the full Council.

### **13.5 Contracting Out**

The Council (in respect of non-executive functions) and the Cabinet (in respect of executive functions) may contract out to another body or organisation functions:-

- (a) Which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994; or
- (b) Under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## **Article 14 - Officers**

### **14.1 Management Structure**

#### (a) General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

#### (b) Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers. The Head of Paid Service shall have responsibility and power to amend the functions and areas of responsibility of the Chief Officers as he/she considers necessary to deliver the Council's functions, vision and priorities. Such changes will be carried out in accordance with any relevant Human Resources policies.

#### **Post Functions and Areas of Responsibility**

<b>Post</b>	<b>Duties</b>
Chief Executive	<ul style="list-style-type: none"><li><input type="checkbox"/> Overall corporate management and operational responsibility (including overall management and responsibility for all officers)</li><li><input type="checkbox"/> Principal advisor to the Council on general policy</li><li><input type="checkbox"/> Overall responsibility for delivering the Council's policies and programmes</li><li><input type="checkbox"/> Provision of professional advice to all parties in the decision-making process</li><li><input type="checkbox"/> To act as Head of Paid Service.</li></ul>

(c) Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

<b>Designation</b>	<b>Post</b>
Head of Paid Service	Chief Executive
Monitoring Officer	Monitoring Officer
Chief Finance Officer	Head of Finance

Such posts will have the functions described in 14.2 to 14.4 below.

(d) Structure

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

**14.2 Functions of the Head of Paid Service**

(a) Discharge of Functions by the Council

The Head of Paid Service will keep under review the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) Restrictions on Functions

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

**14.3 Functions of the Monitoring Officer**

(a) Maintaining and publishing the Constitution

- (1) The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (2) The Monitoring Officer will make the Constitution available electronically to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (3) The Monitoring Officer will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations

and on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee.

- (4) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

(b) Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function, if he or /she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council to the Standards Committee, for the purposes of investigation or determination of a complaint against a Member.

(d) Conducting Investigations

The Monitoring Officer will conduct investigations into matters and carry out any other actions as directed by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee.

(e) Proper Officer for Access to Information

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

(f) Advising Whether Cabinet Decisions are within the Budget and Policy Framework

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

(g) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors. Where the Monitoring Officer considers that a Member(s) has acted contrary to his/her advice it is open to him/her to issue a report to the Council under s.5 Local Government and Housing Act 1989, or seek judicial review, as he or she considers appropriate in the circumstances.

(h) Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer.

**14.4 Functions of the Chief Finance Officer**

(a) To ensure Lawfulness and Financial Prudence in Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council or Cabinet in relation to a Cabinet function and the Councils external auditor if he considers 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. When the report is completed the Chief Finance Officer shall send a copy to: (a) the current auditor of the Council's accounts; and, (b) each Member of the Council.

(b) Administration of Financial Affairs

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

(c) Contributing to Corporate Management

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

(d) Providing Advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

(e) Give Financial Information

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

**14.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

**14.6 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

**14.7 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.



## **Article 15 – Decision Making**

### **15.1 Responsibility for Decision Making**

The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### **15.2 Principles of Decision Making**

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

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) Due consultation and the taking of professional advice from officers;
- (c) Respect for human rights;
- (d) A presumption in favour of openness;
- (e) Clarity of aims and desired outcomes;
- (f) Consideration of any alternative options; and,
- (g) The giving of reasons for the decision and the proper recording of those reasons.

### **15.3 Type of Decision**

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4 will be made by the full Council and will not be delegated.
- (b) Key decisions – a “key decision” means a Cabinet decision which is likely:
  - (1) To result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’s budget for the service or function to which the decision relates; or
  - (2) To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
    - (i) In accordance with section 38 of the Local Government Act 2000, in determining the meaning of “significant” regard shall be had to any guidance for the time being issued by the Secretary of State.
    - (ii) A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure

Rules and the Cabinet Procedure Rules set out in Part 4 of this Constitution.

#### **15.4 Decision Making by the Full Council**

Subject to Article 15.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **15.5 Decision Making by the Cabinet**

Subject to Article 15.8, the Council meeting will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **15.6 Decision Making by the Scrutiny Committees**

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

#### **15.7 Decision Making by Other Committees and Sub-Committees Established by the Council**

Subject to Article 15.8, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

#### **15.8 Decision Making by Council Bodies Acting as Tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

#### **15.9 Decision making by Officers**

Officers may have delegated powers by the full Council or by the Cabinet to take managerial and operational decisions – see Part 3, Responsibilities for Functions.

#### **15.10 Key decisions – the two tests**

Whether or not a decision is key depends upon the statutory test as set out above in Article 15.03

(1) **Significant expenditure or savings**

To result in a local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates.

(2) **Significant effect on communities**

*The following guidance should be taken into account:*

- (a) Decisions should be treated as key where they are likely to have a significant impact on communities in two or more wards. For example, a council should regard as key a decision to amend the

system for collecting recyclable waste or providing a new leisure facility in a neighbourhood, notwithstanding the thresholds of financial significance.

- (b) Where a decision is only likely to have a significant impact on a very small number of people the decision maker should ensure that those people are nevertheless informed of the forthcoming decision and sufficient time for them to exercise their rights to see the relevant papers and made an input into the decision making process.
- (c) In considering whether a decision is likely to be significant, the decision maker will need to consider the strategic nature of the decision and whether or not the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected. Regard should be given to the underlying principles of accountable decision making to ensure that there is a presumption toward openness. Local authorities should seek, through consultation with other local authorities of the same type and size, to ensure there are not large variations in the level of openness between authorities in the future.

## **Article 16 - Finance, Contracts and Legal Matters**

### **16.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Appendix ? to this Constitution.

### **16.2 Contracts**

Every contract made by the Council will comply with the Financial Regulations set out Appendix ? to this Constitution.

### **16.3 Legal Proceedings**

The Legal Services Manager is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Legal Services Manager considers that such action is necessary to protect the Council's interests.

The Legal Services Manager has delegated powers to authorise officers to appear in court on the Council's behalf.

### **16.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Legal Services Manager or other person authorised by him/her, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £50,000.00, entered into on behalf of the Council shall be made in writing. Subject to the Financial Regulations, such contracts must be signed by at least two officers of the Council or made under common seal of the Council attested by at least one officer if they exceed £50,000.00 in value.

In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:

- (a) The Chief Executive;
- (b) The Legal Services Manager;
- (c) Any Chief Officer of the Council concerned with the matter to which the document relates; or,
- (d) Any officer authorised in writing by such Chief Officer or by the Legal Services Manager.

### **16.5 Common Seal of the Council**

- (a) Common Seal

The Common Seal of the Council shall be kept in a safe place in the custody of the Legal Services Manager.

A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

(b) Sealing and Execution of Documents

The common seal of the Council shall be affixed to a document only on the authority of either:-

- (1) A resolution of the Council;
- (2) A resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
- (3) A decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.

The affixing of the common seal shall be attested by the Monitoring Officer, the Legal Services Manager or another solicitor authorised by the Legal Services Manager.

(c) Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Legal Services Manager and consecutively numbered in a book to be provided for the purpose.

(d) Disposal of Land and Real Property

Every disposal of land and real property made by the Council will comply with the Financial Regulations set out in Appendix ? to this Constitution.

## **Article 17 – Review and Revision of the Constitution**

### **17.1 Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Chief Finance Officer shall be responsible for keeping under review the Financial Regulations set out in Appendix ? to the Constitution and shall make any necessary amendments and revisions as are required from time to time. He shall report any amendments made to the Financial Regulations 4 to the Audit Committee.

### **17.2 Protocol for Monitoring and Review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- (a) Observe meetings of different parts of the Member and officer structure;
- (b) Undertake an audit trail of a sample of decisions;
- (c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and,
- (d) Compare practices in this Council with those in comparable authorities, or national examples of best practice.

### **17.3 Changes to the Constitution**

#### **(a) Approval**

Subject to 17.3 (b), changes to the Constitution will only be approved by the full Council following discussion by the Standards Committee. Where the table of Chief Officers in Article 15 or the Management Structure section of the Constitution needs to be updated, the Monitoring Officer may make the necessary changes upon receipt of notification from the Chief Executive that he/she has made changes to these structures following Council or relevant committee approval of such changes.

#### **(b) Minor Changes**

If, in the reasonable opinion of the Monitoring Officer, a change is:

- (1) A minor variation; or
- (2) Required to be made to remove any inconsistency or ambiguity; or
- (3) Required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with

immediate effect and he/she will notify all Councillors of the minor amendments.

(c) Change to a Mayoral Form of Executive

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

(d) Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be notified to all Councillors.

## **Article 18 – Suspension and Interpretation of the Constitution**

### **18.1 Suspension of the Constitution**

#### (a) Limit to Suspension

The Articles of this Constitution may not be suspended. The Council Procedure Rules in Part 4 of this Constitution may be suspended by the full Council to the extent permitted within those Rules and the law.

#### (b) Procedure to Suspend

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **18.2 Interpretation**

The ruling of the Chairman of the Council (or other person presiding) as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.



# **Part 3 - Responsibility for Functions**

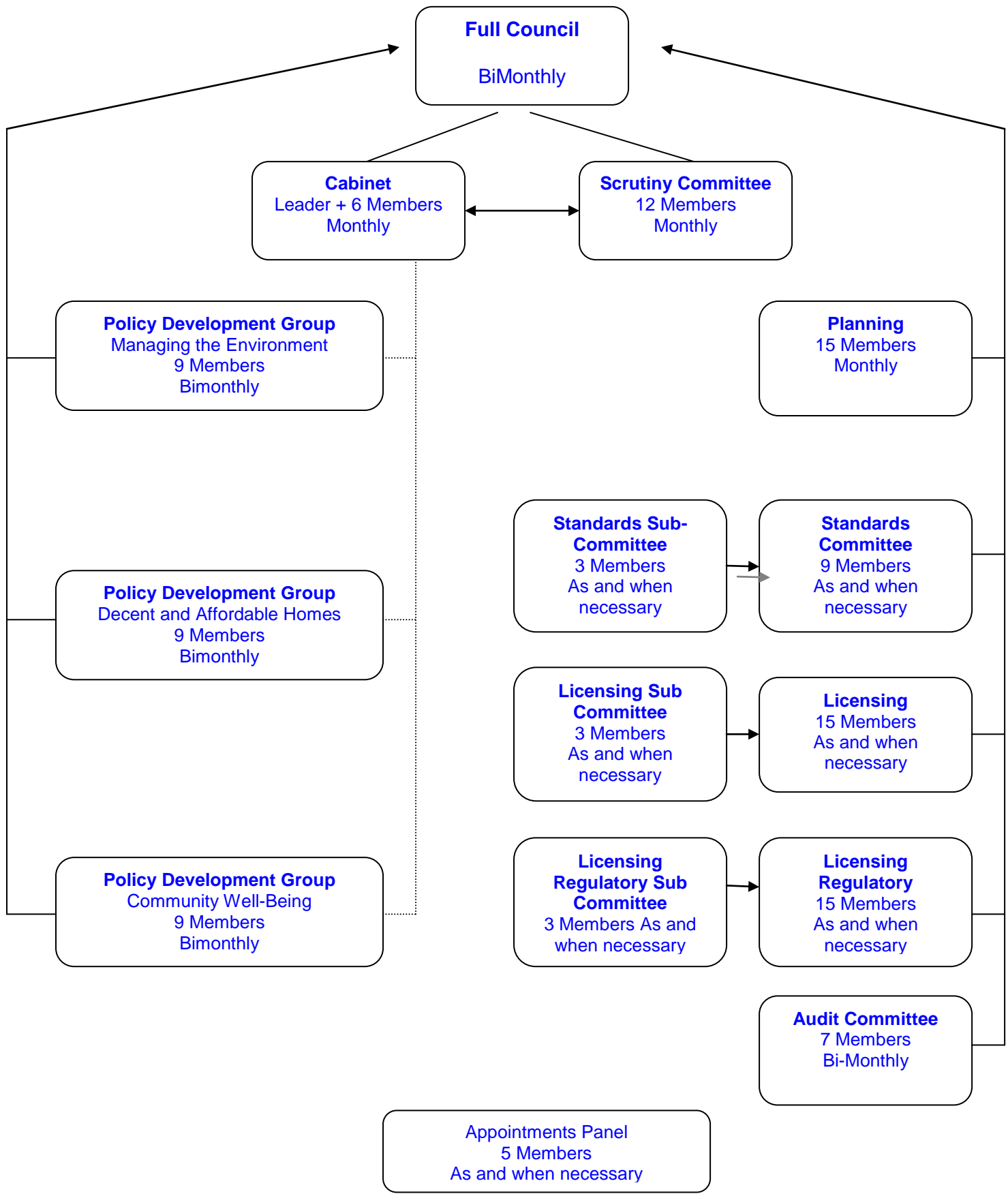
**LOCAL GOVERNMENT ACT 2000 AND  
LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007**

I, ....., Leader of Mid Devon District Council, in accordance with S.14 of the Local Government Act 2000 as amended by Part 3 of the Local Government and Public Involvement in Health Act 2007 **confirm** the arrangements for Responsibility For Functions contained in Part 3 of the Mid Devon District Council Constitution, November 2007, including all the arrangements for delegation of functions to the Cabinet, the arrangements of functions of the Cabinet members and the Scheme of Delegation to officers.

Signed:

Date:

## The Council's Committee Structure



## Scheme of Delegations

### 1. Introduction

- 1.1 Legally a local authority depends upon a series of statutes which in some cases give it a power (ie a discretion) to do something – or – in others – a duty to carry out that function or service. Each power or duty is often made subject to various limits as to just how it is to be exercised.
- 1.2 Because of this statutory foundation for the work of local councils, it is important that we are always clear as to which statute we are using to achieve our purposes. Unless we make that clear then it is difficult, if not impossible, for the community to hold us to account.
- 1.3 The Localism Act includes a ‘general power of competence’. It gives local authorities the legal capacity to do anything that an individual can do that is not specifically prohibited; they will not, for example, be able to impose new taxes, as an individual has no power to tax. The general power of competence does not remove any duties from local authorities – just like individuals they will need to comply with duties placed on them
- 1.4 Apart from “what and how”, we also need to make clear, for transparency and accountability purposes – “who” it is within the Council – that has the power to do something. This means that we must produce a “Delegation Scheme” describing these formal responsibilities.

### 2. **Who?**

- 2.1 To help understand what follows, there are a number of levels of decision making under our Constitution. Each of these is reflected by the tables which follow later in this section.
- 2.2 First, is **full Council** itself. Full Council retains a range of higher level decisions – many relating to our overall strategies – or to the setting of our annual budget and of council tax. Some of these functions can legally **only** be undertaken at this highest level. With others, it has been this Council’s own choice to do so (local choice functions).
- 2.3 Next, is **the Cabinet**. Under the Local Government Act 2000 the great majority of the Council’s decisions are made under executive arrangements. The leader (a) may make those decisions or (b) may delegate the decision making to the Cabinet, another member of the Cabinet, a Committee of the executive, an area committee or an officer of the Council. Delegates may also delegate unless the leader otherwise directs.
- 2.4 Then – as qualified above – are the **individual Cabinet Councillors** – where powers may be expressly delegated to them.
- 2.5 Next comes a group of “**regulatory functions**”. Broadly, these are roles where the Council has the task of controlling the activities of individuals – often on an application by application basis. To deal with these detailed controls, parliament decided that special committees should be retained – **outside** the Cabinet. In our case this means we have a Planning Committee, a Licensing Committee and a Licensing Regulatory Committee made up of elected members and which meet in public to hear and make decisions on the individual cases brought before them.

- 2.6 Finally are **the officers**. The great bulk of day to day operational decision making is delegated by the Council or the Cabinet or the Planning Committee to our professional staff. They need these powers so as to enable them to provide the services of the Council in the most economic, efficient and effective way.
- 3. What?**
- 3.1 Attached are a number of tables setting out the broad areas of our statutory powers and the activities and functions we are involved in.
- 3.2 **Section 1** is a list of those matters which remain either with the full Council itself for decision or which are within its control – because the 2000 Act either requires it or permits it. The section also shows to whom these powers have been delegated (if at all) – whether to a Committee or to an officer.
- 3.3 **Section 2** sets out those powers and duties which the Act **excludes** from Cabinet decision making – such as Planning, Licensing and Licensing Regulatory issues. These are listed as delegated to a Committee or to an officer with any limits on those delegations also included.
- 3.4 **Section 3** lists those powers and duties which are ones which **only** the Cabinet can deal with – itself – or through officers or its committees. This covers the great majority of our powers and duties – with most operational decision making continuing to be delegated to the officers under Section 5 below.
- 3.5 This part also lists functions across a series of Cabinet Functions. These reflect the current responsibilities of each of the current members of the Cabinet for the setting of the overall direction of these services.
- 3.6 **Section 4** describes the delegation arrangements to councillors and officers. This part also includes individual delegation to Cabinet Councillors. This will only be enforced following a specific resolution of Council. As with our current Delegation Scheme, most of the operational decision making under these powers and duties is delegated on to the officers.
- 3.7 **Section 5** describes the power and duties that are delegated to officers.

## SECTION 1

### 4. The Powers Of The Council

- 4.1 The functions statutorily reserved to the Council are set out below in column 1. Column 2 shows who else is involved – either as having full statutory powers delegated to them or as being the source of a recommendation to full Council.
- 4.2 Where the power is shown as delegated to an officer, then that officer shall also have the power to re-delegate that power to another officer of the authority or to refer or to remit to another regulatory body of the Council for it to decide. Details of the delegation shall be recorded in writing and kept by the Monitoring Officer.

	Function	If delegated – then to Whom?
1	To set the <i>Policy Framework</i> and the <i>Budget</i> within which the Cabinet must operate. (Both these terms are defined below)	Council – on the recommendation of the Cabinet
2	In a limited range of cases – to make decisions about the discharge of a “Cabinet function”. This applies <b>only</b> to those cases where the decision maker is considering an issue – which is not only:- (a) covered by the Policy Framework or the Budget, but also - (b) where the decision maker is inclined to make it in a manner which:- <ul style="list-style-type: none"> <li>• would be contrary to that Framework, or</li> <li>• would be contrary to/or not wholly in accordance with the Budget</li> </ul>	Council – on the recommendation of the Cabinet
3	To exercise – through delegated powers – those “regulatory functions” (these are listed in detail at Section 2 of this part of the Constitution) which must not be within the remit of the Cabinet:- (a) Development Control; Building Control	Planning Committee; Chief Executive Head of Planning and Regeneration;

	<p>(b) Licensing and other Regulatory Functions</p> <p>(c) Food Safety</p> <p>(d) Health &amp; Safety at Work (this relates only to those functions which the Council exercises <b>other than</b> as employer)</p> <p>(e) Electoral services</p> <p>(f) Staffing matters (other than those dealt with in the Constitution under Standing Orders as to Employment of Officers)</p> <p>(g) Ceremonial and those Miscellaneous matters</p>	<p>Licensing Committee; Regulatory Committee; Chief Executive; Head of HR and Development</p> <p>Chief Executive; Head of HR &amp; Development</p> <p>Chief Executive Head of HR &amp; Development</p> <p>Returning and Electoral Registration Officer</p> <p>Head of Paid Service (Chief Executive); Head of HR and Development;</p> <p>Council</p>
4	To agree and/or to amend the terms of reference of the Planning Committee, the Licensing Committee and the Regulatory Committee	Council – on the recommendation of the relevant Committee
5	To decide the number of seats to be allocated to each Party Group (or to independent councillors) in accordance with the “proportionality” rules in the Local Government & Housing Act 1989	Council – on the recommendation of the Monitoring Officer

6	To confirm the appointment of the Head of Paid Service	Council – on the recommendation of the relevant Appointments Panel set up for that purpose
7	To appoint the Monitoring Officer and the Section 151 Officer	Council – on the recommendation of the Head of Paid Service
8	To confirm the dismissal of the Head of Paid Service or of the Monitoring Officer or the Section 151 Officer	Council – on the recommendation of the relevant Appointments Panel set up for that purpose and the recommendation of an appointed Independent Person
9	To elect the Leader of the Council	Council
10	To remove the Leader	Council – in accordance with the procedure in Article 7
11	To adopt the Constitution and agree any major changes to it	Council – on the recommendation of the Standards Committee
12	To approve any applications to the Secretary of State in respect of a Housing Land Transfer	Council – on the recommendation of the Cabinet
13	To appoint and dismiss representatives to those outside bodies whose role is <b>not</b> closely linked to an Cabinet function	The Chief Executive acting on the advice of the relevant Committee
14	To adopt/modify a Members' Allowances Scheme	Council – on the recommendation of the Independent Remuneration Panel
15	To change the name of the area	Council
16	To confer the title of honorary alderman	Council
17	To make, amend, revoke, re-enact or adopt bylaws and to promote or oppose the making of local legislation	Council – on the recommendation of the Cabinet
18	To adopt any plan or strategy (whether statutory or non-statutory) which the Council has	Council – on the recommendation of the relevant Committee



	decided should be undertaken by itself rather than by the Cabinet	
19	To deal with any other matter which, by law, must be reserved to Council	Council

- 4.2 **The Council's Policy Framework** is defined in Article 4 of the Constitution. It consists of a series of important plans and strategies which form the basis for many of its services. Each is a substantial document in itself which is regularly reviewed and updated. They are not, therefore, included in this Constitution but current copies are always available at Phoenix House.
- 4.3 **The Budget** includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its Capital Expenditure.
- 4.4 Whilst decisions on the framing of the Budget itself are ones for the full Council, many of the operational issues relating to monitoring and to virement are delegated to either the Cabinet, potentially to Cabinet Councillors or to the officers – subject always to the approval of the Section 151 Officer.

## SECTION 2

### Regulatory Powers Of The Council

5.0 In order to carry out the Council's "regulatory powers" the following Committees be constituted:-

- Planning Committee – 15 members
- Licensing Committee – 15 members
- Licensing Regulatory Committee – 15 members

5.1 The powers and duties of these committees are set out below:-

<b>PLANNING COMMITTEE</b>
<b>Membership – Fifteen Members of the Authority</b>
<b>Function</b>
To exercise functions on behalf of the Council as set out below.
<b>Matters Delegated to this Committee</b>
<ul style="list-style-type: none"> <li>• Planning and conservation functions relating to town and country planning and development control and all matters concerning trees</li> <li>• To confirm and consider changes to the existing Scheme of Delegation to the Head of Planning and Regeneration</li> <li>• Conservation Policy</li> </ul>

<b>LICENSING COMMITTEE</b>
<b>Membership – Fifteen Members of the Authority</b>
<b>Function</b>
To exercise functions on behalf of the Council as set out below.
<b>Matters Requiring Submission to the Council</b>
<ul style="list-style-type: none"> <li>• Statement of Licensing Policy under section 5 of the Licensing Act 2003</li> <li>• Licensing Policy</li> </ul>
<b>Matters Delegated to this Committee</b>
<ul style="list-style-type: none"> <li>• Liquor, Gaming, Entertainment and Licensing;</li> <li>• Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations.</li> <li>• To confirm the scheme of delegation of functions in the Guidance to the Licensing Act 2003 and Gambling Act 2005 see Appendix A</li> </ul>

LICENSING REGULATORY COMMITTEE
<b>Membership – Fifteen Members of the Authority</b>
<b>Function</b>
To exercise functions on behalf of the Council as set out below.
<b>Matters Requiring Submission to the Council</b>
None
<b>Matters Delegated to this Committee</b>
<ul style="list-style-type: none"> <li>• Taxi, Private Hire and Miscellaneous Licensing</li> <li>• To confirm the scheme of delegation of functions relating to Hackney Carriage and Private Hire Licensing see Appendix A</li> </ul>

## SECTION 3

### Cabinet Powers

- 6.0 The majority of the decision making of the Council relates to areas which are defined as “Executive matters” within the 2000 Act and can therefore only be dealt with via the Cabinet.
- (a) The Cabinet meeting as a body can make Cabinet decisions;
  - (b) Under the Local Government Act 2000 the great majority of the Council’s decisions are made under executive arrangements. The leader (a) may make those decisions or (b) may delegate the decision making to the Cabinet, another member of the Cabinet, a Committee of the executive, an area committee or an officer of the Council. Delegates may also delegate unless the leader otherwise directs;
  - (c) The great majority of operation decision making within policy and the budget will, as before, be the responsibility of the officers – through the Delegation Scheme – subject to the limitations included here;
  - (d) The need for both transparency and accountability require that decision making of this type under the Act needs to be carefully controlled and recorded and that all councillors together with the press and public have full access to those decisions – not only at the time – but also before and after – they are made;
  - (e) Those members who are not Cabinet Councillors cannot make those decisions;
  - (f) Neither full Council nor Scrutiny Committee, Audit Committee or Policy Development Groups can make Cabinet decisions.
- 6.1 The delegation scheme in relation to executive functions is the leader’s delegations scheme and is subject to any changes he/she wishes to make. This Delegation Scheme has, therefore, been based on the following features:-
- (a) Most day to day operational decision making powers are delegated to the Council’s officers (see section 7.2);
  - (b) the role of the Cabinet – meeting as a body – has been designed to avoid such operational decisions coming to it unless they are key decisions or are otherwise of real significance across the Council’s services;
  - (c) the Cabinet’s major role will be in defining and reviewing the Council’s strategies and significant policies and in advising the Council on these matters and as to the Budget;
  - (d) where decisions can be made at a lower level, then the Cabinet will ensure that this Scheme is designed, implemented and modified so as to achieve that purpose;
  - (e) before accepting an item for the Cabinet’s agenda, the Leader or the relevant Cabinet Member, together with the Member Services Manager, will satisfy themselves that the issue could not be otherwise properly dealt with under delegated powers;
  - (f) where a matter arises which involves a range of detailed issues but is of such significance that it must be taken to the Cabinet – then the Leader or

the relevant Cabinet Member responsible for that service must assess whether the matter is of such urgency that it would not be practical for the advice to be first obtained from:-

- (i) the Scrutiny Committee, Audit Committee or the relevant Policy Development Group, or
  - (ii) an officer, or
  - (iii) a committee of the Cabinet itself;
- (g) so as to make sure that its strategic role is clearly identified and maintained, reports to the Cabinet will be written in such a form that ensures that:-
- (i) unnecessary detail is excluded;
  - (ii) policy factors are clearly identified and analysed;
  - (iii) impact upon our corporate priorities is identified;
  - (iv) all necessary consultation as to its content has taken place, and
  - (v) the issues for decision by the Cabinet are justified as ones which could not reasonably be taken elsewhere.

## **SECTION 4**

### **Delegations to Cabinet Councillors And Officers**

The delegation scheme in relation to executive functions is the leader's delegations scheme and is subject to any changes he/she wishes to make.

#### **7.1 Principle 1**

The overriding principle upon which the Council's Delegation Scheme is founded is:

All the Council's statutory powers and duties in relation to the functions and activities (listed in the following table) are delegated to either the relevant Cabinet Member or to the Cabinet and from there, as shown, to the Management Team. Those listed include all such incidental and ancillary powers as are needed in order to carry out those functions together with all statutory powers delegated to either Cabinet Member or to the Cabinet by another local authority by virtue of an agreement under the Local Government Acts. Such decisions of the Cabinet may, from time to time, be delegated to the relevant Cabinet Member subject at all times to the following provisos:-

- (a) the decision in question is not a "key decision";
- (b) the power to make the decision has not previously been delegated to an officer;
- (c) the Cabinet Member has considered what consultation is necessary with regard to the proposed decision – including the need to consult with local Ward Members;
- (d) the proposed decision is compliant with the terms and conditions of the existing policy framework;
- (e) receipt and consideration of a written report containing a summary of the legal, financial and all other relevant implications arising from the proposed decision;
- (f) publication of the proposed decision in accordance with the Cabinet Procedure Rules referred to in Part 4 of the Constitution.

7.2 The consequent powers to make all operational decisions as to the Council's services are delegated to the Head of Paid Service, to the Monitoring Officer and to the Section 151 Officer (these are referred to as the "statutory officers"), together with the Heads of Services (who are together known as the "Management Team"), so long as the decision:-

- (a) falls within the Council's Policy Framework, and
- (b) is otherwise within our approved policies, and
- (c) complies with the law, Financial and Contracts Procedure Rules, and other controls within this Constitution, and
- (d) is wholly in accordance with the budget for the current and following year, and
- (e) has not been the subject of a request from the responsible Cabinet Member (if any) for the decision to be remitted to the Cabinet.

### 7.3 **Principle 2**

Even where statutory power has been delegated, the delegatee still retains a discretion as to how the decision is to be taken. Either:-

- (a) to deal with it him/herself;
- (b) to “remit” the decision – “upwards” (ie – in order to seek endorsement of a proposed decision) – in the case of “Cabinet matters” to the Cabinet, or in the case of a non-Cabinet matter to the Council or to the Planning Committee or to the Regulatory Committees; either Licensing or Regulatory;
- (c) to further delegate that power;
- (d) to consult others before exercising the power;
- (e) to take the decision jointly with other Cabinet Member or officers.

### 7.4 **Principle 3**

It is expected that, within these delegations, the officers will keep Cabinet Member fully briefed as to the services for which they are responsible and that they will consult with the relevant Cabinet Member on issues where either believe that this is needed. Built upon this foundation, it is anticipated that this will mean that a number of otherwise delegated decisions will, in practice, be taken either by – or in consultation with – the Cabinet Member where he/she believes the matter to be one of a particular sensitivity or corporate significance.

### 7.5 **Principle 4**

So as to avoid any misunderstandings as to the exercise of these powers, each Cabinet Member and/or each member of the Management Team will adopt the following procedure:-

- (a) completion of the Decision Recording Form at Appendix B of the Constitution by member of Management Team and/or other officer;
- (b) consultation with the relevant Cabinet Member(s) and Officer(s);
- (c) agree approach as to the scope for joint decisions;
- (d) Cabinet Member to sign Decision Recording Form.

### 7.6 **Principle 5**

Any further general delegation of specific statutory powers by Management Team to an officer under Principle 2 shall be made in writing and shall record its extent and any limitations on the exercise of those powers.

A copy of any such delegation shall be provided to The Monitoring Officer who, as “proper officer”, when so required has the duty formally to certify the existence and validity of those statutory powers in any legal proceedings or to sign formal agreements on the Council’s behalf giving effect to those decisions.

7.7 Within these principles, the following table lists the range of functions for which all the Council’s statutory powers and duties are delegated to the Cabinet and then to the Management Team. The table shows the current service portfolios each of which is held by a Cabinet Member as responsible for the overall policy direction for that service. The table also shows the “lead officer” who is primarily responsible for the delivery of that service. Any limits upon the delegations to the officers (other than those listed above) are shown here.

## DELEGATION OF CABINET FUNCTIONS

**General Delegation to all Cabinet Members (subject to requirement that the matter is within the terms and reference of their respective Portfolio – see Appendix C for details)**

- 8.0 Authority to issue press releases and deal with the press.
- 8.1 Authority to approve proposals and schemes in respect of operational matters that are required to implement the policy framework.
- 8.2 Authority to accept the lowest tender, provided it falls within the sum set by the Cabinet, if payment is to be made by the Council, or the highest tender, if the payment is to be received by the Council, such acceptance to be reported to the next meeting of the Cabinet where tenders or offers are invited by the Council for:
  - (a) carrying out of works in accordance with the specification and/or bills of quantity (over the sum of £50K), or,
  - (b) purchase or sale of land, premises (over the sum of £100K), vehicles, equipment or machinery surplus to the Council's needs (over the sum of £50K), or,
  - (c) concessions in accordance with detailed particulars to accept a tender provided the accepted sum is within estimates.
- 8.3 Authority to approve alteration and extensions to schedules/specifications to contract that do not have the effect of exceeding a previously approved budget sum, subject to legal advice.
- 8.4 Authority to approve a maximum 5% "overspend" in respect of expenditure on works for a specified project within an approved budget.
- 8.5 Authority to approve acquisitions, disposals and leases where in accordance with the policy framework and subject to relevant terms and conditions being negotiated by the relevant member of the Management Team.
- 8.6 Authority to increase or alter fees and charges, subject to a statutory consultation and/or advertisement procedure where applicable.
- 8.7 Dealing with human resources related issues (except those delegated to the Chief Executive), including organisational reviews but excluding additions to the approved establishment outside the approved budget (that would previously have been a matter for the Cabinet).
- 8.8 Submitting comments on any consultation paper, report, information item, progress item or proposed or actual policy of any external body (for example, government policies, planning guidance, white and green papers, etc). Such matters will be reported in the Weekly Information Sheet.



- 8.9 Approving all grants within the approved budget but excluding those already delegated to officers.
- 8.10 All decisions necessary to enable the Council to implement the Council's agreed Capital Programme.
- 8.11 Appointments to external bodies (only in relation to Executive Arrangements and Advisory Bodies).

## **SECTION 5**

### **Scheme Of Delegation To Officers Only**

#### **1 SUMMARY**

- 1.1 This section describes the Chief Officers and other principal officers and sets out the delegation of functions to them.
- 1.2 The over-riding principle is that (with appropriate consultation requirements and exceptions) each Chief Officer will have delegated authority over all matters within their responsibility.

#### **2 THE PRINCIPAL OFFICERS OF THE COUNCIL**

##### **2.1 Chief Officers**

The Chief Officer of the Council is:-

- (a) The Chief Executive (Head of Paid Service)

##### **2.2 The Management Team**

The Management Team (MT) will comprise the Chief Executive and the senior officers on Management Team (at the discretion of the Chief Executive), which currently includes the Heads of Communities and Governance (Monitoring Officer), Finance (Section 151 Officer) Business Information Service, Planning and Regeneration Service, Housing and Property Services, Human Resources and Development and Customer First.

The purposes of the MT are to ensure:-

- (a) the Council maintains an effective corporate identity and purpose;
- (b) the aims and objectives of corporate policies are achieved;
- (c) there is an effective form of communication and consultation between the Heads of Services;
- (d) there is effective monitoring of the Council's corporate aims and performance; and
- (e) Ensure that the business of the Council is carried out in a proper manner

##### **2.3 "Proper Officers" and the other Statutory Officers**

The law requires the Council to appoint officers in respect of particular responsibilities. The principal appointments are set out in Appendix 6.

#### **3 FUNCTIONS DELEGATED TO INDIVIDUAL STATUTORY OFFICERS AND OTHER PRINCIPAL OFFICERS**

##### **3.1 THE CHIEF EXECUTIVE (HEAD OF PAID SERVICE)**

###### **Delegation**

All Council functions shall be the corporate strategic management responsibility of the Chief Executive but the processes and operational decisions shall be the responsibility of the appropriate Heads of Service.

The Chief Executive as Head of Paid Service is authorised to exercise the following functions:-

- (a) Corporate Human Resources functions contained in Appendix 2
- (b) Elections
- (c) All functions listed under the Heads of Service in 3.2 to

#### **Exceptions and Conditions**

There is excepted from the delegation to the Chief Executive any matter:-

- (a) reserved to full Council;
- (b) delegated to a committee;
- (c) which comprises or includes a function described in Appendix 1 (functions which cannot be exercised by a delegated officer);
- (d) which is required to be discharged by another officer pursuant to the requirements of statute;
- (e) which is a function which for any other reason cannot be exercised by the Chief Executive.

The Chief Executive must at all times comply with the Council's Constitution and particularly the principles of decision making to be found in Article 15 of the Constitution together with further statements made below.

#### Notes

The terms of reference of committees are set out in Part 3 of the Constitution.

The delegation is subject to and with the benefit of the general provisions highlighted at 5 below.

### **3.2 THE HEAD OF COMMUNITIES AND GOVERNANCE (MONITORING OFFICER)**

#### **Delegation**

The Head of Communities and Governance (Monitoring Officer) is authorised to exercise the following functions:

- (a) Economic Development
- (b) Community Development
- (c) Markets
- (d) Internal Audit
- (e) Risk Management
- (f) Performance Management
- (g) Strategic Corporate Planning
- (h) Safeguarding of Children and Vulnerable Adults
- (i) Member Services
- (j) Legal Services

- (k) As Monitoring Officer, the Head of Communities and Governance is responsible for the legality of the Council's processes and decisions, in particular:-
- (i) to prepare, negotiate and execute documents and otherwise take any action required to give effect to all resolutions and/or decisions of the Council at committee or by a delegated officer;
  - (ii) to institute, defend or act in respect of legal proceedings or other determinations involving the Council including power to settle and compromise such matters where necessary to give effect to a resolution and/or decision of the Council at committee or by a delegated officer or where necessary to protect the Council's interest;
  - (iii) to make and serve notices and other instruments where necessary to give effect to a resolution and/or decision of the Council at committee or delegated officer or where necessary to protect the Council's interest;
  - (iv) To commence proceedings in circumstances that require immediate action in consultation with the relevant Cabinet Member.

### **Exceptions and Conditions**

There is excepted from the delegation to the Head of Communities and Governance any matter:-

- (a) reserved to the full Council;
- (b) delegated to a committee;
- (c) which comprises or includes a function described in:-
  - (i) appendix 1 (functions which cannot be exercised by a delegated officer);
  - (ii) appendix 2 (corporate personnel functions unless given delegated authority by the Chief Executive);
- (d) which is required to be discharged by another officer pursuant to the requirements of statute;
- (e) which is a function which for any reason cannot be exercised by the Head of Communities and Governance.

The Head of Communities and Governance must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

#### Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

### **3.3 HEAD OF FINANCE (SECTION 151 OFFICER)**

#### **Delegation**

The Head of Finance as the Section 151 Officer is authorised to exercise the following functions:-

- (a) Financial Services
- (b) Housing and Council Tax Benefits
- (c) Waste and Recycling Management
- (d) Environmental Enforcement

The Head of Finance shall be the Chief Financial Officer.

**Exceptions and Conditions**

There is excepted from the delegation to the Head of Finance any matter:-

- (a) reserved to the full Council;
- (b) delegated to a committee;
- (c) which comprises or includes a function described in:-
  - (i) appendix 1 (functions which cannot be exercised by a delegated officer);
  - (ii) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);
- (d) which is required to be discharged by another officer;
- (e) which is a function which for any other reason cannot be exercised by the Head of Finance.

The Head of Finance must at all times comply with the Council’s Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

**3.4 HEAD OF PLANNING AND REGENERATION**

**Delegation**

The Head of Planning and Regeneration is authorised to exercise the following functions:-

- (a) Development Control
- (b) Forward Planning
- (c) Conservation
- (d) Building Control

**Exceptions and Conditions**

There is excepted from the delegation to the Head of Planning and Regeneration any matter:-

- (a) reserved to the full Council;
- (b) delegated to a committee;
- (c) which comprises or includes a function described in:-

- (i) appendix 1 (functions which cannot be exercised by a delegated officer);
- (ii) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);
- (d) which is required to be discharged by another officer;
- (e) which is a function which for any other reason cannot be exercised by the Head of Planning and Regeneration.

The Head of Planning and Regeneration must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

**Delegation specific to the Planning Function**

To exercise all the powers of the Council as Local Planning Authority (including the conduct of appeals and enquiries) under the Planning Acts, (unless expressly delegated to another officer) except where:-

**In the case of all Applications:**

1. In the opinion of the Head of Planning and Regeneration the application is of a significant controversial or sensitive nature;
2. The application has been submitted by or on behalf of the Council;
3. The application is from an Elected Member or Officer;
4. The application is accompanied by an Environment Impact Assessment (EIA);
5. The application is a significant or major departure and is recommended for approval;
6. The Ward Member; Chairman or Vice-Chairman of Planning Committee requires that the Committee consider an application having given clear planning reasons;
7. Applications will be delegated to the Head of Planning and Regeneration to refuse if Section 106 Agreements are not signed and completed within 8 or 13 week time-scale.

**In the case of re-negotiations on planning obligation (S106 Agreements and Undertakings);**

1. Is submitted under Section 106 BA of the Town and Country Planning Act 1990, if Committee considerations would be outside the date of determination delegated authority is given to the Head of Planning and Regeneration to agree amendments in consultation with

the Head of Housing, the Cabinet Member for Housing and the Chair of Planning Committee

2. In the case of renegotiations on other planning obligation issues the Ward Member or Chair or Vice Chair of Planning requires that the Committee consider the proposed changes having given clear planning reasons otherwise they will be delegated to the Head of Planning and Regeneration

**In the case of Enforcement:**

1. Formal enforcement action is proposed other than a Breach of Condition Notice or in the case where urgent action is required to commence enforcement proceedings, consisting of the service of a Temporary Stop Notice, Enforcement Notice, Stop Notice or commence Injunction proceedings. These proceedings to only be instigated in consultation with one or more of the following: Planning Chairman, Vice Chairman, Ward Member;
2. Other than in consultation with the Legal Services Manager prosecution proceedings regarding any unauthorised advertising/fly posting.

(Note: Formal action does not include the service of a Planning Contravention Notice or Section 330 requisition for information)

In the case of the Community Infrastructure Levy Regulations (CIL) and associated enforcement:

1. Formal CIL enforcement action comprising CIL Stop Notice or in the case where urgent action is required to commence enforcement proceedings consisting of the service of a CIL Stop Notice or commence CIL Injunction proceedings. These proceedings only to be instigated in consultation with one or more of the following: Planning Chairman, Vice Chairman, Ward Member.

**In the case of Conservation:**

1. It involves the designation of new, or amendment of existing Conservation Area boundaries;
2. It requires the issue of repair and urgent work notices;
3. It involves the submission of funding bids or schemes that have budgetary implications.

**In the case of the Local Plan:**

Local Plan proposals and policies with reasoned justification for publication and consultation or adoption at the following stages (other than where minor modifications and other minor changes are made).

- Local Plan options consultation
- Publication and consultation of the 'submission' Local Plan
-

- Local Plan Adoption

**In the case of Planning Policy:**

- 1 Representations to strategic plans and policies at a larger than District scale are to be made
- 2 Supplementary Planning Documents dealing with Mid Devon wide guidance and sites/areas for publication prior to consultation and for adoption (other than where minor modifications and other minor changes are made)

*(Not including updating contributions sought through S106 Agreements to reflect changes in the cost of provision of facilities.)*

**Building Control And Safety:**

To exercise all the Council's powers under the Building Act 1984 or regulations made there under except where:-

*In the case of charges*

- The annual review of charge results in increases greater than the rate of inflation.

**Other Provisions**

1. To authorise caravan rallies in accordance with the requirements of CS and C of DA 1960.
2. To make representations where appropriate and with the agreement of the Chairman and/or Vice Chairman of the Committee and Ward Member's (as appropriate) in respect of new Applications for Goods Vehicles Operators' Licenses, or when a significant variation of an existing licence is proposed.
3. To caution offender where there was evidence of a criminal offence and the offender admitted the commission of the offence but the public interest did not require a prosecution.

**3.5 HEAD OF HUMAN RESOURCES AND DEVELOPMENT**

**Delegation**

The Head of Human Resources and Development is authorised to exercise the following functions:-

- (a) Human Resources
- (b) Payroll
- (c) Learning and Development
- (b) Leisure
- (c) Licensing



- (d) Environmental Health
- (e) Private Sector Housing
- (f) Health & Safety

### **Exceptions and Conditions**

There is excepted from the delegation to the Head of Human Resources and Development any matter:-

- (a) reserved to the full Council;
- (b) delegated to a committee;
- (c) which comprises or includes a function described in:-
  - (i) appendix 1 (functions which cannot be exercised by a delegated officer);
  - (ii) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);
- (d) which is required to be discharged by another officer;
- (e) which is a function which for any other reason cannot be exercised by the Head of Human Resources and Development.

The Head of Human Resources and Development must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

#### Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

## **3.6 HEAD OF HOUSING AND PROPERTY SERVICES**

### **Delegation**

The Head of Housing and Property Services is authorised to exercise the following functions:-

- (a) Housing Services
- (b) Property Services
- (c) Grounds Maintenance
- (d) Community Safety
- (e) Emergency Planning

### **Exceptions and Conditions**

There is excepted from the delegation to the Head of Housing and Property Services any matter:-

- (a) reserved to the full Council;

- (b) delegated to a committee;
- (c) which comprises or includes a function described in:-
  - (i) appendix 1 (functions which cannot be exercised by a delegated officer);
  - (ii) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);
- (d) which is required to be discharged by another officer;
- (e) which is a function which for any other reason cannot be exercised by the Head of Housing and Property Services.

The Head of Housing and Property Services must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

### **3.7 HEAD OF CUSTOMER SERVICES**

#### **Delegation**

The Head of Customer Services is authorised to exercise the following functions:-

- (a) Customer Services
- (b) Communications
- (c) Revenues

#### **Exceptions and Conditions**

There is excepted from the delegation to the Head of Customer Services any matter:-

- (a) reserved to the full Council;
- (b) delegated to a committee;
- (c) which comprises or includes a function described in:-
  - (i) appendix 1 (functions which cannot be exercised by a delegated officer);
  - (ii) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);
- (d) which is required to be discharged by another officer;
- (e) which is a function which for any other reason cannot be exercised by the Head of Customer Services.

The Head of Customer Services must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

### Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

## **3.8 HEAD OF BUSINESS INFORMATION SERVICES (BIS)**

### **Delegation**

The Head of Business Information Services is authorised to exercise the following functions:-

- (a) ICT
- (b) Information Management
- (c) Gazetteer Management
- (d) Land Charges:

All the powers of the Council in relation to Local Land Charges and the Local Land Charges Register.

### **Exceptions and Conditions**

There is excepted from the delegation to the Head of BIS any matter:-

- (a) reserved to the full Council;
- (b) delegated to a committee;
- (c) which comprises or includes a function described in:-
  - (i) appendix 1 (functions which cannot be exercised by a delegated officer);
  - (ii) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);
- (d) which is required to be discharged by another officer;
- (e) which is a function which for any other reason cannot be exercised by the Head of BIS.

The Head of BIS must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

### Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

## **4 FUNCTIONS DELEGATED TO ALL HEADS OF SERVICE**

### **4.1 Delegation**

In addition to the functions specifically delegated by this part of the Constitution, together with those functions contained in the existing register of delegations attached at Appendix 5, all Heads of Service are authorised to exercise any of the Council's functions in relation to the day to day management and delivery of the services for which they are responsible.

### **4.2 Condition**

Each Head of Service Officer must comply with the principles of decision making set out in Article 12 of the Constitution and further set out within this part of the Constitution.

## **5 GENERAL PROVISIONS APPLICABLE TO DELEGATIONS**

### **5.1 Further delegations by officers**

Where:-

- (a) a function has been delegated to an officer; or
- (b) an officer has been appointed to discharge the function of a proper or other statutory officer, that officer may in turn delegate that function to another officer or officers. If they do so then:-
  - (a) the delegation shall be recorded in writing and kept by the Monitoring Officer; and
  - (b) a decision taken pursuant to that delegation shall:-
    - (i) be taken in the name of the officer to whom the function was originally delegated; and
    - (ii) have effect as if it had been taken by that officer.

### **5.2 Additional delegation to officers to accord with responsibilities**

In addition to any other delegation to an officer contained in this part of the Constitution, each officer is authorised to exercise any function as necessary for them to perform such of the duties set out in their job description as they are required to perform by the officer or officers responsible for their management.

### **5.3 Additional delegation in particular circumstances**

The Council, the Cabinet or a committee may (unless prevented by statute, the standing orders, the rules of procedure or the requirement of any subsisting Council policy) delegate to an officer the exercise of a function reserved to them.

**5.4** The discretion conferred by paragraph 5.3 above shall only be exercised where the Council, the Cabinet relevant committee or officer (as appropriate) consider it necessary in particular circumstances for the proper exercise of the relevant function.

### **5.5 Exercise of delegated power by Council/committee**

Notwithstanding a delegation to an officer of any of the Council's functions:-

- (a) the Council, the Cabinet or a committee (where a matter is within the Cabinet or the committee's terms of reference) may exercise the delegated function itself; and
- (b) an officer to whom a function has been delegated may refer the matter for a decision to the Council, the Cabinet or a committee (where the matter is within the Cabinet or the committee's terms of reference).

**5.6** The discretion conferred by paragraph 5.5 shall only be exercised where the Council, the Cabinet, relevant committee or officer (as appropriate) consider it necessary in particular circumstances for the proper exercise of the relevant function.

### **5.7 Inability to Act: Substitute Officers**

If any officer:-

- (a)
  - (i) to whom a function has been delegated; or
  - (ii) who has been appointed to discharge the function of a proper or other statutory officer,is for any reason unable to act; or
- (b) if the post of any such officer is vacant

then (except where written provision has already been made), the Chief Executive in consultation with the Head of Communities and Governance shall determine who shall act as substitute officer.

## **6 FURTHER GUIDANCE ON PRINCIPLES OF DECISION MAKING**

### **6.1 Summary**

The following paragraphs are to be read in conjunction with Article 12, Paragraph 12.02 of this Constitution and Section 4 of this part of the Constitution.

This section provides direction and guidance to officers involved in the decision making process.

It sets out general requirements, describes the available decision making processes and provides criteria for choosing a process (where it is within an officer's discretion). It also provides a summary of the principal obligations and factors involved in operating the chosen process – including the publication of recording procedures which must be followed where a decision is taken by an officer in consultation with the relevant committee chairman.

## **7 OFFICER DECISION MAKING**

### **7.1 Introduction**

These paragraphs set out the essential requirements of officers and introduce some key issues relevant to the decision making process as a whole.

Section 8 provides the specific criteria for the choice of decision making process and Section 9 provides the protocol for taking decisions within the selection process.

In all decision making, officers must have regard to paragraph 4 of this part of the Constitution.

## **7.2 Essential Requirements**

In participating in the Council's decision making process and in exercising their delegated functions, delegated officers must comply with:-

- (a) The Council's Rules of Procedure;
- (b) The Council's Financial Regulations;
- (c) The Articles of the Constitution and further guidance contained in this part.

## **7.3 Key Issues; A General Context for Decision Making**

When making a decision delegated officers must consider:-

- (1) Effect on Others; Public and Councillor Expectation
  - (a) The effect on communities, businesses and individuals.
  - (b) The need to ensure democratic accountability through responding to:-
    - (i) the expectation of the public and councillors as to the process of decision making; and
    - (ii) the anticipated interest of the public and councillors in the matter.
  - (c) The effect of the matter on the Council's relationship with Government, Government Agencies and other Local Authorities, private, not-for-profit voluntary sector partners or other external bodies.
  - (d) The effect of the matter on other Council services and functions.
  - (e) Whether the matter is likely to prove controversial or to involve a fine balance between possible alternative decisions.
- (2) Budget
  - (a) The approved budget and financial plan.
- (3) Policies and Plans
  - (a) The approved policy framework, which is approved by Council annually.
  - (b) Whether the matter would involve a new policy issue.
- (4) General Considerations
  - (a) General consequences
  - (b) Legal consequences
  - (c) Personnel consequences
  - (d) Human Rights consequences
  - (e) Environmental consequences

## **8 SELECTING THE PROCESS OF DECISION MAKING**

### **8.1 Introduction**

The following paragraphs set out the available decision making processes and give direction and guidance on how selection should be made.

Over time, the requirements of this guidance will become familiar to delegated officers. In the meantime, the sequential questions listed below may help officers to decide which is the correct process:-

(a) Does the decision need to be taken by Full Council?

It does if the subject matter of the decision falls within the terms of reference of the Council

the nature of the decision is such that the delegated officer ought to refer to the Council.

(b) If not, does the decision need to be taken by the Cabinet or a committee or individual Cabinet Member?

It does if:

- the subject matter of the decision falls within the terms of reference of the Cabinet or the committee or individual Cabinet Member;
- the nature of the decision is such that the delegated officer ought to refer to the Cabinet or committee or individual Cabinet Member.

(c) If not, then the decision can be taken by the delegated officer appropriate to the subject matter of the decision.

(d) but before taking the decision, the delegated officer may need to consult with a ward member(s), the Leader and/or relevant Cabinet Member(s), a committee chairman or the relevant Head of Service.

The formal requirements of this guidance of this guidance are set out below.

## 8.2 Decision Making Processes: Options and Uses

Table A below sets out the available decision making processes:-

Column 1 describes each process

Column 2 defines the circumstances in which each is to be used.

Where a matter is before a delegated officer, the delegated officer must ensure that any decision in relation to that matter is taken in accordance with the requirements of Table A below.

<b>TABLE A - DECISION MAKING PROCESSES AND THEIR USES</b>	
<b>Decision making process:</b>	<b>To be used:</b>
Full Council	<p>If the decision would involve any divergence from the current budget and/or policy framework.</p> <p>If the decision would involve determining a new policy of major corporate or strategic significance</p> <p>Note:</p> <p>The decision will also be taken by full Council if:</p> <ul style="list-style-type: none"> <li>(a) required by law;</li> <li>(b) it is the approval of the budget and policy framework;</li> <li>(c) it has been referred to full Council by the</li> </ul>

	Cabinet or one of the committees of the Council.
The Cabinet or a committee	If the decision falls within the terms of reference of the Cabinet or a committee and (where relevant to the committee in question) has been referred to the committee by a delegated officer.
<p>A delegated officer after consultation with one or more (as appropriate to the decision) of the following:-</p> <ul style="list-style-type: none"> <li>- the Cabinet Member</li> <li>- a committee chairman of a relevant committee</li> <li>- ward member(s)</li> <li>- Management Team</li> <li>- one or more Heads of Service</li> </ul>	<ul style="list-style-type: none"> <li>- If (a) the matter would have previously been considered by a relevant policy committee and (b) there are sufficient policy, resource or legal issues and/or significant public/councillor interest.</li> <li>- if (a) the matter would have previously been considered by a committee, and (b) there are significant policy, resource or legal issues and/or significant public/councillor interest.</li> <li>- if there are issues which would have significant impact on the community where it would have previously been considered by the committee in question.</li> <li>- where there are significant cross-department policy issues and/or there would be significant cross-department effects on service delivery</li> <li>- where there would be significant effects on the policies and/or service delivery for a Head of Service responsible</li> </ul>

### 8.3 Decision Making by the Cabinet and Committees



The Cabinet takes a more strategic role and, therefore, operational issues will be determined at officer level.

The few committees which will remain relatively unchanged are

Planning Committee, Licensing Committee and Regulatory Committee

#### **8.4 Reporting Matters to the Cabinet**

Where a decision in relation to a matter falls to be taken by a delegated officer, the delegated officer may elect to report on the matter (either generally or in relation to some aspect of it) by way of information to the Cabinet if the delegated officer considers this expedient having regard to the nature and significance of the matter, the terms of reference of the Cabinet and the provisions of this part of the Constitution.

#### **8.5 Involving Councillors: Supplementing the Formal Process**

In addition to the formal requirements set out in Table A, delegated officers should ensure, through informal processes (including member briefing), that the relevant ward councillors and all councillors, if appropriate are kept informed and given the opportunity to contribute.

#### **8.6 Disputes About The Selection of a Decision Making Process**

Except as provided by the following paragraph, any disagreement as to which of the decision making processes is appropriate to a matter shall be determined by the Leader in consultation with the Head of Communities and Governance. The decision of the Leader shall be final.

Where the disagreement is as to whether a decision should or should not be made by the Leader, the disagreement shall be determined by Chairman and Vice Chairman of the Council in consultation with the Chief Executive. The collective decision of the Chairman and Vice Chairman of the Council shall be final.

### **9 INTERPRETATION**

#### **9.1 Summary**

This section contains formal provisions designed to assist in the interpretation of this part of the constitution where there is doubt as to its meaning or application to a particular situation.

#### **9.2 General Interpretation Provisions**

A purposeful approach shall be taken in interpreting the delegations contained in this part of the Constitution so as to give effect to the Council's intention that (subject to the requirements of the protocol) all functions of the Council shall be exercised at the appropriate level and to give effect to the intentions of the Council as set out in the Constitution generally.

##### **(a) Validity of Decisions**

The validity of a decision of a delegated officer shall not be questioned on the grounds that:-

- (i) It ought not to have been made by an officer because the issue is of such significance that it ought to have been referred to the Council or a

committee, or because the officer ought to have consulted with one or more other officers and/or councillors;

- (ii) It ought to have been made by a different officer; or
- (iii) The provisions of the protocol contained in this part of the Constitution or of any other directions, rules or guidance made by the Council or an officer have not been wholly or mainly followed.

although the validity of a decision may not be questioned it will be open to any Member of the Council to ask for scrutiny of the decision making process.

(b) Unallocated Functions

The exercise of any function which:-

- (i) shall be conferred on the Council after this part of the Constitution comes into effect; or
- (ii) for any other reason does not fall within the authority of any officer

shall be conferred (subject to the requirements of the Protocol) on such officers as shall be determined by the Chief Executive in consultation with the Head of Communities and Governance.

(c) Functions Defined by Example

Where:-

- (i) this part of the Constitution confers any power on any person; and
- (ii) the description of the extent of the functions to which that power applies includes or refers to particular examples of the functions

then

- (i) such examples shall be deemed to be included by way of illustration only and not limitation; and
- (ii) shall not prejudice the generality of the extent of those functions.

(d) Determination of Interpretation Questions

Any question as to the interpretation of this part of the Constitution (other than a disagreement to which the provisions of paragraph 8.6 above apply) shall be determined by the Chief Executive in consultation with the Monitoring Officer. The Chief Executive's decision shall be final.

(e) Directions and Guidance

If the Chief Executive considers it necessary or expedient, the Chief Executive may, in consultation with the Monitoring Officer, publish directions, rules or guidance relating to the interpretation and/or implementation of these officer delegations and committee terms of reference.

**FUNCTIONS WHICH CANNOT BE EXERCISED BY A DELEGATED OFFICER**

- 1 Consideration of certain Ombudsman Reports  
(*S31A Local Government Act 1974*)
- 2 Consideration of reports of the Chief Finance Officer  
(*S115 Local Government Finance Act 1988*)
- 3 Consideration of reports of the Head of Paid Service  
(*S4(5) Local Government and Housing Act 1989*)
- 4 Consideration of reports of the Monitoring Officer  
(*S5(5) Local Government and Housing Act 1989*)
- 5 Certain functions relating to non-domestic rating  
(*S139 Local Government Finance Act 1988*)
- 6 Certain functions relating to Council Tax  
(*S67 Local Government Finance Act 1992*)
- 7 Making bylaws  
(*S235 Local Government Act 1972*)
- 8 Promoting legislation  
(*S239 Local Government Act 1972*)
- 9 Reports of the External Auditor  
(*Accounts and Audit Regulations 2011*)

**CORPORATE PERSONNEL FUNCTIONS**

The following functions will be exercised by the Chief Executive:

- (a) Approval of strategic personnel policies
- (b) Council wide pay and grading structure and the job evaluation process which underpins it
- (c) Re-organisation/restructuring within services which result in a re-allocation of responsibilities and/or change in post titles or redundancies
- (d) Appointment of Heads of Service
- (e) Management competency and appraisal schemes
- (g) Changes in application of discretionary pension provisions for Local Government Pension Scheme (LGPS) and Total Pensionable Service (TPS)
- (f) Approval of early retirements/added years (where award of added years exceeds standard council policy)
- (h) Approval of personnel, employee development and health and safety procedures/codes of practice
- (i) Approval of revisions to conditions of service for employees arising from enhanced local discretion, new employment legislation, EC directives etc (including variations to/departures from National Agreements/Conditions of Service)
- (j) Early retirements (except ill-health) within the Council's Discretionary Pensions Policy
- (k) Trade union (corporate) facility time
- (l) Collective Dispute Hearings
- (m) Personnel/TUPE implications of the externalisation of functions
- (n) Heads of Service pay/gradings (determined by South West Employers and then ratified by Pay & Grading Group)
- (o) Approval of compensation in relation to such issues as the settlement of employment tribunal cases
- (p) Ring fencing for appointments
- (q) Appeals under the Job Evaluation Scheme (delegated to the Pay & Grading Group)
- (r) Payment of salaries above an employee's substantive grade (delegated to the Pay & Grading Group)

**Note**

In accordance with the requirements set out above the functions at (a) to (n) above will be exercised following consultation with the Leader of the Council.

## **Onward Delegation**

The Corporate Personnel Functions are exercised by the Chief Executive and are highlighted in Part 3 of the Constitution.

Attached is an authorisation from the Chief Executive who has determined that certain functions may be further delegated.

### **Onward Delegation to Heads of Service**

- 1 Minor changes to staffing structures within services, including reallocation of responsibilities and/or change of post title. Major reorganisation/restructuring of whole service units will require discussion at Management Team.
- 2 Management competency and appraisals schemes.  
Involves a decision as to whether or not a relevant qualification is appropriate to a particular job and whether that can be highlighted as an ongoing training need in an appraisal scheme.
- 3 Approval for trade union activities.
- 4 Personnel/TUPE implications of any externalisation of functions.
- 5 Approval of compensation in relation to such issues as settlement of employment tribunal cases.
- 6 Ring fencing for appointments.
- 7 Appointment of staff.
- 8 Appointment of temporary staff for contracts less than 12 months within budget
- 9 Overtime payments.
- 10 Incremental increase within grade.
- 11 Bouquet/Merit payments (delegated to the Pay & Grading Group).
- 12 Honorarium payments (delegated to the Pay & Grading Group)

Finally, it should be remembered that decisions taken by Heads of Service are to be taken in the name of the Chief Executive and have the effect as if they had been taken by the Chief Executive. It should be further remembered that a function carried out by the Head of Service in relation to the above mentioned delegations must be recorded in writing.

### **Onward Delegation to the Pay and Grading Group**

The Pay and Grading Group consists of Management and Union representatives and deals with the Job Evaluation Scheme.

1. Appeals under the Job Evaluation Scheme
2. Payment of salaries above an employee's substantive grade
3. Bouquet/Merit payments
4. Honorarium payments
5. Payment of salary above the employee's substantive grade (Market Supplement).

DELEGATION TO OFFICERS THAT IS CONSEQUENTIAL UPON THE ADOPTION  
OF THE NEW CONSTITUTION AND THE RESPONSIBILITY FOR FUNCTIONS  
CONTAINED IN PART 3

POWER	OFFICER
<b>LAND TRANSACTIONS</b>	
Authority to approve the terms on which land development project – other than schemes in the approved Capital Programme of other standing Committees – are undertaken (this to include industrial developments; town centre developments; major land assembly and development projects)	Chief Executive
Provision of valuation services for the Council	Chief Executive
<b>ELECTIONS</b>	
Register of Electors	Chief Executive
Authority to adjust fees in respect of elections	Chief Executive
<b>FINANCE</b>	
Authority to deal with purchase, maintenance and deployment of vehicles where the expenditure is not within an approved budget head	Chief Executive
<b>HEALTH AND COMMUNITY SERVICES</b>	
To deal with Renovation Grants including Disabled Facilities Grants and Minor Works Grants	Head of Human Resources & Development
Houses in Multiple Occupation	Head of Human Resources & Development
Private Sector Housing	Head of Human Resources & Development
Health Education	Head of Human Resources & Development
Pest Control	Head of Human Resources & Development

Food Protection	Head of Human Resources & Development
Control of Pollution (save for dog litter and litter generally)	Head of Human Resources & Development
Control of Pollution (dog litter and litter generally)	Head of Finance
Water Quality	Head of Human Resources & Development
To deal with Infectious (communicable) and notifiable diseases	Head of Human Resources & Development
General health duties	Head of Human Resources & Development
To remove and dispose of abandoned vehicles	Head of Finance
To deal with issues relating to the Sunday Trading Act 1994	Head of Human Resources & Development
To deal with issues relating to Health and Safety at Work (where the Council is the enforcing authority) including such matters within the Council's own buildings	Head of Human Resources & Development
Authority to deal with National Health Service issues	Head of Human Resources & Development
To take legal proceedings in respect of the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment (currently regulated by the Licensing Act 2003)	Legal Services Manager and Licensing Officer
The Health Act 2006 and associated regulations	Head of Human Resources & Development
HOUSING	

Authority to manage the housing stock including the replacement of existing Woolway and Airey type houses and the updating of Cornish Unit properties	Head of Housing and Property Services
Authority to maintain and improve the housing stock	Head of Housing and Property Services
'Enabling role' – to act as a catalyst between landowners, private sector builders, housing associations and other agencies to ensure the continued provision of affordable housing in the District	Head of Housing and Property Services
The letting of properties and all matters incidental thereto including the collection of rents and recovery of possession	Head of Housing and Property Services
To deal with issues relating to the Central Alarm System (Piper Life Line)	Head of Housing and Property Services
To liaise with tenants including tenant participation	Head of Housing and Property Services
Authority to act in respect of unlawful eviction/harassment	Head of Housing and Property Services
Housing Advances	Head of Finance
Calculation of Rent Rebates (Housing Benefit)	Head of Finance
Sale of Council Houses	Head of Housing and Property Services
Authority to Repurchase former Council Houses	Head of Housing and Property Services
Management of Council Shops and Commercial Units	Head of Housing and Property Services
Authority in consultation with the appropriate Cabinet Member to acquire sites and affordable housing units for the continued provision of affordable housing in the District	Head of Housing and Property Services
EMPLOYEES	
Authority to deal with membership subscriptions and donations (other than recreation, leisure and arts)	Chief Executive



## PROPER OFFICERS

Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament.

### 1 CHIEF EXECUTIVE

The Chief Executive is appointed the Proper Officer in relation to:-

- (a) any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the clerk of a Council or the town clerk of a borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council;
- (b) any reference in any local statutory provision to the clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council;
- (c) the following provisions:-

<b>Statute</b>	<b>Role/Function/Responsibility</b>	<b>Proper Officer</b>
<b>Local Government &amp; Housing Act 1989</b>		
Section 4	Head of Paid Service	Chief Executive
<b>Local Government Act 1972</b>		
Schedule 12 Para 4(2)(b)	Signature of Summons to Council Meetings	Chief Executive
Sections 83(1) – (4)	Witness and receipt of declarations of acceptance of office	Chief Executive or, in his absence or as instructed by him, the Monitoring Officer
Section 84	Receipt of declarations of resignation of office	Chief Executive or, in his absence or as instructed

		by him, the Monitoring Officer
Section 88 (2)	Convening Council to fill casual vacancy in the office of Chairman	Chief Executive or, in his absence or as instructed by him, the Monitoring Officer
Section 89(1)(b)	Receipt of notice of casual vacancy	Chief Executive or, in his absence or as instructed by him, the Monitoring Officer
Sections 100B(2), 100B(7), 100C(2) & 100F(2)	Distribution of summons and proceedings and release of documents to Councillors	Chief Executive or, in his absence or as instructed by him, the Member Services Manager
Schedule 12 4(3)	Receipt of notices regarding address to which summons to meeting are to be sent	Chief Executive or, in his absence or as instructed by him, the Member Services Manager
Schedule 14 25(7)	Certificate of resolutions	Chief Executive or, in his absence or as instructed by him, the Member Services

Manager

**Local Government Act 1972**

Section 225(1)	Deposit of Documents	Legal Services Manager
Section 229(5)	Certification of photographic copies of documents	Legal Services Manager
Sections 234(1) & (2)	Authentication of documents: Financial, Rating, Superannuation	Legal Services Manager and S.151 Officer
Sections 236(9) & (10)	Service of Byelaws on other Authorities	Legal Services Manager
Section 238	Certification of Byelaws	Legal Services Manager

**Local Government Act 1974**

Section 30(5)	Notice of Local Government Ombudsman's report	Legal Services Manager
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**Local Government (Miscellaneous Provisions) Act 1976**

Section 41	Evidence of resolutions and minutes of proceedings	Legal Services Manager
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**Local Government and Housing Act 1989**

Section 5(1)(a)	Monitoring Officer	Head of Communities and Governance
Sections 15 & 16	Appointment of Members to Committees	Head of Communities and Governance

**Representation of the People Act 1983**

Sections 8(1)(2)(a)	Registration Officer	Chief Executive
Sections 28 & 35	Electoral Registration Officer and Returning Officer	Chief Executive

Issues in respect of Elections, etc.

## 2 HEAD OF COMMUNITIES AND GOVERNANCE

The Head of Communities and Governance is the Council's statutory Monitoring Officer and is appointed as the proper Officer in relation to the following:

<b>Statute</b>	<b>Role/Function/Responsibility</b>	<b>Proper Officer</b>
<b>Local Government and Housing Act 1989</b>		
Section 5(7)	Appointment of the Deputy Monitoring Officer	Solicitor
<b>Localism Act 2011</b>		
Chapter 7, Section 29(1)	Keeping record of declarations of pecuniary interest and notices	Head of Communities and Governance (Monitoring Officer) or, in her absence or as instructed by her, the Deputy Monitoring Officer

## 3 HEAD OF FINANCE

The Head of Finance is the Council's statutory Chief Financial Officer and is appointed the Proper Officer in relation to the following:-

- (a) Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Treasurer or a Treasurer of a Borough which by virtue of any provision of the said act is to be construed as a reference to the Proper Officer of the Council.
- (b) Any reference in any local statutory provision to the Treasurer of a specified Council which, by virtue of an order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council.

(c) Provisions of the Local Government Act 1972, as follows:-

<b>Statute</b>	<b>Role/Function/Responsibility</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
Section 115 (2)	Receipt of money due from officers	S. 151 Officer or Chief Executive
Section 146 (1) (a) & (b)	Declarations and certificates with regard to securities	S.151 Officer or Chief Executive
Section 234(1) & (2)	Authentication of documents: Financial, Rating Superannuation	S.151 Officer or Chief Executive

**Local Government Finance Act 1988**

Section 114	Reporting on decisions or actions which may result in unlawful expenditure or loss to the authority	S. 151 Officer or Finance Manager
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**4 HEAD OF PLANNING AND REGENERATION**

The Head of Planning and Regeneration is appointed the Proper Officer in relation to:-

<b>Statute</b>	<b>Role/Function/Responsibility</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
Section 234(1) & (2)	Authentication of documents: Dangerous Structure Notices Certification of Local Plans	Head of Planning and Regeneration

The Head of Planning and Regeneration is appointed the Proper Officer in respect of powers contained in Section 78 of the Building Act 1984, ie, to act as “the surveyor” empowered to take and authorise emergency action in respect of damage and dangerous buildings, walls, etc, and to order the demolition of buildings rendered dangerous by fire damage, without prior authorisation of the Council.

**5 HEAD OF HUMAN RESOURCES AND DEVELOPMENT**

The Head of Human Resources and Development is appointed Proper Officer in relation to Section 47 National Assistance 1948 and Section 1 National Assistance (Amendment) Act 1951.

<b>Statute</b>	<b>Role/Function/Responsibility</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
Sections 234(1) & (2)	Authentication of documents: - Notifiable Diseases and Food Poisoning	Head of Human Resources and Development

## 6 HEAD OF HOUSING AND PROPERTY SERVICES

<b>Statute</b>	<b>Role/Function/Responsibility</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
Sections 234(1) & (2)	Authentication of documents: - Letting of Garages	Head of Housing and Property Services

## 7 HEAD OF BUSINESS INFORMATION SERVICES

<b>Statute</b>	<b>Role/Function/Responsibility</b>	<b>Proper Officer</b>
<b>Data Protection Act</b>		
1998	Data Protection Officer	Head of BIS

## 8 MISCELLANEOUS

<b>Statute</b>	<b>Role/Function/Responsibility</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
Section 112	Duties to be carried out by a Proper Officer	The Officer responsible for carrying out the duty

## 9 DECISION MAKING

The report author of any report to be considered by the Council or a Committee / Sub-Committee thereof is appointed as Proper Officer under the Local Government Act 1972 in relation to:-

- (a) the identification of and compilation of lists of background papers to reports;
- (b) the identification of confidential documentation.

#### **10 OTHER**

The Constitution and / or primary and secondary legislation associated with the Constitution and policy making functions and decision-making contain a range of Proper Officer posts. Except where prescribed in this part of the Constitution, those responsibilities are set out in the remainder of the Constitution, e.g. Council Procedure Rules. In the absence of any identified post holder, the Proper Officer shall be the Chief Executive.

# Part 4 - Rules of Procedure

## CONTENTS

**Section 1 - Council Procedure Rules**

**Section 2 - Access to Information Procedure Rules**

**Section 3 - Budget and Policy Framework Procedure Rules**

**Section 4 - Cabinet Procedure Rules**

**Section 5 - Overview and Scrutiny Procedure Rules**

**Section 6 - Officer Employment Procedure Rules**



## **SECTION 1 - COUNCIL PROCEDURE RULES**

### **1. Annual Meeting of the Council**

#### **1.1 Timing and business**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement (four days after the election) of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (a) elect a person to preside if the outgoing Chairman of Council or Vice Chairman of the Council is not present;
- (b) elect the Chairman of the Council (subject to the statutory provisions in that behalf, a Councillor who is the present Chairman of the Council and has completed two consecutive years in such office shall not be eligible for re-election as Chairman of the Council for the ensuing year);
- (c) elect the Vice Chairman of the Council;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chairman and/or the Head of Paid Service;
- (f) elect the Leader (following the ordinary election of councillors);
- (g) elect the Scrutiny Committee Chairman;
- (h) agree the scheme of delegations as set out in Part 3 of this Constitution approve a programme of ordinary meetings of the Council for the year; and
- (i) consider any business set out in the notice convening the meeting.

#### **1.2 Appointment of Committees and Selection of Councillors on Outside Bodies**

At the annual meeting, the Council meeting will:

- (a) decide which committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) receive nominations of ungrouped Councillors to serve on each committee and vote on each appointment

- (e) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet (in respect of executive functions);

## **2. Ordinary Meetings**

2.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- (a) elect a person to preside if the Chairman and Vice Chairman are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Chairman;
- (e) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chairman are relevant to the Council's functions or business of the meeting;
- (f) receive a report from the Leader and receive questions and answers on the report;
- (g) deal with any business remaining from the last Council meeting;
- (h) receive petitions from members of the public;
- (i) debate single issues;
- (j) consider Motions;
- (k) consider reports from the Cabinet ;
- (l) consider any reports submitted by the Scrutiny Committee and the other Council committees;
- (m) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (n) receive statement made and notices of future questions given by Members;
- (o) consider any urgent items of business brought forward at the discretion of the Chairman. In respect of any such urgent items of business, the Chairman must be satisfied that the item of business is urgent enough to justify its inclusion on the agenda. The reason for urgency must be announced at the meeting and recorded in the minutes. The discretion as to urgency is entirely with the Chairman; and
- (p) consider any other business specified in the summons to the meeting and reports of the Scrutiny Committee for debate;

## 2.2 Variation of Order of Business

Business falling under items 2.1 and 2.2 shall not be displaced, but subject thereto the foregoing order of business may be varied:

- (a) by the Chairman at his/her discretion; or
- (b) by a resolution passed on a Motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion

## 3. **Extraordinary Meetings**

### 3.1 Calling extraordinary meetings

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Chairman of the Council;
- (c) the Monitoring Officer; or
- (d) any five Members of the Council if they have signed a requisition presented to the Chairman of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### 3.2 Business

The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc. except that the Chairman may at his absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

## 4. **Appointment of substitute members**

### Cabinet

- 4.1 This rule does not apply to the Cabinet as they are not able to use substitutes

### Scrutiny Committee and Policy Development Groups (PDGs)

- 4.2 Where a member is appointed to the Scrutiny Committee, Policy Development Groups or to serve on any committee or sub-committee of another council on which this council is represented, provided that council's constitution so permits, that member may appoint a substitute member to attend the meeting

### Planning, Licencing, Licensing Regulatory, Audit and Standards Committee

- 4.3 In respect of the Planning, Licensing, Licensing Regulatory, Audit and Standards Committees, each Committee will have a pool of five suitably trained members shall be established and substitutes may only be nominated from that pool

Licensing, Licensing Regulatory and standards sub committees

- 4.4 Substitutes cannot be used in the case of a Licensing, Regulatory or Standards sub committee
- 4.5 Where the Member appointing a substitute is a Member of a Political Group the substitute Member shall be from the membership of that same Group.
- 4.6 Any such substitution shall have effect for the entirety of the meeting in respect of which the Notice has been given.
- 4.7 A substitute Member shall be entitled to vote and shall assume all the responsibilities and rights of a Member of the Scrutiny Committee, Audit Committee, Policy Development Group, Committee, Sub-Committee or other body.
- 4.8 Notice in writing of a substitute shall be given to the Chief Executive (and recorded by him in the order in which they are received) by the Member appointing the substitute before the commencement of the meeting. Notification by a Member purporting to be a substitute Member will not be accepted.
- 4.9 No more than two Members of the same Political Group shall be substituted at any meeting, and no Member shall be substituted at more than two consecutive meetings of the same Scrutiny Committee, Audit Committee, Policy Development Group, Committee, Sub-Committee etc
- 4.10 The Monitoring Officer may consider a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group.
- 4.11 In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law
- 4.12 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- 4.13 Substitute Members may attend meetings in that capacity only:
- a) to take the place of the ordinary Member for whom they are designated substitute;
  - b) where the ordinary Member will be absent for the whole of the meeting;
  - c) where the ordinary Member has notified the Member Services Officer of the intended substitution at least one hour before the start of the relevant meeting; and

provided, in the case of area committees, that the substitution does not alter the balance on that committee between Members from the area and Members from the rest of the District.

## **5. Time, Place and Duration of Meetings**

- 5.1 The time and place of meetings will be determined by the Chief Executive and notified in the summons.

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

- 6.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Chief Executive will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **7. Chair of Meeting**

- 7.1 The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chair of committees and sub-committees.
- 7.2 The Chairman of the Council, by virtue of office, is not eligible to hold office as a Chairman of any other Committee during his/her term.

## **8. Quorum**

- 8.1 The quorum of a Full Council meeting will be one quarter of the whole number of Members (11 members). During any meeting if the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 8.2 The quorum for a meeting of the Cabinet, Scrutiny Committee, Audit Committee, Standards Committee, Policy Development Groups, Planning Committee, Licensing Committee, Licensing Regulatory Committee, a Committee or a sub-committee of the Council will be one half of the number of members appointed (rounded up) to the Cabinet (four), Scrutiny Committee (six), Audit Committee (four), Standards Committee (five), Policy Development Groups (five), Planning Committee (eight), Licensing Committee (eight), Licensing Regulatory Committee (eight), a Committee or a sub-committee. See the procedure Rules for information about quorum per committee

## **9. Single Issue Debate**

- 9.1 Where any five members give notice in writing, delivered at least eight clear days before the next meeting of the Council at the office of the Chief Executive, of request

for a single issue debate. Rule 16 (Rules of Debate) shall not apply to any debate under this Procedure Rule.

- 9.2 A period of not exceeding one hour shall be allowed during which debate may take place. Any recommendations arising from such debate shall be referred to the appropriate committee for consideration.

## **10. Members' Business**

10.1 At each ordinary meeting of the Council, a period not exceeding 15 minutes shall be allowed during which any Member may make a statement or give preliminary verbal notice of a question provided that:-

- (a) such statement or question must be relevant to some matter in relation to which the Council has powers or duties, or which affects the District and has not been otherwise before the Council for consideration at the same meeting;
- (b) no Member may make more than one statement or give notice of more than one question, and no Member shall speak pursuant to this Procedure Rule for longer than two minutes;
- (c) the statement or notice of question shall not be the subject of discussion or reply at that meeting;
- (d) after the expiry of the said period of 15 minutes the Council shall proceed to the next business .

## **11. Questions by the Public**

### **11.1 General**

- (a) Public Question Time shall apply at all public meetings of the Council with the exception of the Licencing Sub Committee, Licensing Regulatory Sub-committee and Standards Sub Committee.
- (b) Public Question Time shall normally be dealt with at the beginning of the Agenda (i.e. as part of the formal meeting) unless a Committee/Group shall determine otherwise;
- (c) The total time allocated for questions by the public is limited to 30 minutes. In the event that there are no questions, or no further questions, the Chairman shall have the discretion to proceed with the Agenda prior to the expiry of that period. The Chairman also has discretion to extend the time for public questions if he/she deems it to be appropriate
- (d) Residents, electors or business rate payers of the District shall be entitled to ask questions

### **11.2 Asking a question at the meeting**

Ideally persons submitting questions should be present at the meeting. It is preferable that notice is given of the question to be asked at the meeting

However, if a questioner who has submitted a question is unable to be present, they may ask the Chairman to put the question on their behalf.

- (a) Questions will be asked in the order they have been received
- (b) Written questions will be dealt with first
- (c) Questions may be verbal or, preferably written
- (d) A question shall not exceed 3 minutes
- (e) Questions must be relevant to an item on the Agenda for that meeting
- (f) The Chairman, following advice from either the Chief Executive, Monitoring Officer or Member Services Manager, shall have the discretion to reject a question, giving reasons if it:
  - Is not about a matter for which the Council has a responsibility or which affects the District
  - Is in his/her opinion scurrilous, improper, capricious, irrelevant or otherwise objectionable
  - Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
  - requires the disclosure of confidential or exempt information.

### 11.3 Supplementary question

At the discretion of the Chairman of that meeting, questioners may ask one supplementary question

### 11.4 Answers to questions

The chairman of the meeting, or at meetings of the Council the appropriate committee chairman, shall respond to all questions.

Replies to questions may be verbal, or at the discretion of the Chairman, in writing, or by reference to a published document. Written replies shall be reported to the next meeting of the Committee and published alongside the draft minutes when available. Responses will also be sent to all Councillors.

## **12. Petitions from the Public**

### Notice of Petition

- 12.1 If a citizen wishes to present a petition to a Council meeting, notice must be given at least 10 working days before the meeting. Petitions to be debated at the Council Meeting will have been selected according to the Petitions Scheme attached as Appendix D.

#### Presentation of Petitions

- 12.2 The petition organiser will be allowed 5 minutes to present the petition at the meeting. Only one person may speak to present a petition.
- 12.3 The Council will then debate the petition for a maximum of 15 minutes (if the petition has 1500 signatures or more).
- 12.4 The Council's response to the petition will depend on what the petition asks for and how many people have signed it, but it may include one or more of the following:
- (a) taking the action requested in the petition;
  - (b) not taking the action requested in the petition;
  - (c) considering the petition at a council meeting;
  - (d) holding an inquiry into the matter;
  - (e) undertaking research into the matter;
  - (f) holding a public meeting;
  - (g) holding a consultation;
  - (h) holding a meeting with the petitioners
  - (i) calling a referendum
  - (j) referring the petition for consideration by other committees such as the Scrutiny Committee
  - (k) where the issue is one on which the Cabinet is required to make the final decision, the Council will decide whether to make recommendations to inform that decision;
  - (l) the petition organiser will receive a written acknowledgement of receipt of their petition, details as to when and where their petition will be considered and a letter giving the outcome which will also be published on the Council website.

#### Number of Petitions

- 12.5 Scope of Petitions

The Member Services Manager may reject a petition if it:



- (a) does not qualify under the scheme i.e. it does not follow the guidelines for submitting a petition;
- (b) it is vexatious, abusive or otherwise inappropriate;
- (c) it is a petition qualifying under another enactment;
- (d) it relates to a planning decision;
- (e) it relates to a licensing decision;
- (f) it relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

### **13. Questions by Members**

#### On reports of the Cabinet or committees

- 13.1 At a meeting of the Council, other than the Annual meeting, a Member of the Council may ask the Leader, Cabinet Members or the chair of a committee any question without notice upon an item of the report of the Cabinet or a committee when that item is being received or under consideration by the Council.

#### Questions on notice at full Council.

- 13.2 A Member of the Council may, if by not later than noon, one clear working day preceding any ordinary meeting of the Council, notice in writing has been given to the Chief Executive, ask the Chairman of the Council or the Leader, the Cabinet Member or the Chairman of any Committee any question on any matter in relation to which the Council have powers or duties or which affect the District, provided that the subject matter of the particular question shall have first been the subject of discussion at a meeting of the Cabinet or appropriate Committee or Sub-Committee and that, in the particular case the Member who seeks to ask the question is not satisfied with the adequacy of the answer contained in the Minutes of the Cabinet or that Committee or Sub-Committee. If any doubt arises as to whether the particular subject matter has been the subject of discussion at a meeting of the appropriate Committee or Sub-Committee this shall be determined by the Chairman of the Council whose decision in such regard shall not be open to challenge.

#### Questions relating to urgent business

- 13.3 A Member of the Council may, with the permission of the Chairman, put to him or the Leader, Cabinet Member or Chairman of any committee any question relating to urgent business of which notice has not been given in accordance with paragraph (a) above, provided that the Chairman in his absolute discretion is satisfied that the matter raised in such a question is of such urgency as to preclude the procedure in paragraph (a) above being pursued and that he is also satisfied that it is not appropriate for the matter to await consideration at the next meeting of the Cabinet or the appropriate Committee or Sub-Committee and provided also that a copy of any such

question has been delivered to the Chief Executive no later than nine o'clock on the morning of the day before the Council Meeting.

#### Order of Questions

- 13.4 Questions under paragraph 13.3 above shall be taken at the appropriate point in the relevant Committee report.
- 13.5 Questions and written answers shall be printed in order of receipt and circulated amongst the Members at the commencement of the Council Meeting and no discussion shall be allowed upon questions or answers save as is permitted under Rule 13.11 below.

#### Content of Questions

- 13.6 Questions under Rule 13.3 or 13.4 must, in the opinion of the Chairman:
- (a) contain no expressions of opinion;
  - (b) relate to matters on which the Council has or may determine a policy;
  - (c) not relate to questions of fact.
- 13.7 If questions or supplementary questions are unsuitable in form, frivolous or derogatory to the dignity of the Council, the Chairman of the Council shall have the right to rule the matter void.

#### Response

- 13.8 The Chief Executive shall arrange for copies of questions and answers to be sent to Members not present at the Meeting of the Council.
- 13.9 An answer may take the form of:
- (a) a direct oral answer at the meeting;
  - (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - (c) where the reply cannot conveniently be given orally, a written answer circulated within 10 working days to the questioner.

#### Supplementary question

- 13.10 One relevant supplementary question to an answer shall be allowed to the original questioner unless such supplementary question is disallowed by the Chairman of the Council under paragraph 13.8 of this Rule.

#### Length of Speeches

- 13.11 A Member asking a question under Rule 13.3 or 13.4 and a Member answering such a question may speak for no longer than 3 minutes unless the Chairman consents to a longer period.

#### Time Allowed for Questions at Council Meetings

- 13.12 The time allowed for consideration of questions submitted under Rule 13 shall not, without the consent of the Council, exceed 30 minutes.
- 13.13 At the conclusion of the answer to the question under consideration at the expiry of 30 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chairman shall continue with the meeting.
- 13.14 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council with the answers to be forwarded to all Councillors.

## **14. Motions on Notice**

### Notice

- 14.1 Except for motions which can be moved without notice under Rule 15, written notice of every motion, must be delivered to the Chief Executive via Member Services at least 8 clear working days before the Council meeting at which it is to be considered. Motions received will be entered in a record, in the order they are received, open to public inspection and where they are rejected giving reasons.

### Motion set out in summons

- 14.2 The Chief Executive shall set out in the Summons for every meeting of the Council all Motions of which notice has been duly given in the order in which they have been received, unless the Member giving such a notice intimated in writing, when giving it, that he proposed to move it at some later meeting, or has since withdrawn it in writing.

### Motion not moved

- 14.3 If a Motion thus set out in the Summons be not moved either by a Member who gave notice thereof or by some other Member on his behalf it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

### Automatic Reference to Committee

- 14.4 If the subject matter of any Motion, of which notice has been duly given, comes within the province of the Cabinet or any Committee or Committees it shall, upon being formally moved and seconded, stand referred without the mover or seconder of the Motion speaking on the substance of the Motion and without any other discussion, to the Cabinet or such Committee or Committees, or to such other Committee or Committees as the Council may determine, for consideration and report; and that the mover (or in his absence, the seconder) of the Motion should be invited to the Meeting of the Cabinet, Committee or Committees to amplify the Motion, but without any right to vote except as a Member of such Committee. Provided that the Chairman may, if he considers it convenient and conducive to the despatch of business allow the Motion to be dealt with at the meeting, at which it is brought forward.

### Scope

- 14.5 Motions must be about matters for which the Council has a responsibility or which affect the District.
- 14.6 If notice is given of any original motion that, in the opinion of the proper officer is out of order, illegal, irregular or improper, then the proper officer shall immediately submit such notice to the Chairman of the Council and it shall not be accepted and placed on the agenda without his sanction. In the event of non-acceptance, the proper officer shall inform the member giving notice as soon as reasonably possible and stating the reason for the rejection.
- 14.7 Motion to remove the Leader
- (a) A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent to 15% of the total number of councillors on the Council and which includes councillors from at least two political groups.
  - (b) In order for such a motion to be carried it must have the support of the majority of those members voting and present in the room at the time the question was put.
  - (c) A motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

## **15. Motions without Notice**

- 15.1 The following motions may be moved without notice:
- (a) to appoint a Chair of the meeting at which the motion is moved;
  - (b) in relation to the accuracy of the minutes;
  - (c) to change the order of business in the agenda;
  - (d) to adopt a recommendation on some other course of action arising from a report to the meeting or as a result of a petition submitted to the meeting or recommendation arising from single issue debate
  - (e) to refer something to an appropriate body or individual;
  - (f) to appoint a committee or member arising from an item on the summons for the meeting;
  - (g) to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
  - (h) to withdraw a motion which may be moved in accordance with this procedure rule;
  - (i) to amend a motion which may be moved in accordance with this procedure rule, subject to the provisions of the Budget and Policy Framework Procedure

Rules in relation to amendment of the Cabinet's proposals for the Council's Budget and Policy Framework;

- (j) to proceed to the next business (such Motion may only be moved by a Councillor who has not spoken in the debate)
- (k) that the question be now put (such Motion may only be moved by a Councillor who has not spoken in the debate)
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) to suspend a particular Council Procedure Rule;
- (o) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- (p) Not to hear further a Member named under Rule 23.3 or excluded from the meeting under Rule 23.4; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

## **16. Rules of Debate**

- 16.1 No speeches unless the appropriate Notice has been given and until Motion seconded
- 16.2 A Motion or Amendment shall not be discussed unless it has been proposed and seconded, and unless the appropriate Notice has been given:-
- (a) in the case of a Motion, in accordance with Rule 14; or
  - (b) in the case of an Amendment (other than an Amendment moved in accordance with Rule 15), notice in writing of the Amendment shall have been delivered to the office of the Chief Executive of the District Council by no later than 9.30am on the day before the day of the meeting and a copy of it shall be circulated to each Member of the District Council by the Chief Executive at the commencement of the meeting at which it is to be discussed.

Except that where the Chairman is satisfied that, in the context of the debate which has taken place, a further Amendment becomes necessary, he may at his discretion allow such further Amendment to be moved at the meeting. Any such further Amendment shall be put in writing and handed to the Chairman before it is discussed or put to the meeting.

### Secunder's speech

- 16.3 When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### Content and length of speeches

- 16.4 Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech shall exceed:
- (a) Five minutes in the case of the mover of a Motion
  - (b) Three minutes in the case of the seconder
  - (c) Five minutes in the case of the Leader, the relevant Cabinet Member or the Chairman of a Committee dealing with the matters arising from committee reports except with the consent of the Chairman who shall have discretion to extend that time if it appears prudent in his judgement to do so;
  - (d) Three minutes in all other cases except by consent of the Council.
  - (e) When the Council's annual budget is under discussion, the leader of each political group on the Council may speak for up to five minutes or such longer period as the Chairman shall allow.

### When a Member may speak again

- 16.5 A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- (a) to speak once on an amendment moved by another member;
  - (b) to move a further amendment if the motion has been amended since he/she last spoke;
  - (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
  - (d) in exercise of a right of reply;
  - (e) on a point of order; and
  - (f) by way of personal explanation.

### Amendments to motions

- 16.6 An amendment to a motion must be relevant to the motion and will either be:
- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
    - (1) to leave out words;
    - (2) to leave out words and insert or add others; or
    - (3) to insert or add words

- (4) as long as the effect of 1 to 3 is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of provided that the Chairman may permit two or more Amendments to be discussed (but not voted on) together if circumstances suggest that this course of action would facilitate the proper conduct of the Council's business.
  - (c) If an amendment is not carried, other amendments to the original motion may be moved.
  - (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
  - (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### Alteration of motion

- 16.7 A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 16.8 A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 16.9 Only alterations which could be made as an amendment may be made.

#### Withdrawal of motion

- 16.10 A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### Right of reply

- 16.11 The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 16.12 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- 16.13 The mover of the amendment has no right of reply to the debate on his/her amendment.

#### Motions which may be moved during debate

- 16.14 When a motion is under debate, no other motion may be moved except the following procedural motions:
- (a) to withdraw a motion;
  - (b) to amend a motion;
  - (c) to proceed to the next business;
  - (d) that the question be now put;
  - (e) to adjourn a debate;
  - (f) to adjourn a meeting;
  - (g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
  - (h) Not to hear further a Member named under Rule 23.3 or excluded from the meeting under Rule 23.4.

#### Closure motions

- 16.15 A Member may move, without comment, the following motions at the end of a speech of another Member;
- (a) to proceed to the next business;
  - (b) that the question be now put;
  - (c) to adjourn a debate; or
  - (d) to adjourn a meeting.
- 16.16 If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion (if there is one) a right of reply and then put the procedural motion to the vote.
- 16.17 If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion (if there is one) a right of reply before putting his/her motion to the vote.
- 16.18 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### Point of order

- 16.19 A point of order is a request from a member to the Chairman to rule on an alleged irregularity in the procedure of the meeting. A member may raise a point of order at



any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

#### Personal explanation

16.20 A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

### **17. State of the District Debate**

#### Calling of debate

17.1 The Leader may call a state of the District debate annually on a date to be agreed with the Chairman.

#### Form of debate

17.2 The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the District debate.

#### Chairing of debate

17.3 The debate will be chaired by the Chairman.

#### Results of debate

17.4 The results of the debate will be:

- (a) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (b) considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

17.5 If the Leader fails to call a debate within nine months in any municipal year, it may be called by notice in writing to the Chief Executive signed by any 10 Members of the Council and that the debate shall be heard on the subject and form specified by those 10 Members

### **18. Previous Decisions and Motions**

#### Motion to rescind a previous decision

18.1 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 10 Members.

Motion similar to one previously rejected

- 18.2 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least ten members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.
- 18.3 Provided that the Procedure Rule shall not apply to Motions moved in pursuance of a recommendation of a Committee.

**19. Voting**

Majority

- 19.1 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question is put.

Chairman's casting vote

- 19.2 If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

Method of Voting

- 19.3 Unless a recorded vote is demanded under Rule 19.4 the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

Recorded vote

- 19.4 If ten members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

Right to require individual vote to be recorded

- 19.5 Where any member requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Voting on appointments

- 19.6 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

Voting on the Budget and Council Tax

- 19.7 At a Budget meeting, the vote on any motion or amendment relating to the setting of the Budget (revenue and capital budget) and Council Tax or precept

shall be by roll call and the names of Members who voted as for, against or in abstention to any such motion or amendment shall be recorded in the minutes of that meeting.

## **20. Minutes**

### Signing the minutes

- 20.1 The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### No requirement to sign minutes of previous meeting at extraordinary meeting

- 20.2 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

### Form of minutes

- 20.3 Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

## **21. Record of Attendance**

- 21.1 Every member of the Council attending a meeting of the Council, the Cabinet, Scrutiny Committee, Audit Committee, Policy Development Groups, Committees and Sub-Committees of which he/she is a member, shall sign his/her name in the attendance book or sheet provided for that purpose.

- 21.2 All members present during the whole or part of a meeting must sign their names on the attendance book or sheets before the conclusion of every meeting to assist with the record of attendance.

## **22. Exclusion of Public**

- 22.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

## **23. Members' Conduct**

### Speaking at meetings

- 23.1 When a Member speaks at full Council he/she must address the meeting through the Chairman. If more than one member signifies their intention to speak, the Chairman will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

#### Chairman speaking

- 23.2 When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

#### Member not to be heard further

- 23.3 If a Member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member not be heard further. If seconded, the motion will be voted on without discussion.

#### Member to leave the meeting

- 23.4 If the Member continues to behave improperly after such a motion is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

#### General disturbance

- 23.5 If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

### **24. Disturbance by Public**

#### Removal of member of the public

- 24.1 If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

#### Clearance of part of meeting room

- 24.2 If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

### **25. Suspension and Amendment of Council Procedure Rules**

#### Suspension

- 25.1 All of these Council Rules of Procedure except Rules 19.5, 20.2 and 27 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

#### Amendment

- 25.2 Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## **26. Application to Committees and Sub-Committees**

- 26.1 All of the Council Rules of Procedure apply to meetings of full Council.
- 26.2 The Rules which apply to meetings of the Cabinet, Committees and Sub-Committees are as follows:
- (a) Rule 5 – Time and Place of Meetings
  - (b) Rule 6 – Notice and Summons to Meeting
  - (c) Rule 7 – Chairing of the Meeting
  - (d) Rule 8 – Quorum
  - (e) Rule 11 – Public Question Time
  - (f) Rule 16 – Rules of Debate
  - (g) Rule 19 – Voting (with the exception of 19.4 and 19.6)
  - (h) Rule 20.1 – Signing the Minutes
  - (i) Rule 21 – Record of Attendance
  - (j) Rule 22 – Exclusion of Public
  - (k) Rule 23 – Members Conduct
  - (l) Rule 24 – Disturbance by Public
  - (m) Rule 25 – Suspension of Procedure Rule
- 26.3 In applying Rule 16 to meetings of the Cabinet, Committees and Sub-Committees, Rules 16.4, (content and length of speeches) and 16.5 (when a member may speak again) shall not apply.

## **27. Interpretation of Procedure Rules**

- 27.1 The ruling of the Chairman as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council.

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1.0 Scope**

- 1.1 Subject to paragraph 1.2 below, these rules apply to all meetings of the Council, the Cabinet, the Scrutiny Committee, area committees (if any) the Audit Committee, Policy Development Groups, Standards Committee and Regulatory Committees (together called meetings).
- 1.2 Where the Standards Sub-Committee is convened to consider or review, as the case may be, an allegation that a member has contravened the Council's Code of Conduct for Members, the provisions set out in the Standards Committee's Procedure for Local Assessment of Complaints shall apply and the meeting and papers will not be open to the public

### **2.0 Additional Rights to Information**

- 2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

### **3.0 Rights to attend meetings**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 If a member of the public or press interrupts the proceedings at any meeting the Chairman may warn him/her. If he/she continues the interruption and a warning has been given, the Chairman may order his/her removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Chairman may order that part to be cleared.
- 3.4 If the Chairman considers the orderly dispatch of business impossible, he/she may without question adjourn the meeting.
- 3.5 The above powers of the Chairman are in addition to any other power vested in him/her.

### **4.0 Notices of meeting**

- 4.1 The Council will give at least five clear days notice of any meeting by posting details of the meeting at Phoenix House, Phoenix Lane, Tiverton Devon known as the designated office or on its website at [www.middevon.gov.uk](http://www.middevon.gov.uk).

### **5.0 Access to Agenda and Reports before the meeting**

5.1 The Members of the Scrutiny Committee shall be provided with full copies of the agenda and reports presented to the Cabinet including those containing exempt and/or confidential information.

5.2 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and available on the website (if any) at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the Member Services Manager shall make each such report available to the public as soon as the report is completed and sent to Councillors).

#### 6.0 **Supply of copies**

6.1 The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (save during any part of the meeting to which the public are excluded)

6.2 The Council will supply copies of:

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

to any person on payment of a charge for postage and any other costs.

#### 7.0 **Access to Minutes etc. after the meeting**

7.1 The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) records to decisions taken by individual Members or officers
- (c) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (d) the agenda for the meeting; and
- (e) reports relating to items when the meeting was open to the public.

#### 8.0 **Background Papers**

8.1 The Chief Executive Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information.

### **Public inspection of background papers**

8.2 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

### **9. Summary of Public's Rights**

9.1 A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at the Council's main offices at Phoenix House, Phoenix Lane, Tiverton, Devon and on the Councils website [www.middevon.gov.uk](http://www.middevon.gov.uk).

### **10.0 Exclusion of Access of the Public to Meetings**

#### **Extent of Exclusion**

10.1 The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

#### **Confidential information – requirement to exclude public**

10.2 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

#### **Exempt information – discretion to exclude public**

10.3 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the relevant decision making body.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

#### **Meaning of confidential information**



- 10.4 Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

Meaning of exempt information

- 10.5 Exempt information means information falling within the following categories (subject to any qualification)

**Categories of exempt information**

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
6. Information which reveals that the authority proposes –
  - a. To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. To make an order or direction under any enactment
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

The above categories are subject to qualifications and to the public interest test. These are laid down in Schedule 12A to the Local Government Act and further details can be found in Appendix E

Extent of Exclusion

- 10.6 The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

[NOTE Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.]

## 11.0 **Exclusion of Access by the Public to Reports**

- 11.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.
- 11.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 11.3 If the matter is considered in public, any related report will also become available to the public.

## 12.0 **Application of Rules to the Cabinet**

Rules 13–27 apply to the Cabinet and its Committees (if any). If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 15 of this Constitution.

## 13. **Procedure before taking Key Decisions**

### Notice of Key Decision

- 13.1 Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:
- a) a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;
  - b) at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and
  - c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4.1 (notice of meetings).

### Contents of Notice of Key Decision

- 13.2 The Notice of Key Decision will state that a key decision is to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, Officers, area committees or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:
- a) the matter in respect of which the decision is to be made;

- b) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its membership;
- c) the date on which, or the period within which, the decision is to be made;
- d) a list of the documents submitted to the decision maker for consideration in relation to the matter;
- e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- f) that other documents relevant to those matters may be submitted to the decision maker; and
- g) the procedure for requesting details of those documents (if any) as they become available.

#### Publication of the Notice of Key Decision

13.3 The Notice of Key Decision must be made available for inspection by the public at Phoenix House, Phoenix Lane, Tiverton Devon known as the designated office or on its website at [www.middevon.gov.uk](http://www.middevon.gov.uk).

#### 14. **The Forward Plan**

14.1 The Council is not required by law to publish a Forward Plan. However, the a Notice of Key Decision and a Notice of Private Meeting of Cabinet published by the Council set out not just details of specific key decisions, but also details of key decisions over a four month period (including decisions to be made by Cabinet, individual Cabinet members or delegated officers, which are not key decisions. In this constitution, such notices are together referred to as the "Forward Plan". The Forward Plan does not have to include exempt information and should not include confidential information.

#### 15. **General Exception**

15.1 If a Notice of Key Decision has not been published in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the appropriate month to which the next Forward Plan relates;
- b) the Chief Executive has informed the Chair of the Scrutiny Committee, or in his/her absence the Vice-Chair, and the Monitoring Officer in writing, of the matter about which the decision is to be made;
- c) the Chief Executive has made copies of that notice available to the public at the offices of the Council and on the Council's website [www.middevon.gov.uk](http://www.middevon.gov.uk) ; and

- d) at least 5 clear days have elapsed since the Chief Executive complied with b) and c).

15.2 As soon as reasonably practicable after the Chief Executive has complied with Rule 15.1, he must make available at the Council offices at Phoenix House, Phoenix Lane, Tiverton, Devon and publish on the Council's website [www.middevon.gov.uk](http://www.middevon.gov.uk) (if any) the reasons why compliance with Rule 14 is impractical.

## 16. **Special Urgency**

16.1 If a decision, (whether a key decision or otherwise), is so urgent that Rule 15 (general exemption) cannot be followed the Leader of the Council or the relevant Cabinet Member may take the decision if he/she has obtained the agreement of the Chairman of the Scrutiny Committee and the Monitoring Officer that the taking of the decision cannot be reasonably deferred. If the Chairman of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.

16.2 A decision taken under this rule will not normally be taken in public by reason of its urgent nature. A decision will be urgent if any delay would seriously prejudice the Council's or the public's interests. The record of the decision shall state why the decision is an urgent one.

16.3 If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the key decision can only be taken if the decision maker obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Committee, or if the Chair of the Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Deputy Chairman of the Council will suffice.

16.4 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.3 he/she must make available at and publish on (if any) a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

## 17. **Report to Council**

17.1 When the Scrutiny Committee can require a report if the Scrutiny Committee thinks that a key decision has been taken which was not:

- a) the subject of a Notice of Key Decision; or
- b) the subject of the general exception procedure (under Rule 15); or
- c) the subject of an agreement with the Chair of the Overview and Scrutiny Committee, or the Chairman or Deputy Chairman of the Council under Rule 16 (special urgency);

it may require the Cabinet to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if

any, for the Cabinet believing that the decision was a key decision. The power to require a report rests with the Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chair of the Scrutiny Committee or any 5 members of the Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

#### Cabinet's report to Council

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

#### Quarterly reports on special urgency decisions

- 17.3 In any event the Leader of the Council will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken

### 18. **Record of Decisions**

- 18.1 After any meeting of the Cabinet or any of its Committees, whether held in public or in private, the Monitoring Officer or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reason for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

### 19. **Meetings of the Cabinet to be held in public**

- 19.1 Meetings of the Cabinet and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be

excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

20. **Notice of Private Meetings of the Executive**

20.1 Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

20.2 At least 28 clear days before a private meeting, the decision-making body must:-

- a) make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and
- b) publish that notice on the Council's website.

20.3 At least five clear days before a private meeting, the decision-making body must:-

- a) make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
- b) publish that notice on the Council's website.

20.4 A notice under paragraph 20.3 must include:-

- a) a statement of the reasons for the meeting to be held in private
- b) details of any representations received by the decision-making body about why the meeting should be open to the public; and
- c) a statement of its response to any such representations.

20.5 Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:-

- a) the Chair of the Overview and Scrutiny Committee; or
- b) if there is no such person, or if the Chair of the relevant overview and scrutiny committee is unable to act, the Chairman of the Council; or
- c) where there is no chair of either the relevant overview and scrutiny committee or of the Council, the Deputy Chairman of the Council,

that the meeting is urgent and cannot reasonably be deferred

20.6 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 20.5 to hold a private meeting, it must

- a) make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and

- b) publish that notice on the Council's website.

## 21. **Attendance at Private Meetings of the Cabinet**

### 21.1 Notice and Attendance

- a) All members of the Cabinet will be served notice of all private meetings of the committees of the Cabinet, whether or not they are members of that committee.
- b) All members of the Cabinet are entitled to attend private meetings of the Cabinet, and its committees.
- c) Members other than Cabinet members will not be entitled to attend private meetings of the Cabinet and its committees.

### 21.2 Officer Involvement

- a) The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Head of Paid Service has been given reasonable notice that a meeting is to take place.
- b) The Monitoring Officer shall arrange for an officer to attend private Cabinet meetings to record and publish the decisions. In the absence of such officer this will be the responsibility of the Chair of the meeting.
- c) There is no requirement for the Cabinet to meet in the presence of the officers named in paragraphs a) and b)

## 22. **Key Decisions By Individual Members of the Cabinet**

### Reports intended to be taken into account

- 22.1 Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he will not make the decision until at least 5 clear working days after receipt of that report.

### Provision of copies of reports to Overview and Scrutiny Committee

- 22.2 On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

### 22.3 Record of individual decision

- a) As soon as reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Monitoring Officer to prepare, a report containing:

- (1) a record of the decision including the date it was made;
  - (2) a record of the reasons for the decision;
  - (3) details of any alternative options considered and rejected by the member when making the decision;
  - (4) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
  - (5) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.
- b) The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political or Chairman's assistant.

#### 22.4 Inspection of documents following executive decisions

- a) Subject to Rule 28 , after a meeting of a decision-making body at which an executive decision has been made, or after an individual member or an officer has made an executive decision the Monitoring Officer must ensure that a copy of-
- (1) any records prepared in accordance with Rules 18 or 22; and
  - (2) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with Rules 18 or 22 or, where only part of the report is relevant to such a decision, that part,
- must be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the Council, and on the Council's website.
- b) Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under Rule a), those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

#### 22.5 Inspection of background papers

- a) Subject to Rule 28, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5 or 22.4, at the same time-
- (1) a copy of a list compiled by the proper officer of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and



(2) at least one copy of each of the documents included in that list,  
must be available for inspection by the public at the offices of the Council  
and on [www.middevon.gov.uk](http://www.middevon.gov.uk).

## 23. **Joint Committees**

23.1 These Rules apply to the Council's Joint Committees as follows:

- (a) If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- (b) If the joint committee contains members who are not on the Cabinet of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the full Council and its committees will apply.

## 24. **Scrutiny Committee- Access to Documents**

24.1 Rights to copies

Subject to Rule 24.2 below, the Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet or any of its Committees and which contains material relating to:

- a) any business transacted at a meeting of the Cabinet or its Committees;
- b) any decision taken by an individual member of the Cabinet; or
- c) any decision taken by an Officer of the Council in accordance with executive arrangements.

24.2 Limit on rights

The Scrutiny Committee will not be entitled to:

- a) any document that is in draft form;
- b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the Committee are reviewing or scrutinising or intend to scrutinise

## 25. **Additional Rights of Access for Members**

25.1 Material relating to business to be transacted at a Public Meeting

- a) All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which contain material relating to any business to be transacted at a public meeting unless a)(1) or a)(2) applies:

- (1) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or
  - (2) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or
- b) Any document which is required by Rule a) to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that-
- (1) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
  - (2) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule a) in relation to that time, must be available for inspection when the item is added to the agenda.

## 25.2 Material relating to previous business

- a) All members will be entitled to inspect any document (except those available only in draft form) which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member or Officer in accordance with executive arrangements unless a)(1) or a)(2) applies.
- b) Any document required to be made available for inspection under 25.2 must be made available when the relevant meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

## 26. **Nature of rights**

26.1 These rights of a Member are additional to any other right he or she may have.

## 27. **Members Other Rights to Information**

27.1 A Member of the Council may, for the purposes of his or her duty as a Member and no other, inspect any document that has been considered by a committee or the Council including background papers. Applications should be made to the Monitoring Officer and, if available, copies will be supplied upon request.

27.2 A member shall not knowingly inspect or request a copy of any document relating to a matter in which he:

- a) is professionally interested; or
  - b) has a disclosable pecuniary interest or personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.
- 27.3 This shall not preclude the Monitoring Officer from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.
- 27.4 All reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.
- 27.5 A Councillor who is not a member of the Planning Committee may attend that Committee and speak on an item that affects their ward and in relation to all other Committees may attend and speak on a matter with the discretion of the Chairman.
28. **Confidential information, exempt information and advice of a political adviser or assistant**
- 28.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.
- 28.2 Nothing in these Rules:
- a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or
  - b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political advisers or assistant.
- 28.3 Where a member of the Cabinet or an officer makes an executive decision in accordance with executive arrangements, nothing in these Rules:
- a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
  - b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The Framework for Cabinet Decisions**

- 1.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### **2. Process for developing the framework**

- 2.1 The process by which the budget and policy framework shall be developed is:

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draw up initial proposals in relation to any plan, strategy or budget that forms part of the Council's budget and policy framework. Once drawn up the Chief Executive will serve copies of them on the chairmen of the relevant Scrutiny Committee, Audit Committee and Policy Development Groups together with dates when the Cabinet will consider them further.
- (b) The Scrutiny Committee, Audit Committee and Policy Development Groups will be convened to consider the draft proposals and whether any further consultation is appropriate. If so, the Scrutiny Committee, Audit Committee and Policy Development Groups will carry out any necessary consultation and will reflect any representations made to it in its response to the Cabinet within the time scale set for decision by the Cabinet.
- (c) The Cabinet will finalise its proposals for the Council to consider having taken into account the comments from the Scrutiny Committee, Policy Development Groups and Audit Committee. The report to Council will show the Cabinet response to those comments.
- (d) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.
- (e) The Council's decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet proposal without Amendment) or (if the Cabinet proposal is not accepted without Amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.
- (f) If the Leader objects to the decision of the Council, he/she shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in and shall be implemented immediately.
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework that may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

NOTE: Rule 2 is a summary of Part II to Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 to which detailed reference should be made if required.

### 3. **Decisions outside the budget or policy framework**

- 3.1 Subject to the provisions of paragraph 4 the Cabinet, committees of the Cabinet, individual members of the Cabinet or any officers or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 4 below.
- 3.2 If the Cabinet, committees of the executive, individual members of the Cabinet or any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget.
- 3.3 If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 shall apply.

### 4. **Urgent decisions outside the budget or policy framework**

- 4.1 The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - c) if it is not practical to convene a quorate meeting of the full Council; and
  - d) if the Chair of the Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of

the Scrutiny Committee the consent of the Chairman and in the absence of both the Deputy Chairman of the Council will be sufficient.

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

5. **Virement**

- 5.1 Steps taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet or Officers or joint arrangements discharging executive functions to implement Council policy, shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Regulations in Appendix F to this Constitution.

6. **In-year changes to Policy Framework**

- 6.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging executive functions must be in line with it. No changes to any policy or strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- (d) for which provision is made within the relevant budget or policy.

7. **Call-in of decisions outside the budget or policy framework**

- 7.1 Where the Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.

- 7.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Section 151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's or Section 151 Officer's report and to prepare a report to Council in the event that the monitoring officer or the chief finance officer conclude that the decision was a departure, and to the Scrutiny Committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.

- 7.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 20 working days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:
- a) endorse a decision or proposal of the executive decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - b) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Section 151 Officer.

## **CABINET PROCEDURE RULES**

### 1. **HOW DOES THE CABINET OPERATE?**

#### 1.1 Who may make Cabinet decisions?

The arrangements for the discharge of executive functions are determined by the Leader. The Leader may provide for executive functions to be discharged by:

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

#### 1.2 Delegation by the Leader

Following the annual meeting of the Council, the Monitoring Officer, at the direction of the Leader, will draw up a written record of Cabinet delegations made by the Leader for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. This will contain the following information about executive functions in relation to the coming year:

- a) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- b) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
- c) the nature and extent of any delegation of Cabinet functions to any other authority or any joint arrangements; and
- d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

#### 1.3 Sub-delegation of Cabinet functions

- a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an Cabinet function, they may delegate further to joint arrangements or an officer or another local authority.



- b) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- c) Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### 1.4 The Council's scheme of delegation and Cabinet functions

- a) The Leader may amend the scheme of delegation relating to Cabinet functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- b) Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when he has served it on its chair.

#### 1.5 Conflicts of Interest

- a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- b) If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- c) If the exercise of an cabinet function has been delegated to a committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### 1.6 Cabinet meetings – when and where?

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader.

The Cabinet will meet at least 10 times per year at times to be agreed by the Leader of the Council. In addition:

- (1) the Leader of the Council may also arrange other meetings at his/her discretion;

- (2) The Head of Paid Service may also call for additional meetings at his/her discretion with the approval of the Leader of the Council, or in his/her absence the Deputy Leader of the Council;
- (3) The Monitoring Officer and/or the Section 151 Officer may call an additional meeting if either believes it is necessary to do so in order to fulfil their statutory duties; in other circumstances where any of the Head of Paid Service, Monitoring Officer and Section 151 Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision he/she will have the right to call a meeting

### 1.7 Public or private meetings of the Cabinet?

The Cabinet will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (c) of Regulation 4(2) of the Local Authorities (Executive Arrangements) (meetings and Access to Information) (England) Regulations 2012. Briefly, these circumstances cover:

- a) confidential information;
- b) exempt information; and
- c) disorderly conduct.

### 1.8 Quorum

The number of members of the Cabinet is seven including the Leader of the Council and Deputy Leader of the Council.

The quorum for a meeting of the Cabinet shall be 4 including the Leader or Deputy Leader, or any 4 members in circumstances to be considered exceptional by any two of the Statutory Officers.

### 1.9 How are decisions to be taken by the Cabinet?

- a) Cabinet decisions made by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- b) Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. HOW ARE CABINET MEETINGS CONDUCTED?

### 2.1 Who presides?

The Leader will preside at any meeting of the Cabinet or its committees at which he/she is present. In his/her absence, the Deputy Leader will preside. In his/her absence, then a person appointed to do so by those present shall preside.

## 2.2 Who may attend?

These details are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

## 2.3 What business?

At each meeting of the Cabinet the following business will be conducted:

- a) consideration of the minutes of the last meeting;
- b) declarations of interest, if any;
- c) matters referred to the Cabinet (whether by Scrutiny Committees or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- d) consideration of reports from Scrutiny Committee; and
- e) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

## 2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Who can put items on the Cabinet agenda?

- a) The Leader will decide upon the schedule for meetings of the Cabinet. He/she may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter.
- b) Any member of the Cabinet may require the Head of Paid Service to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Head of Paid Service will comply
- c) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a

Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.

- d) In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be considered at which the matter will be considered.
- e) Full Council may require any item to be placed on the agenda of the next reasonably available meeting of the Cabinet
- f) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by non-Cabinet bodies of the Council but the amount of business which can reasonably be dealt with at any one meeting of the Cabinet shall be within the discretion of the Leader of the Council.

**SCRUTINY COMMITTEE, AUDIT COMMITTEE, STANDARDS  
COMMITTEE AND POLICY DEVELOPMENT GROUP PROCEDURE  
RULES**

**General arrangements**

- 1.1 The Council will have one Scrutiny Committee, three Policy Development Groups an Audit Committee and a Standards Committee as set out in Articles 7 to 10 and will appoint to them as it considers appropriate from time to time. Such groups, subject to the approval of the Programming Panel, may appoint working groups which shall be time limited.
- 1.2 The Programming Panel, comprising the Leader of the Council or Deputy Leader, the Chairmen or Vice Chairmen of Scrutiny Committee, Policy Development Groups and Audit Committee, will co-ordinate the forward programme of these five bodies. However Scrutiny Committee will have the primary responsibility for setting its own agenda.
- 1.3 The number of members of the Scrutiny Committee shall be twelve. The number of members of each Policy Development Group shall be nine. The number of members on the Audit Committee shall be seven. The number of members on the Standards Committee shall be nine
- 1.4 Scrutiny Committee, Policy Development Groups, Audit Committee and Standards Committee shall meet in accordance with the Council's Procedure Rules and the Access to Information Rules. Working groups will meet informally, subject to the approval of the Programming Panel, to help inform the Scrutiny and policy development process and may submit reports to the Scrutiny Committee, the Policy Development Groups, Audit Committee and Standards Committee.

**2. Programming Panel**

- (a) The Programming Panel will comprise the Chairmen or Vice Chairmen of the Scrutiny Committee, Policy Development Groups and Audit Committee and the Leader of the Council or Deputy Leader of the Council. The Panel to be chaired by the Chairman of the Scrutiny Committee.
- (b) The panel shall have the following terms of reference:
  - (i) To oversee the workloads of the five bodies to ensure efficiency of the scrutiny and policy development process;
  - (ii) To co-ordinate requests for reviews referred to by the Cabinet or the Council which do not fall within the remit of any one group;
  - (iii) To resolve any disputes between groups.The panel shall not have the power of call in.
- (c) The panel will meet as and when necessary at the request of the Chairman of Scrutiny Committee, the Leader of the Council or Head of Paid Service.

**3 Scrutiny Committee**

The terms of reference of the Scrutiny Committee will be:

- (a) the performance of all Scrutiny Committee functions as defined in Article 7 on behalf of the Council;
- (b) the appointment of such time limited working groups as it considers appropriate to fulfil those functions, subject to approval from the Programming Panel;
- (c) to receive reports from the Leader of the Council at its first meeting after each annual Council meeting on 'the state of the district', the Cabinet's priorities for the coming year and its performance in the previous year;
- (d) to approve its work programme in consultation with the Programming Panel;
- (e) to refer those matters which fall within the remit of the Scrutiny Committee, the Policy Development Groups or the Audit Committee, to the Programming Panel for allocation;
- (f) to review the system of referrals from Scrutiny Committee to the Cabinet to ensure that these are managed efficiently and do not exceed reasonable limits as set out in this Constitution;
- (g) to respond to reasonable requests from the Cabinet to develop or review policy not within the remit of any Policy Development Group;
- (h) in the event of reports to the Cabinet exceeding reasonable limits, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made.

#### 4 **Policy Development Groups**

The terms of reference of the Policy Development Groups will be:

- (a) The performance of policy development functions as defined in Article 8 on behalf of the Council;
- (b) the appointment of such time limited working groups as it considers appropriate to fulfil those functions, subject to approval from the Programming Panel;
- (c) to approve a work programme on the advice of the Programming Panel;
- (d) to refer those matters which fall within the remit of the Scrutiny Committee, Policy Development Groups or Audit Committee to the Programming Panel for allocation;
- (e) to respond to reasonable requests from the Cabinet to develop or review policy within their remit;

#### 5 **Who may sit on the Scrutiny Committee, Policy Development Groups, Audit Committee and Standards Committee?**

All councillors except members of the Cabinet may be members of the Scrutiny Committee, Policy Development Groups or Audit Committee.

All councillors including members of the Cabinet may be members of the Standards Committee.

#### 6 **Co-optees**

Scrutiny Committee, Policy Development Groups and Audit Committee shall each be entitled to involve up to 3 people at any time as non-voting co-optees. The appointment of co-optees shall be time limited.

**7 Meetings of Scrutiny Committee**

There shall be at least six ordinary meetings of the Scrutiny Committee in each year. In addition, provision for a further six meetings shall be made which may be called when appropriate and specifically where there is a need to call in an Cabinet decision. A Scrutiny Committee meeting may be called by the Chairman of Scrutiny Committee, by any four members of Scrutiny Committee or by the Head of Paid Service if he/she considers it necessary or appropriate. Cancellation of any meeting shall be with the agreement of the Chairman.

**8 Meetings of Policy Development Groups and Audit Committee**

There shall be at least six ordinary meetings of each Policy Development Group and Audit Committee in each year. There shall normally be other informal sessions as necessary to deliver the pre-agreed work programme. The frequency and number of meetings and informal sessions shall not overstretch the resource of the Council. Meetings shall be called by the Head of Paid Service.

**9 Meetings of the Standards Committee**

Meetings of the Standards Committee shall be called as and when appropriate. Meetings shall be called by the Head of Paid Service.

**10 Quorum**

The quorum for Scrutiny Committee shall be six, for Policy Development Groups shall be five, for Audit Committee shall be four and for Standards will be five, normally including the Chairman or Vice Chairman or any five councillors in relation to Scrutiny Committee and Policy Development Groups and any four councillors in relation to the Audit Committee in circumstances considered to be exceptional by any two of the statutory officers.

**11 Who chairs meetings?**

The Chairman of the Scrutiny Committee shall be appointed by the Council. Without limiting the discretion of the Council, consideration shall be given to the selection of a chairman on ability and expertise without reference to party political affiliation. *In these circumstances, there will be a presumption that the chair of Scrutiny Committee will be drawn from the minority group(s).*

**12 Work programme**

The Scrutiny Committee will, subject to co-ordination by the Programming Panel and reasonable request from the Cabinet, be responsible for setting its own work programme and in doing so shall take into account wishes of councillors who are not members of the largest political group on the Council.

Policy Development Groups and Audit Committee will, on the advice of the Programming Panel and in response to reasonable requests from the Cabinet, set a work programme.

**12 Agenda items: Scrutiny Committee**

- (a) Any member of Scrutiny Committee or Policy Development Group shall be entitled to give notice to the Head of Paid Service that he/she wishes an

item relevant to its functions to be included on the agenda for the next available meeting. On receipt of such a request the Head of Paid Service will ensure that it is included on the next reasonably available agenda.

- (b) Any Member of the Council who is not a member of the Scrutiny Committee shall be entitled to refer to that Committee any local government matter which is relevant to the functions of that Committee. On receipt of such a request the Head of Paid Service will ensure that it is included on the next reasonably available agenda.
- (c) Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet to review particular areas of Council activity. Where it does so, Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of Scrutiny Committee within one month of it being submitted to the Head of Paid Service or at the next available meeting thereafter.

### **13 Policy review and development**

- (a) The role of the Scrutiny Committee, Audit Committee and Policy Development Groups in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules and in Articles 7 to 9.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Policy Development Groups (and where relevant Scrutiny Committee) may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Policy Development Groups (and where relevant Scrutiny Committee) may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

### **14 Reports on policy proposals**

- (a) Once they have formed recommendations on proposals for policy development, Policy Development Groups (and where relevant Scrutiny Committee) will prepare a formal report and submit it to the Head of Paid Service for consideration by the Cabinet, or to the Council as appropriate (e.g., if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If Scrutiny Committee or Policy Development Groups cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.



- (c) The Council or Cabinet shall consider such report of Scrutiny Committee within 2 months of being submitted to the Head of Paid Service.

**15 Rights of Scrutiny Committee members to documents**

- (a) In addition to their rights as councillors, members of the Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committee as appropriate depending on the particular matter under consideration.

**16 Councillors and officers giving account**

- (a) Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require a member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy;and/or
  - (iii) their performance.

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

- (b) Where any councillor or officer is required to attend Scrutiny Committee under this provision, the chairman will inform the Head of Paid Service. The Head of Paid Service shall inform the councillor or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced. Where the account to be given to Scrutiny Committee will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the councillor or officer arrange an alternative date for attendance.
- (d) Non-Cabinet members may attend. Non-Cabinet members may speak at the discretion of the chairman.

**17 Attendance by others**

- (a) When discussing policy development and review, Policy Development Groups shall and Scrutiny Committee may invite relevant members of the Cabinet to attend and speak. Other councillors, who are not members of the Scrutiny Committee, or Policy Development Group or invited members of the Cabinet, may attend and may speak at the discretion of the chairman.

- (b) Scrutiny Committee or Policy Development Groups may also invite people other than those people referred to in paragraph 17 (a) above to address them, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and councillors and officers in other parts of the public sector and shall invite such people to attend.
- (c) Cabinet Members shall be required to attend their relevant Policy Development Groups

## 18 **Call-in**

Call-in by Scrutiny Committee should only be used in exceptional circumstances. These are where members of Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 15 (Decision Making).

- (a) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.
- (b) The process begins with the distribution of the Cabinet agenda which will give all councillors the opportunity to examine items for discussion and clarify issues before meetings
- (c) When a decision is made by the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within three working days of being made. Decisions will be sent to all councillors within the same timescale.
- (d) The decisions will indicate the date on which decisions will come into effect unless:
  - (i) called-in;
  - (ii) they are adjudged to be not in accordance with the Council policy or budget framework (see Budget and Policy Framework Procedure Rules – paragraphs 2 and 3) and the decision falls to be referred to Council or is urgent and otherwise satisfies paragraph 4 of the Policy and Budget Framework Procedure Rules or where paragraph 7 of those Rules has been triggered.
- (e) A decision will normally come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless Scrutiny Committee objects to it and calls it in (except in cases of urgency and special urgency as defined in the Access to Information Procedure Rules).
- (f) During that period, the Head of Paid Service shall call-in a decision for scrutiny by Scrutiny Committee if so requested by the Chairman or any three members of Scrutiny Committee or four other councillors of the Council, and shall then notify the decision-taker of the call-in. Members who wish to call-in a decision are required to seek guidance from the Monitoring Officer on the veracity of their stated grounds for the call-in and demonstrate that they have been mindful of the advice they have received

when deciding whether or not to proceed. The Head of Paid Service shall refer the matter to the next available meeting of the Scrutiny Committee.

- (g) Those councillors calling-in will need to specify the reasons for the call-in.
- (h) When the relevant Cabinet minutes are put before the Scrutiny Committee, together with the advice from the Monitoring Officer on the grounds for the call-in, the councillors who called in the decision shall have the right to attend and speak. The Leader of the Council and/or relevant Cabinet members shall be invited to attend to explain the basis for the decision but may then be asked to leave. They may choose also to make submissions in writing. Relevant officers shall also be invited to attend.
- (i) If, having considered the decision, Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the next full Council meeting or, if urgent to a Special Council meeting. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
- (j) If following an objection to the decision, Scrutiny Committee meets but does not refer the matter back to the decision making person or body or refer it to full Council, the decision shall take effect on the date of the Scrutiny Committee meeting, whichever is the earlier.
- (k) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened to reconsider within 15 working days of the Council request.
- (l) If Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.
- (m) The call-in procedure set out above shall not apply where the decision being taken is urgent as defined in the Access to Information Procedure Rules. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

## 19 **The party whip**

There is a presumption that a party whip must not be applied to matters considered by Scrutiny Committee.

## 20 **Procedure at Scrutiny Committee meetings**

- (a) Scrutiny Committee shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to Scrutiny Committee for a decision in relation to call in of a decision;
  - (iv) responses of the Cabinet, or Council where relevant to reports of Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.

## 21 **Procedure at Policy Development Group meetings**

- (a) Policy Development Groups shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) responses of the Cabinet or Council where relevant to reports of the Policy Development Group;
  - (iv) requests from the Cabinet for policy development work;
  - (v) the business otherwise set out on the agenda for the meeting.

## 22 **Conduct towards invitees to Scrutiny Committee and Policy Development Groups meetings**

- (a) Where Scrutiny Committee or Policy Development Groups conduct investigations and ask people to attend to give evidence at meetings these are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all councillors be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (a) Following any investigation or review, Scrutiny Committee or Policy Development Groups shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public

## 23 **COUNCILLOR CALL FOR ACTION**

23.1 The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council, via the Scrutiny process.

23.2 Any Member may request that an item is placed on the agenda of the Scrutiny Committee for consideration. The Member making that request does not have to be a member of the Scrutiny Committee.

- 23.3 The Call for Action should be an option of “last resort”. In considering whether to refer to a matter in accordance with these provisions, Members must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on the Scrutiny Committee agenda if the Chair, in consultation with the Monitoring Officer, is satisfied that:
- (a) the Member has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners; and
  - (b) the issue of concern is a matter in respect of which the Council has a statutory power or duty and is not precluded by adopted Council policy or legislation; and
  - (c) the issue of concern has a demonstrable impact on a part or the whole of the Member’s ward
- and accordingly information to support the above matters should accompany the Call for Action request.
- 23.4 A Call for Action cannot, in any event, relate to:
- (a) a planning decision;
  - (b) a licensing decision;
  - (c) any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment; and
  - (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee.
  - (e) any matter which is a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006.
- 23.5 If the Chair rejects the Call for Action the Member who made the request shall be provided with reasons for the decision.
- 23.6 A valid Call for Action will be considered at the next ordinary meeting of the Scrutiny Committee or at a special meeting of the Committee within 14 days of validation whichever is the sooner.
- 23.7 The subject matter of the Call for Action will be the subject of a report from the relevant Head of Service, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative shall be invited to the Scrutiny Committee meeting to provide that information, make representations and answer questions.
- 23.8 The Call for Action will be considered by the Scrutiny Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules of the Constitution.

- 23.9 The Member who referred the matter under sub-paragraph 23.2 above may address the Scrutiny Committee in respect of the Call for Action for up to 10 minutes.
- 23.10 The Scrutiny Committee may also consider representations from any residents of the ward affected by the Call for Action, subject to the discretion of the Chair.
- 23.11 If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Cabinet Member shall also attend the Scrutiny Committee to answer questions and make any representations.

## **24 REPORTS AND RECOMMENDATIONS ON CALLS FOR ACTION**

- 24.1 Where the Scrutiny Committee makes a report or recommendations to the Council or the Cabinet as a result of a reference under paragraph 23 above, the Scrutiny Committee may publish the report, subject to the provisions of Part 5 of the Local Government Act 2000 (“the 2000 Act”) in relation to confidential or exempt information.
- 24.2 The Scrutiny Committee will, by notice in writing to the Monitoring Officer, require the Council or Cabinet:
- (a) consider the report or recommendations,
  - (b) respond to the Scrutiny Committee indicating what, if any action the Council or Cabinet propose to take,
  - (c) if the Scrutiny Committee has published the report or recommendations, to publish the response, subject to the provisions of Part 5 of the 2000 Act relating to confidential or exempt information,
  - (d) if the Scrutiny Committee provided a copy of its report or recommendations to the Member who referred the matter to the Committee, to provide that Member with a copy of the response, subject to the provisions of Part 5 of the 2000 Act in relation to confidential or exempt information,

and to do so within two months of the date when the Council or Cabinet received the report or recommendations or (if later) the date when the Monitoring Officer received the notice.

## **25 SCRUTINY OF CRIME AND DISORDER MATTERS**

- 25.1 The Scrutiny Committee is designated as the Council’s Crime and Disorder Committee (in accordance with section 19 of the Police and Justice Act 2006) with responsibility for scrutinising crime and disorder and community safety matters.
- 25.2 Any Member of the Council may give notice to the Monitoring Officer that he/she wishes an item which he/she considers to be a crime and disorder matter to be included on the agenda for discussion at the next meeting of the Scrutiny Committee.

- 25.3 On receipt of the request, the Monitoring Officer will ensure that the item is included on the next available agenda for consideration by the Scrutiny Committee.
- 25.4 Sub-paragraphs 23.7 to 23.11 above shall apply to the consideration of a crime and disorder matter by the Scrutiny Committee as they apply to the consideration of a Call for Action by the Scrutiny Committee.
- 25.5 If the Scrutiny Committee decides not to make a report or recommendation to the Council in relation to the crime and disorder matter, it must notify the Member who referred the matter of its decision and the reasons for it.
- 25.6 Where the Committee makes a report or recommendations to the Council it must:
- (a) provide a copy of the report or recommendations to the Member who referred the matter to the Committee and
  - (b) provide a copy of the report or recommendations to such of:
    - (1) the responsible authorities (within the meaning of Section 5 of the Crime and Disorder Act 1998); and
    - (2) the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to cooperate under Section 5(2) of the Crime and Disorder Act 1998);
- as it thinks appropriate.
- 25.7 Where the Committee makes a report or recommendations to the Council or provides a copy of a report or recommendations under sub-paragraph 25.6 (b) above, the Committee must notify the Council, body or person to whom it makes or provides a copy of the report or recommendations that the Council, body or person must:
- (a) consider the report or recommendations;
  - (b) respond to the Committee indicating what (if any) action it proposes to take;
  - (c) have regard to the report or recommendations in exercising its functions.
- 25.8 For the purpose of carrying out its functions under the Crime and Disorder (Scrutiny) Regulations, 2009, the Committee will meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than twice in every 12 month period.
- 25.9 Where the Committee makes a report or recommendations to a responsible authority or to a co-operating person or body in accordance with section 19(8)(b) of the Police and Justice Act, 2006, the Committee shall review the responses received and monitor the action (if any) taken by the relevant authority, person or body in accordance with its powers under section 19(1) of the 2006 Act.

## 26 Procedure at Audit Committee

### (a) **Audit Committee shall consider the following business:**

- (i) minutes of the last meeting;
- (ii) declarations of interest (including whipping declarations);
- (iii) consideration of any matter referred to Audit Committee for a decision in relation to call in of a decision;
- (iv) responses of the Cabinet, or Council where relevant to reports of Audit Committee; and
- (v) the business otherwise set out on the agenda for the meeting.

### (b) **Composition**

- (i) The Audit Committee will be appointed in accordance with the statutory requirements to achieve political balance.
- (ii) All Councillors except Members of the Cabinet or the Chairman of the Scrutiny Committee may be Members of the Audit Committee.

### (c) **Chairman and Vice Chairman**

The Committee will appoint a Chairman and Vice Chairman at its first meeting in each municipal year which runs from May to April each year. The Chairman will lead the audit committee giving direction and support to ensure a full and meaningful work programme. The role of the Vice Chairman is to support the Chairman.

### (d) **Officer Attendance**

The Audit Committee will be attended by the Head of Communities and Governance and Head of Finance or their nominated deputies.

#### **Specific Functions**

##### (A) **Audit Activity:-**

- (i) To consider and approve the strategic audit approach and the annual audit programme;
- (ii) To consider the annual internal audit report including an overall opinion on the adequacy of the Council's control environment, the extent to which the audit plan has been achieved, and a summary of any unresolved issues;
- (iii) To consider summaries of specific internal audit reports as requested;
- (iv) In the event of the audit service being contracted out, to consider reports dealing with the management and performance of the providers of internal audit services;
- (v) To consider reports from internal audit on agreed recommendations not implemented within reasonable timescales;
- (vi) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- (vii) To consider specific reports as agreed with the external auditor;



- (viii) To comment on the scope and depth of external audit work and to ensure it gives value for money;
- (ix) To liaise with the Audit Commission over the appointment of the Council's external auditor should that become necessary;
- (x) To commission work from internal and external audit.

(B) ***Internal Controls***

- (i) To review any issues referred to by the Chief Executive or any Council body;
- (ii) To monitor the Council's confidential reporting policies in relation to anti fraud and anti corruption and whistle blowing, including monitoring the use of the Whistle Blowing policy and the Council's Complaint process;
- (iii) To annually approve the Council's Risk Management Strategy and review the effectiveness of the Council's Risk Management process on a regular basis and gain assurance that appropriate action is being taken to ensure that corporate risks are being managed, including a report to the Council annually;
- (iv) To oversee the production of the Council's Annual Governance Statement and to ensure that relevant and suitable evidence has been obtained to support the disclosures within the Statement;
- (v) To review the Council's Annual Governance Statement and recommend its approval to Full Council and monitor the progress against the Annual Statement action plan on a regular basis;
- (vi) To annually review and update the Council's Code of Corporate Governance to ensure compliance with best practice and legislative guidance;
- (vii) To consider the Council's compliance with its own and other published standards and controls.

(C) ***To review and formally approve the Annual Statement of Accounts***

- (i) To consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from audit regarding the robustness of the accounts that need to be brought to the attention of the Council;
- (ii) To consider the external auditor's reports to those charged with governance on issues arising from the audit of the accounts.

**Financial Regulations**

The Financial Regulations are in Appendix F to this Constitution and are located on the website on the Finance pages.

## **Officer Employment Procedure Rules**

### **Definitions:**

The Head of Paid Service is the Council's Senior Officer.

Chief Officers are employed under the Conditions of Service of the Joint Negotiating Committee for Chief Officers of local authorities. They are directly responsible to the Head of Paid Service. Their responsibilities include the management of a group of major services.

Deputy Chief Officers are also employed under the Conditions of Service of the Joint Negotiating Committee for Chief Officers of local authorities. They are directly responsible to a Chief Officer or the Head of Paid Service for the management of a significant area of the Council's services.

The "Proper Officers" under these rules is the Chief Executive, Monitoring Officer, Section 151 Officer and Head of Service.

### **1. Recruitment and appointment**

#### **(a) Declarations**

- (i) The Council requires any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, spouse, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of any existing Councillor or officer of the Council; or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

#### **(b) Seeking support for appointment.**

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### **2. Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
- (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

### **3. Appointment of Head of Paid Service**

- 3.1 An appointment panel will be appointed by the Proper Officer.
- 3.2 The appointment panel shall include:-
- The Chairman or Vice Chairman of the Scrutiny Committee or the Chairman or Vice Chairman of a Regulatory Committee;
  - The Leader and two other Members of the Cabinet;
  - The Chairman or Vice Chairman of the Council.

The above representatives may appoint a substitute as necessary and that all the above, where possible, should reflect the political balance of the Council.

- 3.3 The Proper Office communicates the panel's recommendations to each Member of the Cabinet giving a deadline for responses.
- 3.4 If no Member of the Cabinet objects, the recommendation then goes forward before the Council for approval.
- 3.5 If any Member of the Cabinet objects they must notify the Leader. The Leader is then required to consult the Cabinet. If the Cabinet wishes to pursue the objection the Leader notifies the Proper Officer. The Proper Officer then reconvenes the appointment panel to consider whether the objection is material and well founded. Following this process the appointment panel either reconsiders its recommendation or affirms its recommendation. Any revised recommendation is subject to 3.3, 3.4 or 3.5.
- 3.6 The appointment panel's recommendation is placed before the Council for approval prior to any offer being made.

### **4. Appointment of Heads of Service (Chief Officers)**

- 4.1 An appointment panel will be appointed by the Proper Officer.
- 4.2 The appointment panel shall include:-

- The Chairman or Vice Chairman of the Scrutiny Committee or the Chairman or Vice Chairman of a Regulatory Committee;
- The Leader and two Members of the Cabinet (two Members of the Cabinet for Service Lead appointments);

4.3 The Chief Executive to make the appointment having consulted the members of the panel.

5. **Other appointments Below Deputy Chief Officers (Service Leads)**

5.1 All officer appointments below Service Lead level ie officers on JNC Chief Officer's terms and conditions shall be made by the relevant Head of Service (Chief Officer) or their nominee.

6. **Disciplinary action**

6.1 Definition of Independent Person – A person as may be agreed between the authority (ie the Leader and the Chief Executive) and the relevant officer, or in default of such an agreement a person nominated by the Secretary of State

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer, Chief Finance Officer and Deputy Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay for up to a maximum of two months unless an Independent Person varies the terms of the suspension.
- (b) **Independent Person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by the Independent Person.

The Independent Person may:-

- direct that the period of suspension be terminated;
- direct that no disciplinary action be taken until he/she has reported on his/her findings;
- inspect relevant documents;
- question Council staff;

and he/she must:-

- report to the Council as to whether he/she believes the evidence supports the allegations and recommending any appropriate disciplinary action;
- send a copy of that report to the officer concerned.

- (c) Councillors will not be involved in the disciplinary action against any officer below Head of Service (Chief Officer) except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.
- (d) Further details of disciplinary procedures are contained in the Officers' Disciplinary Procedure and Code of Conduct Rules.

## **7. Dismissal**

- 7.1 Dismissal of the holder of post of Head of Paid Service (Chief Executive) and Heads of Service (Chief Officers) vary from other officers. Dismissal could be for any reason, eg:-
- ill-health;
  - redundancy;
  - the interest of efficiency of Council's service;
  - disciplinary reasons.
- 7.2 The Proper Officer – the Chief Executive shall advise the Cabinet of the person to be dismissed, the relevant particulars and the period of objections.
- 7.3 The Leader shall report whether there are any objections. The Proper Officer shall report any objections to the “dismissor” for the dismissor (the Council, committee, sub-committee or another officer) to determine if the objection is material or well founded.
- 7.4 Any decision to dismiss the Head of Paid Service (Chief Executive) for any reason may only be made by the Council.

## **8. Dismissal**

- 8.1 Councillors will not be involved in the dismissal of any officer below Chief Executive/Head of Paid Service.
- 8.2 Further details of dismissal procedures are contained in the Officer's Disciplinary Procedure.

## **9. Appeals**

- 9.1 See the Staff Disciplinary and Grievance Procedures and Code of Conduct Rules for further details.

## **10. Training**

- 10.1 Officers and Members taking part in any interview process must have had in-house training regarding the recruitment process.

## **11. Appraisal of the Chief Executive**

- 11.1 There shall be an annual appraisal of the Chief Executive unless circumstances require appraisal to be on a more frequent basis. The Appraisal Panel shall consist of the Leader, Deputy Leader, the Chairman of the Scrutiny Committee, and the Chairman or Vice Chairman of the Council. Any nominee of the above appointed Panel should have undergone appropriate training.

# **Part 5 – Codes and Protocols**

**Members Code of Conduct**

**Offices Code of Conduct**

**Member/Officer Protocol**

## Member's Code of Conduct

### Introduction

Pursuant to section 27 of the Localism Act 2011, Mid Devon District Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the following seven principles:

- Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.
- Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in performance of their official duties.
- Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- Openness:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protect the public interest.
- Leadership:** Holders of public office should promote and support these principles by leadership and example.

### Definitions

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or subcommittee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.

### **Member obligations**

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.
6. He/she shall not conduct themselves in a manner or behave in such a way so as to bring their office or the Council into disrepute

### **Registration of interests**

7. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the categories set out in Appendices A and B.
8. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests in Appendices A and B.
9. A member shall register any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
10. A member need only declare on the public register of interests the existence but not the details of any interest which the Monitoring Officer agrees is a



'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

### **Declaration of interests**

11. Where a matter arises at a meeting which relates to an interest in Appendix A (a Disclosable Pecuniary Interest) the member shall not participate in the discussion or vote on the matter. The member must declare that they have an interest and shall withdraw from the room at the commencement of the consideration of that business.
12. Where a matter arises at a meeting which relates to an interest in Appendix A (a Disclosable Pecuniary Interest) which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. The member must declare that they have an interest and shall withdraw from the room at the commencement of the consideration of that business.
13. Where a matter arises at a meeting which relates to an interest in Appendix B (a Personal Interest), the member can participate in the discussion and vote on the matter but must declare that they have a Personal Interest.
14. In relation to points 11, 12 and 13, the member only has to declare the nature of his/her interest if it is not already entered in the member's Register of Interests or if he/she has not notified the Monitoring Officer of it. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.

### **Dispensations**

15. Dispensations can be granted where it is considered that:
  - a) Without the dispensation, the number of persons who could not take part due to their disclosable pecuniary interest would be so great as to impede the transaction of the business;
  - b) Without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - c) Granting the dispensation is in the interests of persons living in the authority's area;
  - d) Without the dispensation, each executive member would be prohibited from participating in any particular business to be transacted by the authority's executive as they would have a disclosable pecuniary interest ; or
  - e) It is otherwise appropriate to grant a dispensation
16. The request for dispensation must be put in writing and must specify the reason for the dispensation and the period for which it has effect. The period specified may not exceed four years."

**MID DEVON DISTRICT COUNCIL**

**MEMBERS' CODE OF CONDUCT  
GENERAL NOTICE OF REGISTERABLE INTERESTS**

I,

**Being a Member/Co-opted Member of Mid Devon District Council,**

give notice in this form of those interests which I am required to declare under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and Mid Devon District Council's Code of Conduct:

I understand that in so doing I must declare any interest of my spouse or civil partner or of any person with whom I am living as a husband or wife or if we were civil partners in sections 1-6 of this form as set out in the Council's Code of Conduct for Members. I have also declared my personal interests as required by the Code of Conduct in section 7 of this form.

**APPENDIX A – DISCLOSABLE PECUNIARY INTERESTS**

<b>1. Employment, Office, Trade, Profession or Vocation</b> Please give details of (i) every employment, job, trade, business or vocation you have, for which you receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. 'Accountant' or 'Farmer' and (ii) the name of any employer or body, firm or company which you own or in which you have any beneficial interest.	
Description of employment, job, vocation, trade or business	
Name of Employer, body, firm or company by which you are employed or which you own or in which you have a beneficial interest	
<b>2. Sponsorship</b> Please give details of any person or body (other than the District Council) who has made any payment to you in respect of your election or any expenses you have	

incurred in carrying out your duties as a District Councillor.

**3. Securities: Interests in Companies**

Please give details of a body which has a place of business or owns land in the District Council's area and in which you have a beneficial interest (a shareholding) of more than £25,000 (nominal value) or more than 1/100<sup>th</sup> of the total shares issue of that body (whichever is the lower) or if there is more than one class of share, the total nominal value of shares in any class of that body of more than 1/100<sup>th</sup> of the total shares of that class

*Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.*

**4. Contracts: for Goods, Works or Services with the Council**

Please give details of any current, existing contracts for goods, works or services between the District Council and you and any body, firm or company by which you are employed or which you own or in which you have a beneficial interest, as referred to at 3 above.

**5. Landholdings and Licenses in the Area**

Please give the address or other description (sufficient to identify the location) of any land or property in the District Council's area in which you have a beneficial interest, indicating whether you are the owner, lessee or tenant, including land in which you may have a licence, alone or with others, to occupy for a period of one month or longer.

You must include the land and house you live in and for example an allotments you own or use.

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**6. Corporate Tenancies: Land leased from Mid Devon District Council**  
 Please give the address or other description (sufficient to identify the location) of any land leased or licensed from the District Council by a you or any body firm or company by which you are employed or which you own or in which you have a beneficial interest (specified at 3 above).

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**APPENDIX B – PERSONAL INTERESTS**  
 Please give details of your membership of, or any position of general control or management, of any bodies in the categories listed below, your interests in land in the area of the District Council (other than those set out in sections 5 & 6) and of any gifts and hospitality received worth over £25.

Membership of any Body or Organisation to which you have been appointed or nominated by the District Council as its representative	
Membership of any other body exercising functions of a public nature <i>(e.g. County or Parish Council; Health, Police or Fire Authority or Quasi Autonomous Non-Governmental Body)</i>	
Membership of any body directed to charitable purposes <i>(e.g., an Industrial and Provident Society or Charitable Body)</i>	

<p>Membership of any Body whose principal purpose is to influence public opinion or policy or which, in your view, might create a conflict of interest in carrying out their duties as a District Councillor.  <i>(e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or Interest Group (e.g. National Trust; RSPB: Greenpeace or membership of the Freemasons or similar body)</i></p>	
<p>Any land where the landlord is the Council, and you are, or a firm in which you are a partner or a company of which you are a paid director is the tenant</p>	
<p>Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income. [This includes options to purchase which you have on land in Mid Devon]</p>	
<p>Any gifts or hospitality worth more than an estimated value of £25 which you have received by virtue of your office</p>	
<p><b>DECLARATION</b></p>	
<p>I recognise that if I fail to comply with the Code of Conduct for Members of Mid Devon District Council or:</p> <ul style="list-style-type: none"> <li>(i) omit any information that should be included in this Notice;</li> <li>(ii) give false or misleading information; or</li> <li>(iii) do not tell the District Council of any changes to this Notice or new interests I acquire,</li> </ul> <p>there may be a criminal offence and/or the matter may be referred to the Monitoring Officer/Council's Audit Committee for investigation.</p> <p>Signed : ..... Date.....</p>	
<p><b>FOR OFFICE USE ONLY</b></p>	
<p>Received: ..... Date .....</p>	

## **OFFICERS CODE OF CONDUCT**

The public is entitled to expect the highest standards of conduct from all employees who work for the Council. This Code of Conduct outlines the existing rules and conditions of service which apply to you as a Council employee and is designed to provide clear guidance to assist you in your day-to-day work.

The Code sets out the standards which are expected of you and provides a framework which will help to promote best practice. Reference should also be made to Nolan's Seven Principles of Public Life which are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. All employees of the Council are required to observe and uphold the standards of the Code and all policies and procedures of the Council. Failure to do so is a serious matter which could result in disciplinary action, including dismissal.

You should therefore read the document carefully, and if you are uncertain about any aspect of its contents, please contact your immediate manager or supervisor.

### **3. STANDARDS AND ATTITUDE**

- 3.1 All employees of the Council are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality.
- 3.2 Your attitude in dealing with people reflects on the Council so it is important that you are helpful, polite and courteous.
- 3.3 All employees are expected to report, in the first instance, to their manager or supervisor any illegality, impropriety, breach of procedure or policy of the Council. The line manager must then report to their Head of Service and the Monitoring Officer.
- 3.4 There are a number of mechanisms available to employees to do this including the Council's complaints procedure and also the Whistle-Blowing Policy.
- 3.5 In all cases, it is not enough to avoid actual impropriety, as public perceptions are very important. Employees should at all times avoid any appearance of improper conduct which may give rise to suspicion.

### **4. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION**

- 4.1 The law requires that certain types of information must be available to councillors, auditors, government services, service users and the public. Different rules apply in different situations. Employees must be aware of which information within their authority is open and which is not, and act accordingly. If you are in any doubt as to whether you can release any particular information, always check with your manager or Head of Service first.

- 4.2 The confidentiality of information received in the course of your duties should be respected and must never be used for personal or political gain. Also, of course, you should not knowingly pass information on to others who might use it in such a way.
- 4.3 You should not communicate confidential information or documents to others who do not have a legitimate right to know. Information must only be disclosed in accordance with the requirements of the Data Protection Act 1998, which covers computerised and manual information held on individuals. All staff need to bear in mind that an E-mail is as legally binding as a letter and informal messages sent internally can be used in evidence in court proceedings.
- 4.4 Information given in the course of your duties should be accurate and fair and never designed to mislead.
- 4.5 Any particular information received by an employee from a councillor which is personal to that councillor should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required by law.

## 5. **POLITICAL NEUTRALITY**

- 5.1 Employees serve the authority as a whole. It follows that you must serve all councillors equally and ensure that the individual rights of all councillors are respected.
- 5.2 From time to time, some employees may also be requested to advise a full meeting of a political group or its executive. You must do so in ways which do not compromise your political neutrality and inform the Chief Executive in advance.
- 5.3 Whether you hold a politically restricted post or not, you must not allow your own personal or political opinions to interfere with your work.

## 6. **RELATIONSHIPS**

### 6.1 **Councillors**

Mutual respect between employees and councillors is essential for good local government. Some employees need to work closely with councillors. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

### 6.2 **The Local Community and Service Users**

Employees should always remember their responsibilities to the whole of the community they serve and ensure courteous, effective and impartial service delivery to all groups and individuals within that community in accordance with the policies of the authority.

### **6.3 Contractors and Suppliers**

- a) All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your appropriate manager or supervisor on The Notice of Personal Interest Form Appendix G at the earliest opportunity.
- b) Orders and contracts must be awarded in accordance with the Council's Financial Regulations and no special favour should be shown to anyone, particularly businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.

## **7. APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

- 7.1 It is unlawful for appointments to be made on the basis of anything other than the ability of the candidate to undertake the duties of the post. If you are involved in making appointments you should do everything possible to ensure that these are made on the basis of merit and in accordance with the Council's recruitment and selection policies.
- 7.2 In order to avoid any possible accusation of bias, you must not become involved in any appointment if you are related to an applicant, or have a close personal relationship with him or her.
- 7.3 Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments in respect of any other employee who is a relative or with whom you have a close personal relationship; nor should you attempt to influence such decisions.
- 7.4 Senior officers (i.e. Head of Service and above) must disclose to the Monitoring Officer/Deputy Monitoring Officer details of any relationship known to exist between them and any person they know who is a candidate for an appointment with the Council. This will include the name and address of the candidate, the post they have applied for and the nature of the relationship.
- 7.5 If you apply for promotion or are seeking another job in the Council, you must not approach any councillor for a reference. Issues relating to your conditions of service, working arrangements or grading should be raised with your manager or Head of Service and not with councillors.

## **8. OUTSIDE COMMITMENTS**

- 8.1 Your off-duty hours are your own concern, but you should make sure that you do not allow yourself to get into a position where your private interests come into conflict with your contractual obligations or are detrimental to the interests or reputation of the Council.
- 8.2 Employees subject to Green Book conditions and paid from Spinal Point 29 are required to devote their whole-time service to the work of the



Council and obtain written consent before taking any outside employment. If you fall into this category, and want to seek the Council's agreement, you should complete the notice of personal interest Form Appendix G and submit it to your Head of Service and the Monitoring Officer. The Council will not unreasonably stop officers from undertaking additional employment, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business.

- 8.3 Even if you are not subject to the Green Book provisions you should ensure that none of your outside activities are detrimental to the Council's interests.
- 8.4 If you write a book or article for payment on subjects relating to your work for the Council, you must seek the permission of the Council through your manager or Head of Service using the notice of personal interest Form Appendix G. The general presumption would be that any fee or royalty payable would be passed over to the Council.
- 8.5 You must not undertake private or personal work of any description in working hours or in the office unless you have been given specific permission by your manager or Head of Service.
- 8.6 Private use of Council facilities and equipment, such as stationery and fax machines, is not allowed. Personal use of the telephone is permitted within reason, provided that calls are properly logged and charges paid back to the Council. Also, you should not arrange to receive correspondence, telephone calls and fax messages in the office related to outside work or private interests.

## **9. PERSONAL INTERESTS**

- 9.1 You must declare to your manager or Head of Service on the Notice of Personal Interests Form Appendix G any financial or non-financial interests which could bring about conflict with the Council's interests. The Head of Service will then forward this information to the Monitoring Officer
- 9.2 If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager or Head of Service so that a decision can be made as to how best to proceed.
- 9.3 You must not make, or become involved with any official or professional decisions about matters in which you have a personal interest.
- 9.4 Section 117 of the Local Government Act 1972 requires you to make a formal declaration about *contracts or personal contracts* with the Council in which you have a pecuniary interest. Such declarations should be made on the Notice of Personal Interests Form Appendix G and sent to the Monitoring Officer. It is a criminal offence to fail to comply with this provision which is set out in full below:

- a) If it comes to the knowledge of an officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has an pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section, an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 95 above had he been a member of the authority.

- b) An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.
- c) Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- d) References in this section to a local authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

- 9.5 You must declare to the Monitoring Officer *membership of any organisation* not open to the public, requiring any commitment of allegiance, or which has secrecy about rules or membership or conduct, for example, the freemasons. A definition of such an organisation is as follows:

Any lodge, chapter, society, trust or regular gathering or meeting (other than a professional association), which:-

- a) is not open to members of the public who are not members of that lodge, chapter, society or trust; or
- b) includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society or gathering or meeting; or
- c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

Such declarations should be made on The Notice of Personal Interest Form Appendix G and sent to the Monitoring Officer.

## 10. **EQUALITY**

- 10.1 All members of the local community, customers and other Council employees have a right to be treated fairly and equally. You should become familiar with and observe all Council policies relating to equality issues, e.g. the Council's Equal Opportunities Policy, in addition to the requirements of the law.
- 10.2 Employees should be aware of the provisions of, and their responsibilities under the Equality Act 2010 and that they have a duty to promote this.

## 11. **TENDERING PROCEDURES**

- 11.1 Employees involved in the tendering process or who have any other official relationship with contractors, must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 11.2 If you are responsible for engaging or supervising contractors and have previously had, or currently have, a relationship in a private or domestic capacity with contractors, you must declare that relationship to your manager or Head of Service using the Notice of Personal Interest Form Appendix G.
- 11.3 If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person.
- 11.4 All employees must ensure that no special favour is shown to current, or recent former, employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in any capacity.

## 12. **CORRUPTION**

- 12.1 Employees must be aware that it is a serious criminal offence under the Bribery Act 2010 for them to receive or give any gift, loan or reward or advantage in their official capacity “for doing, or not doing, anything”, or “showing favour, or disfavour to any person”. If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained. The relevant statutory rules are:

The Bribery Act 2010 creates offences making it unlawful to give or receive financial or other advantages in return for the improper performance of a relevant function or activity. The Act applies to functions and activities of a public nature which an individual is expected to perform in good faith, impartially or in a position of trust.

- 12.2 For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to your Head of Service.

### 13. **POSSIBLE INDUCEMENTS**

#### 13.1 **Introduction**

A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence. There is a checklist to help you at the end of this section.

#### 13.2 **Gifts Generally**

- a) Casual gifts offered to employees by contractors, organisations, firms or individuals may not be intended as an inducement or connected in any way with the performance of your official duties so as to involve the Bribery Act 2010. Nevertheless, with the exceptions listed below, you should decline any personal gift offered to you or your partner, or to a member of your family, by any person or organisation having dealings with the Council.
- b) Any such offer should be reported to your Head of Service (and the Monitoring Officer) on the Notice of Offer of Gift/Hospitality Form Appendix H.
- c) When a gift needs to be refused, this should be done with tact and courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported immediately to your manager or Head of Service or the Monitoring Officer as appropriate.

### 13.3 **Exceptions**

- a) Gifts of a token value given at Christmas, such as calendars, diaries, blotters, pens or other simple items of office equipment for use in Council offices, but only if it bears the company's name or insignia.
- b) Gifts of a promotional nature on the conclusion of a courtesy visit to a factory or company offices, of a sort normally given by the company to visitors.

### 13.4 **Hospitality**

- a) Offers of hospitality are a normal part of the courtesies of business life but in the public service it is important for employees to avoid creating an appearance of improper influence, thus undermining public confidence.
- b) Hospitality is sometimes offered to representatives of the Council in an official or formal capacity. Normally the only officers who would attend would be Chief Officers and appropriate Heads of Service.
- c) If hospitality is offered to you as an individual employee, special caution is needed, particularly when the host is seeking to do business with the Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers, etc, who may stand to benefit from the goodwill of the Council.
- d) You should also be careful about attending exhibitions, seminars or visiting manufacturers, etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality.
- e) In general terms, it is more likely to be acceptable for you to join in hospitality offered to a group, than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, for example, an arbitration arising from a contract, then clearly common sense dictates that offers of hospitality should be refused even if in normal times they would be acceptable.
- f) All offers of hospitality should be reported to your Head of Service, and the Monitoring Officer on the Notice of Offer of Gift/Hospitality Form Appendix H.

### 13.5 **Checklist**

The question in all these cases is one of judgement, and the following checklist of queries should help you to decide whether a gift or an offer of hospitality should be accepted or tactfully declined.

- a) Is the donor, or event, significant in the community or area? If so, is the refusal likely to cause offence?
- b) Are you expected to attend because of your position in the community or area?
- c) Will the event be attended by others of a similar standing in the community or in other communities?
- d) What do you think is the motivation behind the invitation?
- e) Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the Council?
- f) Could you justify the decision to the Council, press and public?
- g) Is the extent of the hospitality, or the nature of the gift reasonable and appropriate?
- h) Are you likely to be expected to respond to the hospitality, and if so, how?
- i) Are you comfortable about the decision?

#### **14. SPONSORSHIP - GIVING AND RECEIVING**

14.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

14.2 Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Head of Service of any such interest. Similarly, where the Council through sponsorship grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

#### **15. FINANCIAL PROCEDURE RULES**

15.1 All employees involved in financial activities and transactions on behalf of the Council, including budgetary control, payments of accounts, payments of salaries and wages, petty cash and orders for works, goods or services must follow the Council's Financial Procedure Rules.

15.2 They must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

**ANY BREACHES OF THESE INSTRUCTIONS MAY LEAD TO DISCIPLINARY ACTION AND COULD LEAD TO DISMISSAL**

## Protocol on Member/Officer Relations

[Note: This is based on the existing Code of Local Government Conduct and will need to be revised to reflect the new Members' Code of Conduct once the Government has given the expected guidance.]

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## **1.0 Introduction**

- 1.1 Members and officers must at all times observe this protocol.
- 1.2 The protocol has been approved by the Council's Standards Committee which will monitor the protocol and its operation. The Monitoring Officer will produce an annual report for the Standards Committee highlighting the number of complaints that have been made by staff about Members who breach this protocol, and vice versa, so that the effectiveness of this protocol can be examined.
- 1.3 The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of conduct.
- 1.4 Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy and by not seeking to take unfair advantage by virtue of their position. There must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. It is important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.
- 1.5 Whilst members and officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the Council's work under the direction of the Council.
- 1.6 The Council has adopted codes of conduct for both members and officers. Both represent best practice. The members' code follows the legislation set out in the Localism Act and includes the Nolan seven principles of public life.
- 1.7 These principles in the Codes of Conduct underpin this protocol.
- 1.8 Breaches of this protocol by a member may result in a complaint to the Authority's Standards Committee if it appears the members' code has also been breached. Breaches by an officer may lead to disciplinary action.

## **2.0 The Role of Members**

- 2.1 Members represent their ward and are advocates of for the citizens who live in their area but must also have a strategic view of the whole district
- 2.2 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior officer(s) and/or the Monitoring Officer.

- 2.3 Collectively, members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.4 Members represent the community, act as community leaders and promote the social economic and environmental well-being of the community often in partnership with other agencies.
- 2.5 Every elected member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies and often serves on local bodies.
- 2.6 Some members may be appointed to represent the Council on local, regional or national bodies. They will be expected to follow their code of conduct and this protocol.
- 2.7 As politicians, members may express the values, policies and aspirations of the party political groups to which they belong whilst recognising that in their role as members they have a duty always to act in the public interest.
- 2.8 Members are not authorised to direct officers other than:-
- through the formal decision-making process;
  - to request the provision of consumable resources provided by the Council for members' use; and
  - where staff have been specifically allocated to give support to a member or group of members
  - to request help from staff on ward issues.
- 2.9 Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council.
- 2.10 Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the designated Section 151 Officer.
- 2.11 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

### **3.0 The Role of Officers**

- 3.1 Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.
- 3.2 Briefly, Employees have the following main roles:

- Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services
- Providing advice to the Council and its various bodies and to individual Members in respect of the services provided and council policies
- Initiating policy proposals
- Implementing agreed policy
- Ensuring that the Council always acts in a lawful manner

#### **4.0 The Relationship between Members and Officers: General**

- 4.1 The conduct of members and officers should be such as to instil mutual confidence and trust.
- 4.2 The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 4.3 Informal and collaborative two-way contact between members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
- 4.4 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 4.5 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.
- 4.6 Officers work to the instructions of their senior officers, not individual members. It follows that, whilst such officers will always seek to assist a member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, members should normally direct their requests and concerns the relevant officer, at least in the first instance. Where members are not clear who the relevant officer is, they should speak to the Service Manager or Head of Service.
- 4.7 Officers will respond to members' enquiries within five working days. If this is not achievable then an acknowledgement be sent indicating how long it will take to provide a response. However, officers should not have unreasonable requests or timescales placed upon them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers'

work by imposing their own priorities.

4.8 Members will respond to enquiries from officers within five working days.

4.9 An officer shall not discuss with a member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.

4.10 Members and officers should respect each other's free (ie non-Council) time.

## **5.0 The Council's Role as Employer**

5.1 In their dealings with Officers, Members should recognise and have regard to the Council's role as employer and the Council's duty of care. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

## **6.0 Chairman and Officers**

6.1 Officers will respect the position of Chairman and provide appropriate support.

## **7.0 Provision of Support Services to Members**

7.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

### Correspondence

7.2 Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

### Media

7.3 Communication with the media can be an important part of a Member's workload. In general, Members provide comments, information and views. If a Member is unsure about the circumstances or facts of a particular issue he/she should contact the appropriate Head of Service or ask the Press Office to do so. Employees must only provide the press with factual information and not give any comments or views.

## **8.0 Party Groups and Officers**

- 8.1 Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups but officers have the right to refuse such requests.
- 8.2 Officers will normally not attend a meeting of a party group where some of those attending are not members of the Council.
- 8.3 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business and, therefore, should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
- 8.4 Party group meetings are not empowered to make decisions on behalf of the Council and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
- 8.5 Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 8.6 It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.
- 8.7 Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 8.8 In their dealings with party groups, officers must treat each group in a fair and even-handed manner.
- 8.9 Members must not do anything which compromises or is likely to compromise officers' impartiality.
- 8.10 The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 8.11 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.

- 8.12 An officer who is not a senior officer shall not be invited to attend a party group meeting but a senior officer may nominate another officer to attend on his/her behalf.
- 8.13 An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 8.14 If confidential information is referred to by an officer or a member at a group meeting then no member of officer will refer to it in public.
- 8.15 At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not members are not bound by the members' code of conduct. They do not have the same rights to Council information as members.
- 8.16 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.

## **9.0 Political Activity**

- 9.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.
- 9.2 In summary, such employees are prevented from:
  - a) being a Member of Parliament, European Parliament or local authority;
  - b) acting as an election agent or sub-agent for a candidate for election as a member of any the bodies referred to in a);
  - c) being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:-
    - (1) participate in the general management of the party or branch; or
    - (2) act on behalf of the party or branch in dealings with persons other than members of the party;
  - d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in a)
  - e) speaking to the public with the apparent intent of affecting public support for a political party; and

- f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

- 9.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.
- 9.4 Usually the only Employees involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.
- 9.5 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.

## **10.0 Local Members and Officers**

- 10.1 To enable them to carry out their ward role effectively, members must be fully informed about matters affecting their ward. Management Team must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision-making process and develop their representative role.
- 10.2 This requirement is particularly important:-
- during the formative stages of policy development, where practicable;
  - in relation to significant or sensitive operational matters;
  - whenever any form of public consultation exercise is undertaken; and
  - during a Scrutiny Committee investigation.
- 10.3 Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.
- 10.4 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected must be invited to attend the meeting as a matter of course.
- 10.5 If a ward member intends to arrange a public meeting in their local area on a

matter concerning some aspect of the Council's work, he/she should inform the relevant Head of Service or the Chief Executive. Provided the meeting has not been arranged on a party political basis:-

- an officer may attend but is not obliged to do so; and
- the meeting may be held in Council owned premises.

10.6 No such meetings should be arranged or held in the immediate run-up to Council elections. The pre-election period (often referred to as Purdah) is the period of time between an announced election and the final election results. This normally begins six weeks before the election.

10.7 Whilst support for members' ward work is legitimate, officers will not attend Ward Surgeries

10.8 Officers must never be asked to attend ward or constituency political party meetings.

10.9 In seeking to deal with constituents' queries or concerns, members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by members in the requested timescale and may need to seek instructions from their managers.

#### **11.0 Members' access to documents and information**

11.1 This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution.

11.2 Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:-

- it is in the public domain; and
- it is not barred by the Data Protection Act from being given.

11.3 All Members will receive agendas and documents for the Committees that they are on. Members may also have access to documents for committees they are not on provided:-

- he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a member (the "need to know" principle); and
- the documents do not contain "confidential" or "exempt" information as defined by the law.

11.4 Disputes as the validity of a member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should



seek his/her advice if in any doubt about the reasonableness of a member's request.

- 11.5 A member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:-
- where to do so is likely to be in breach of the Data Protection Act;
  - where the subject matter is one in which he/she has a pecuniary or personal interest as defined in the members' code of conduct; or
  - Where it is specified that the matter is "confidential" or "exempt".
- 11.6 Information given to a member must only be used for the purpose for which it was requested.
- 11.7 It is an accepted convention that a member of one party group will not have a need to know and, therefore, a right to inspect a document which forms part of the internal workings of another party group.
- 11.8 Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 11.9 When requested to do so, officers will keep confidential from other members advice requested by a member.
- 11.10 Where an item is discussed that is Part Two (i.e. excludes the press and public) Members must ensure that they do not share the confidential information with anyone outside of the Council Chamber, until otherwise directed by the Chief Executive or Head of Service.
- 11.11 Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

## **12.0 Media Relations**

- 12.1 All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.
- 12.2 Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.
- 12.3 Officers will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
- 12.4 Before responding to enquiries from the media, officers shall ensure they are authorised to do so.
- 12.5 Likewise, officers will inform the Council's public relations co-ordinator of issues likely to be of media interest, since that officer is often the media's first

point of contact.

12.6 If a member is contacted by, or contacts, the media on an issue, he/she should:-

- indicate in what capacity he/she is speaking (eg as ward member, in a personal capacity, as Cabinet member, as Chairman of Policy Development Group, as committee chairman, on behalf of the Council, or on behalf of a party group);
- be sure of what he/she wants to say or not to say;
- if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's public relations co-ordinator and/or relevant senior officer, except in relation to a statement which is party political in nature;
- consider the likely consequences for the Council of his/her statement (eg commitment to a particular course of action, image, allegations of jumping to conclusions);
- never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- consider whether to consult other relevant members: and
- take particular care in what he/she says in run up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

12.7 If a Member or officer shares information with the media that is confidential they will be subject to further action under the code of conduct or disciplinary procedure.

### **13.0 Correspondence**

13.1 Correspondence between an individual member and an officer or member should not be copied to another member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, ie there should be no "blind" copies.

13.2 Official letters written on behalf of the Council should normally be in the name of the relevant officer. It may be appropriate in some circumstances (eg representations to a Government Minister) for letters to appear in the name of an Cabinet member, a Chairman of a Policy Development Group or the chairman of the Scrutiny Committee or Audit Committee.

13.3 The Chairman may initiate correspondence in his/her own name.

13.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member.

13.5 When writing in an individual capacity as a ward member, a member must make clear the fact.

## **14.0 Access to Premises**

- 14.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 14.2 Members have a right of access to Council land and premises to fulfil their duties.
- 14.3 When making visits as individual members, members should:-
- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
  - comply with health and safety, security and other workplace rules;
  - not interfere with the services or activities being provided at the time of the visit;
  - if outside his/her own ward, notify the ward member(s) beforehand; and
  - take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

## **15.0 Use of Council Resources**

- 15.1 The Council provides all members with services such as photocopying and goods such as stationery and computer equipment to assist them in discharging their roles as members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.
- 15.2 Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:-
- where facilities are provided in members' homes at the Council's expense;
  - in relation to any locally agreed arrangements, eg payment for private photocopying; and
  - regarding ICT security.
- 15.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:-
- business which is solely to do with a political party;
  - work in connection with a ward or constituency party political meeting;
  - electioneering;
  - work associated with an event attended by a member in a capacity other than as a member of the Council;
  - private personal correspondence;
  - work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
  - support to a member in his/her capacity as a councillor of another local authority.

## **16.0 Interpretation, Complaints and Allegations of Breaches**

- 16.1 This part of the protocol should be read in conjunction with the “whistleblowing” policy of the Council.
- 16.2 Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.
- 16.3 A member who is unhappy about the actions taken by, or conduct of, an officer should:-
- avoid personal attacks on, or abuse of, the officer at all times;
  - ensure that any criticism is well founded and constructive;
  - never make a criticism in public, and
  - take up the concern with the officer personally, if appropriate.
- 16.4 If direct discussion with the officer is inappropriate (eg because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer’s manager or the relevant Head of Service.
- 16.5 A serious breach of this protocol by an officer may lead to an investigation under the Council’s disciplinary procedure.
- 16.6 An officer who believes a member may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group.
- 16.7 A serious breach of this protocol by a Member may lead to investigation by the Monitoring Officer and could result in a referral to the Authority’s Standards Committee.

## **Guidance for Members on Hospitality and Gifts**

### **1 Introduction**

- 1.1 This guidance is ancillary to guidance in the Code of Conduct and explanatory text.
- 1.2 Members should treat with extreme caution any “offer or gift, favour or hospitality” that is made to them personally.
- 1.3 People or bodies may have contractual relationships with the Council which they may seek to influence, or which it might be suspected they were attempting to influence, even if the gift was offered innocently. The same would apply within contexts such as applications for planning permission.
- 1.4 There are no hard and fast rules, but a working lunch which is approved by the authority and where there is no extravagance, or representing the council at a social function or event organised by an outside body or person would be regarded as acceptable.
- 1.5 Members are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in local government. Paragraph 17 of the Code provides that the receipt of gifts or hospitality over the value of £25 should always be reported to the appropriate senior officer for the council.
- 1.6 Members should avoid impropriety and the appearance of it. Members should never use their position to benefit themselves, their family or friends with any financial benefits, preferential treatment or other advantage. On hospitality, members should record all gifts and hospitality received in connection with membership of the Council and, in particular, should not accept gifts or hospitality that might reasonably be thought to influence or be intended to influence the members’ trust or bring discredit on the Council.

### **2 General Guidance on Gifts and Hospitality**

- 2.1 When to accept hospitality is a matter of judgement for each individual member.
- 2.2 It would be wrong to produce an atmosphere where even members acting in a representative capacity for the council refuse all invitations for social involvement with those who have or who seem to have business or other dealings with the Council. Contacts established through a social environment are often helpful to the Council’s interests. Members have as a key part of their role the establishment of the standing of the Council in the community.
- 2.3 Any suggestion of improper influence or giving others the opportunity reasonably to impute improper influence must be avoided.
- 2.4 Extravagance can be damaging to the reputation of the authority.

### **3 Registration**

- 3.1 The Monitoring Officer maintains the Members’ Register of Interests which records all gifts and hospitality received.

- 3.2 Whenever members are offered hospitality or a gift not officially arranged through the authority but in the broad context of their role as a councillor, they should ensure that the register is completed.
- 3.3 The register should be completed whether or not the gift or hospitality in question is accepted.
- 3.4 The only exceptions to registration would be very small gifts in kind, below the value of £25, e.g. a diary or calendar.
- 3.5 The Monitoring Officer will make regular checks to ensure that the register is properly completed.

#### 4 **Examples of what is Acceptable/Unacceptable**

- 4.1 The following general guidelines are examples only, which will assist members in exercising their discretion appropriately.

#### 5 **Acceptable**

- 5.1 Working lunch of a modest standard provided to allow a member to discuss matters in which he is involved on behalf of the authority or which arise out of his work as a “constituency” member.

[If there is a series of meetings requiring hospitality, the Council and the other party should alternate on an approximately equal basis.]

- 5.2 An invitation to a professional society dinner or one associated with a body with whom the elected member may have been working in his capacity as such. For example, Royal Garden parties or the annual dinner of the Magistrates’ Association.
- 5.3 An invitation to join other guests in Devon or neighbouring counties as the Council representative at a jubilee or other special occasion for a statutory, charitable or other body (including commercial organisation) with whom the member may expect to work in their role as such.

#### 6 **Unacceptable**

- 6.1 Paid holiday or leisure travel or accommodation.
- 6.2 Tickets for premium events (eg Wimbledon) which are offered on a personal basis.
- 6.3 Use of an individual or organisation’s flat or hotel.
- 6.4 Discounted services, material, labour etc from contractors or suppliers which are not normally equally available on the same basis to others not having an actual or potential business link with them. (Members should not procure or encourage any such provision to family, friends or business associates.) Members should consider it appropriate to get more than one quote on private works, e.g. on their own house, if a supplier to the Council is involved.
- 6.5 Non-reciprocal invitations to high-profile or prestige events, particularly outside Devon, unless specifically authorised on behalf of the Council.
- 6.6 Cash gifts.
- 6.7 Significant gifts in kind (e.g. a case of whisky but not a company calendar or diary).

## **7 Additional Points**

- 7.1 An important criterion in exercising judgement as to what is acceptable is what interpretation those in the community or the press might reasonably put upon acceptance.
- 7.2 Repeated offers of gifts or hospitality from one person, firm or organisation made by repetition render unacceptable what would otherwise be acceptable.
- 7.3 Particular care should be taken where a member has any involvement in making a decision for placement of a contract, or for any decision carrying value for the person or organisation offering the gift or hospitality (e.g. the granting of planning permission), or is involved in a Scrutiny Committee examination which could have an impact on the person or the outcome of the organisation concerned.
- 7.4 If you are offered a gift which you do not think you should accept personally but you feel is well intentioned, and particularly if it may cause offence if refused, you have the option, with the agreement of the donor, of passing it to the Chairman of the Council, who may place it with an appropriate charity. You should still record the offer and the action taken.

## **8 Advice**

- 8.1 If a member is in any doubt about the propriety of accepting a particular offer of a gift or hospitality, they should consult the Monitoring Officer before accepting.

## **Monitoring Officer Protocol**

### **1 General Introduction to Statutory Responsibilities and Functions**

- 1.1 The Monitoring Officer is a statutory designation pursuant to section 5 of the Local Government and Housing Act 1989. That Act and the Local Government Act 2000 makes the appointed officer responsible for performing a number of functions in respect of the Council.
- 1.2 The duties placed upon the Monitoring Officer in exercising these functions must be performed by him or her personally, unless:-
- (a) the Monitoring Officer is unable to act owing to absence or illness – whereupon those duties are to be performed personally during that period by a member of the Monitoring Officer’s staff that he or she has for the time being nominated as his or her deputy (the ‘Deputy Monitoring Officer’); or
  - (b) in respect of functions under 60(2) or 64(2) of the Local Government Act 2000, he or she considers that in a particular case the functions should not to be performed by him or herself – those functions are to be performed personally by a person nominated by the Monitoring Officer (or Deputy Monitoring Officer as the case may be) for that purpose.

For the purposes of this Protocol, the term ‘Monitoring Officer’ thus includes those persons when carrying out those personal duties.

- 1.3 To enable these functions to be carried out the Council is also placed under a number of duties. These include a duty to provide the Monitoring Officer with such staff, accommodation and other resources as are, in the Monitoring Officer’s opinion, sufficient to allow him or her to perform those duties.
- 1.4 The object of this Protocol is therefore to provide some general information on how those statutory duties upon the Monitoring Officer and the Council, which are summarised as a schedule annexed to this document, will be discharged at this Council.
- 1.5 Functions 6 to 11 of the attached schedule are functions to be carried out by the Monitoring Officer in respect of the town and parish councils within the Council’s area, as relevant authority, as well as for the Council.
- 1.6 The Council has also placed ‘proper officer’ and other obligations on the Monitoring Officer, through the Council’s Constitution and elsewhere, but these are delegated functions of the authority rather than personal duties under statute. Whilst the exercise of these functions equally require good working arrangements, they differ slightly from authority to authority and, for the sake of commonality and clarity, they are not directly addressed here.
- 1.7 In general terms, the Monitoring Officer’s ability to discharge his or her duties and responsibilities will depend, to a large extent, on Members and officers:-
- complying with the law of the land (including any relevant Codes of Conduct);



- complying with any General Guidance issued, from time to time, by the Standards Committee and the Monitoring Officer;
- making lawful and proportionate decisions; and
- generally, not taking action that would bring the Council, their offices or professions into disrepute.

## **2 Working Arrangements**

- 2.1 Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities on the Monitoring Officer and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his or her staff) to discharge the Council's statutory and discretionary responsibilities.
- 2.2 Having effective working liaison and relationships with the External Auditor and the Local Government Ombudsman will also assist in the discharge of those statutory responsibilities. This will include having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary.

## **3 Monitoring Officer's Rights**

The following arrangements and understandings between the Monitoring Officer, Members and officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will have the right to:-

- 3.1 be advised by Members and officers of any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, policy, procedural or other constitutional issues that are likely to (or do) arise;
- 3.2 access to any meetings of officers or Members (or both) of the authority, whether or not such meetings include any other persons. (For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council);
- 3.3 receive advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a decision of the Council may be made, formulated or briefed upon (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet Member, committee meetings and Corporate Management Teams (or equivalent arrangements);
- 3.4 require when carrying out any investigations(s):-
- (a) advice and assistance from the authority that he or she considers is reasonably needed to assist him or her;
  - (b) unqualified access to any officer or Member who the Monitoring Officer wishes to make inquiries of or who he or she believes can assist in the discharge of his/her functions; and

- (c) any information and documents held by the Council;
- 3.5 ensure or facilitate that the other statutory officers (Head of Paid Service and S.151/Chief Finance Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, procedural or other constitutional issues that are likely to (or do) arise;
  - 3.6 meet with the Head of Paid Service and the S.151/Chief Finance Officer or Electoral Registration & Returning Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, procedural or other constitutional issues that arise or are likely to arise;
  - 3.7 report on ethical governance issues and on the Constitution following consultation, where appropriate, with the Head of Paid Service and S.151/Chief Finance Officer;
  - 3.8 report to the authority, as necessary on the staff, accommodation and resources he or she requires to discharge his or her statutory functions and to be provided with the same;
  - 3.9 obtain legal advice (either internally or externally) on any matter which he or she believes may be a reportable incident at the authority's expense;
  - 3.10 defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved, subject to any necessary consultation with all or any of Head of Paid Service, S.151/Chief Finance Officer, Leader and Standards Committee.
  - 3.11 notify (after consultation with the Head of Paid Service and the S.151/Chief Finance Officer) the police, the authority's auditors and other regulatory agencies of his or her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
  - 3.12 seek to resolve potential reportable incidents by avoiding or rectifying the illegality, failure of process or breach of code, or by identifying alternative and legitimate methods to proceed whilst retaining the right to make a statutory report where, after consultation with the Head of Paid Service and the S.151/Chief Finance Officer, he or she is of the opinion that such is necessary in order to respond properly to such an incident; and
  - 3.13 prepare any training programme for Members or officers on ethical standards and Code of Conduct issues.

#### **4 Conflicts of Interest**

- 4.1 Where the Monitoring Officer is aware he or she has a potential conflict of interest in performing his or her duties he or she shall consult the Head of Paid Service
- 4.2 The Monitoring Officer may then either refer the matter to the Deputy Monitoring Officer for investigation, request a neighbouring authority to make their Monitoring Officer available to this Council or nominate another person to investigate the matter and report the results to the Monitoring Officer to allow him to carry out his duties and, as may be appropriate, to the Head of Paid Service and/or the authority.

## **5 Insurance and Indemnity Arrangements**

- 5.1 The S.151/Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

## **6 Sanctions for Breach of the Council's Codes of Conduct and this Protocol**

- 6.1 Complaints against any breach of the Council's Code of Conduct for Members must be referred to the Monitoring Officer. Complaints against any breach of this Protocol by a Member will be referred to the Standards Committee and to the relevant Leader and/or Whip of the Political Party Group. Complaints against any breach of this Protocol by an officer may be referred for disciplinary action.

### Schedule Of Monitoring Officer Functions

Description		Source
1.	Report on contraventions or likely contraventions of any enactment or rule of law.	Section 5 Local Government and Housing Act 1989.
2.	Report of any maladministration or injustice where Ombudsman has carried out an investigation.	Section 5 Local Government and Housing Act 1989.
3.	Report on resources.	Section 5 Local Government and Housing Act 1989.
4	Nomination of officer(s) as Deputy.	Section 5 Local Government and Housing Act 1989.
5.	Receive copies of whistle-blowing allegations of misconduct.	Public interest disclosure (whistle-blowing policy)
6(a)	Investigate allegations of misconduct of councillors under their authority's Code through the Local Assessment of Complaints procedure	<ul style="list-style-type: none"> <li>- LGA 2000 Section 60(2) or 64(2) and 66</li> <li>- Standards Committee (England) Regulations 2008</li> <li>- Local Government and Public Involvement in Health Act 2007</li> <li>- Directions when made in individual cases.</li> </ul>
6(b)	Advise and refer complaints to the Standards Committee in determining allegations of misconduct of councillors under their authority's Code as referred by the Local Assessment of Complaints procedure	
6(c)	Nomination of a person to carry out LGA 2000 Section 60(2) or 64(2) functions where M.O. ought not to	LGA 2000 Section 82A
7.	Establish and maintain registers of members' interests and of gifts and hospitality.	Section 81 LGA 2000 and Code of Conduct.
8.	Key role in support of the Standards Committee in its functions of (a) promoting and maintaining	New council constitutions guidance for English Authorities paragraph 8.20 (published 20.6.02)

	high standards of conduct; and (b) assisting observance of the Code of Conduct by the members and co-opted members of the Council and the town and parish councils within the Council's area	
9.	Advice to members on interpretation of Code of Conduct.	Code of Conduct
10.	New ethical framework functions in relation to Parish Councils.	Section 83(12) LGA 2000
11.	Advising on appropriateness of compensation for maladministration.	Section 92 LGA 2000
12.	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members.	New council constitutions guidance for English Authorities paragraph 8.21 (published 20.6.02)

The Officer holding the designation Monitoring Officer also holds certain Proper Officer appointments as detailed in the Constitution.

# **Part 6 - Members' Allowances Scheme**

## **MEMBERS' ALLOWANCES SCHEME**

2015 - 2016

The Mid Devon District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2003, hereby makes the following scheme:

1. This scheme may be cited as the Mid Devon District Council Members' Allowances Scheme, and shall have effect for the period 1<sup>st</sup> August 2015 until the 31<sup>st</sup> July 2016.

2. In this scheme

"Councillor" means a Member of the Mid Devon District Council who is Councillor;

### **Basic Allowance**

3. Subject to paragraph 8, from 1<sup>st</sup> August 2015 a Basic Allowance of £4,645 shall be paid to each Councillor. Any increases thereafter will be linked to the staff pay award until the next fundamental review.

### **Special Responsibility Allowances**

4. (i) For each year a Special Responsibility Allowance shall be paid to those Councillors who hold the Special Responsibilities in relation to the Authority that are specified in the Schedule to this scheme. These Allowances shall be calculated based upon a weighting applied to the Basic Allowance, therefore any increase in the Basic Allowance as a result of a staff pay award shall also result in an increase to the Special Responsibility Allowances.

(ii) Subject to paragraph 6, the amount of each such Allowance shall be the amount specified against that Special Responsibility in that Schedule.

(iii) No Councillor is entitled to claim more than one Special Responsibility Allowance.

### **Renunciation**

5. A Councillor may, by notice in writing given to the Head of Finance, elect to forego any part of his/her entitlement to an Allowance under this scheme.

### **Part-Year Entitlements**

6. (i) The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to Basic and Special Responsibility Allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a Special

Responsibility in respect of which a Special Responsibility Allowance is payable.

(ii) If an amendment to this scheme changes the amount to which a Councillor is entitled by way of a Basic Allowance or a Special Responsibility Allowance, then in relation to each of the periods:

(a) Beginning with the year and ending with the day before that on which the first amendment in that year takes effect; or

(b) Beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year.

7. The entitlement to such an Allowance shall be to the payment of such part of the amount of the Allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

(iii) Where the term of office of the Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.

(iv) Where this scheme is amended as mentioned in sub-paragraph (ii), and the term of office of the Councillor does not subsist throughout the period mentioned in sub-paragraph (ii)(a), the entitlement of any such Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his term of office as a Councillor subsists bears to the number of days in that period.

(v) Where a Councillor has during part of, but not throughout a year, such Special Responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of that Allowance as bears to the whole the same proportion as the number of days during which he has such Special Responsibilities bears to the number of days in that year.

*(vi) Where this scheme is amended as mentioned in sub-paragraph (ii), and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph (ii)(a) of that paragraph any such Special Responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of the Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such Special Responsibilities bears to the number of days in that period.*



### **Carers' Allowance**

8. A Carers' Allowance of the actual expenditure incurred up to a maximum of the minimum wage of a person over 21 years of age or the actual cost of childcare at an accredited Nursery, will be paid for care of dependants whether children, elderly people or people with disabilities to Members whilst carrying out approved duties. The maximum period of the entitlement will be the duration of the approved duty and reasonable travelling time. The Allowance will not be payable to a Member of the claimant's own household. The Carers' (reasonable) expenses will be paid.

### **Travelling and Subsistence Allowances**

9. Travelling and subsistence allowances will be paid in accordance with the scales of allowance set out in schedule to this scheme in connection with or relating to such duties as are within one or more of the following categories:
- (a) the attendance at a meeting of the authority or of any committee or sub committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub committee of such a body;
  - (b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee provided that it is a meeting to which members of at least two such groups have been invited,
  - (c) the attendance at a meeting of any association of authorities of which the authority is a member;
  - (d) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
  - (e) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
  - (f) any conference or meeting of any body where the Council or a Committee have agreed to send a representative;
  - (g) as a member of a deputation approved by the authority, a committee or sub committee;

- (h) the Chairman or Vice Chairman of the authority, Committees or Policy Development Groups at meetings with a Chief Officer where Council or Committee business is discussed;
- (i) the Chairman of the Council and Chairmen of Committees acting in such capacity at meetings of Parish Councils;
- (j) Civic Receptions and other social functions;
- (k) Members attending meetings of Parish Councils within their Wards, or as Ward Member at meetings at the request of a Parish Council; and
- (l) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or of any of its committees or sub-committees.

### **Payments**

10. (i) Payments shall be made in respect of Basic and Special Responsibility Allowances, subject to sub-paragraph (ii), in instalments of one twelfth of the amount specified in this scheme on the 22<sup>nd</sup> day of each month.
- (ii) Where a payment of one twelfth of the amount specified in this scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 8, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- (iii) Members who have their own IT equipment will receive a one-off payment of £75 per year. Members who use Council IT equipment will not receive a one-off payment.

### **Claims**

11. Claims for the payment of dependent carers' allowance and travelling and subsistence allowances must be made by the person to whom they are payable within two months of the date on which an entitlement to such allowance arises. Such claims must be evidenced by relevant receipts.

### **Pensions**

12. None of the allowances contained within this scheme shall be eligible for inclusion within the Local Government Pension Scheme.

### **Tax and Benefits**

13. Income Tax

- a) Basic, Special Responsibility and Carers Allowances are subject to Income Tax as they are payments made in respect of the duties of an office.
- b) The HMRC is notified of the names and addresses of all Members who claim taxable allowances. Tax is deducted at basic rate until the HMRC notified the Council of the appropriate tax code for each Member.
- c) Some expenses incurred by Members in the course of their Council duties may be deductible against tax. Any Member who believes that some of his/her expenses as a Member may be tax deductible should contact his/her Tax Office.

#### 14. National Insurance Contributions

- a) Basic, Special Responsibility and Carers Allowance payments will attract National Insurance (NI) Contributions at levels that vary depending on the total earnings of Members.
- b) Some Members may not be liable to any NI Contributions on Allowances if they are over the state retirement age; in accordance with prevailing legislation. See the Government website for more information. <https://www.gov.uk/tax-national-insurance-after-state-pension-age>
- c) Some Members, who are married women or widows who have elected to pay reduced rate NI Contributions may also need to have the NI Contributions on Allowances calculated at a reduced rate.
- d) Members who are self-employed may also be subject to different levels of NI Contributions.
- e) Members who believe that they fall into any of the above categories should contact the Head of Finance who will seek further information to assist with the query. Members should also obtain the appropriate certificates from the Department of Work and Pensions (DWP).

#### **Chairman's Civic Budget**

15. A small budget (not exceeding £2,000 and to be agreed each year during the budget setting process) be allocated to the Chairman of the Council for civic functions.

Payments with regard to his or her Civic role should be paid retrospectively and only on production of a receipt/s

#### **IT Allowances**

16. Until 31<sup>st</sup> July 2016 IT allowances will be paid as follows:

- a) For Members using either a Council iPad or their own digital device there shall be a payment of £75 per annum plus a Broadband payment of £15 per month.
- b) For Members receiving paper copies of minutes and agendas but using their own equipment to communicate with the Council and their electorate by email, a payment of £75 per annum will be made plus a Broadband payment of £15 per month.
- c) Members who use a Council laptop will not receive an annual payment of £75 but will have their Broadband costs paid directly by the Council.

**DATED** this 15<sup>th</sup> day of July 2015

## SCHEDULE

With effect from 1<sup>st</sup> August 2015, the following are specified as Special Responsibilities in respect of which Special Responsibility Allowances are payable, and the amounts of those Allowances:

Leader of the Council	£13,935
Deputy Leader of the Council	£6,968
Cabinet Member	£5,806
Chairman of Scrutiny Committee	£5,806
Chairmen of Policy Development Groups	£3,484
Chairman of Audit Committee	£3,484
Chairman of the Planning Committee	£5,806
Chairman of the Licensing/Regulatory Committee	£2,323
Chairman of the Standards Committee	£1,125
Chairman of the Council	£2,323

With effect from 1<sup>st</sup> August 2015, the following amounts are specified as the amounts of allowance payable in respect of travelling and subsistence arising from those approved duties set out within this scheme:

(a) Travelling Allowances:

- 45p per mile for the first 10,000 miles
- 25p per mile thereafter
- 5p per mile per passenger carried (up to a maximum of 4 passengers, payable to the driver)
- 20p per mile for bicycles

(b) Subsistence Allowances

Breakfast	£6.83
Lunch	£9.43
Tea	£3.71
Dinner	£11.68

All claims for subsistence must be accompanied by a receipt. The maximum allowance will only be paid where the cost of subsistence is equal to, or

greater than, the maximum allowance.

**FOR INFORMATION AND CLARIFICATION - NOT PART OF THE APPROVED SCHEME**

**ELIGIBILITY TO ALLOWANCES AND EXPENSES**

**ALLOWANCES CLAIMABLE**

Description of Approved Duty	Carers' Allowance	Travel & Subsistence
1. (a) Meetings of Council, Cabinet, Policy Development Groups, Audit, Scrutiny and Regulatory Committees (Members of Committees or Substitutes)  (b) Non-Committee Members attending	YES  YES	YES  YES
2. Meetings of bodies to which the Authority makes appointments, or of Cabinet, Policy Development Groups, Audit, Scrutiny and Regulatory Committees	YES	YES
3. Any meeting authorised by the Authority, Cabinet, Policy Development Groups, Audit, Scrutiny or Regulatory Committees to which duly appointed representatives of more than one Political Group have been appointed  Non-duly appointed Members	YES  NO	YES  YES
4. A meeting of a Local Authority Association	YES	YES
5. Any conference or meeting of any body where the Council or a Committee have agreed to send a representative	YES	YES
6. (a) Any visits or inspections undertaken by Members, approved by the Authority or any Cabinet, Policy Development Groups, Audit, Scrutiny or Regulatory	YES	YES

	Committees. (Members of Committee or Substitutes)		
	(b) Non-Committee Members attending by invitation of the Cabinet, Policy Development Group, Audit, Scrutiny and regulatory Committees.	YES	YES
	(c) Non-Committee Members attending uninvited	NO	YES
7.	As a Member of a deputation approved by the Authority, the Cabinet, Policy Development Group, Audit, Scrutiny or Regulatory Committees.	YES	YES
8.	By Chairman or Vice-Chairman of the Authority, Cabinet, Policy Development Group, Audit, Scrutiny and Regulatory Committees at meetings with a Chief Officer where Council or Committee business is discussed	YES	YES
9.	By Chairman of the Council and Chairman of Committees acting in such capacity at meetings of Parish Councils	YES	YES
10.	For any particular duty for which express authority from time to time is given by the Authority or in case of emergency by the Chairman or Vice-Chairman of the Authority	NO	YES
11.	Civic Receptions and other social functions	NO	YES
12.	Members attending meetings of Parish Councils within their Wards, or as Ward Member at meetings at the request of a Parish Council	NO	YES

Notes:

- (1) In all cases, the duties for which claims are made must have been approved prior to the event.



- (2) Meetings (3 above) includes Working Groups, approved seminars, and Briefing meetings where more than one Political Group is invited
- (3) Other Briefing meetings fall within (8) above.

(Councillors\Members' Allowances Scheme)  
15/16

# Part 6 – Management Structure



## FUNCTIONS OF THE LICENSING COMMITTEE

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If an objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representations made
Application for provisional statement		If a representation made	If no representations made
Application to vary premises /licence/club premises certificate		If a representation is made	If no representations made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases

Application to review premises licence /club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
<ul style="list-style-type: none"> <li>• Functions permitted under the Gambling Act 2005</li> </ul>			
<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officers</b>
Three year licensing Statement of Principles	X		
Policy not to permit casinos	X		
Fee Setting (when appropriate)			X

Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence		X	
Application for club gaming / club machine permits		Where objections have been made (and) not withdrawn	Where no objections made / objections have been withdrawn
Cancellation of club gaming / club machine permits		X	
Applications for other permits			X

Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

MODEL DECISION RECORDING FORM

DECISION:

REASON FOR DECISION:

DECISION BY:
<p>* Cabinet Member .....</p> <p>* Officer .....</p> <p style="text-align: right;"><i>* Member or Officer as appropriate</i></p>

CONSULTEES

WARD	
------	--

HAS/HAVE WARD MEMBER(S) BEEN CONSULTED?	YES*/NO (delete as appropriate)
---	---------------------------------

COMMENTS OF WARD MEMBER(S)



COMMENTS OF OTHER CONSULTEES	
DATE OF DECISION:	
EXEMPT INFORMATION?	YES*/NO (delete as appropriate)
*If yes to either question, state why:	
FINANCIAL, LEGAL & EQUALITY ISSUES, IF ANY:	
RISK ASSESSMENT	
ADDITIONAL INFORMATION/DOCUMENTS TAKEN INTO ACCOUNT:*	
* additional means additional to anything containing exempt information	

SIGNED

.....

(Member or officer taking decision)

DATE ..... (of decision)

IMPORTANT NOTE: This form shall be circulated to Members and also published on Sharepoint.

**DELEGATION OF CABINET FUNCTIONS**

**Leader**

<i>Function</i>	<i>Lead Officer</i>	<i>Committee</i>
Chairmanship of the Cabinet	CEO	Cabinet
Appointment/removal of the Deputy Leader	CEO	N/A
Appointment/removal of Cabinet Members	CEO	N/A
Determining the number of Cabinet Members as per the Constitution	CEO	N/A
Determining the role and responsibilities of each Cabinet Member	CEO	N/A
Advice to Council on overall Strategy and Core Policies	CEO	Council / Cabinet
Overall Financial Corporate Management of the Council	HOF&S151	Council / Cabinet
Overall Governance arrangements of the Council (including Annual Governance Statement, Risk Management and Performance Management)	HCG&MO	Audit
Liaison with Chairman of Scrutiny Committee and Chairman of Policy Development Groups as to programme of work of policy development and review	CEO	N/A
Duties in relation to urgent business and the call-in mechanism	HCG&MO	N/A
Media and public relations	CEO	Cabinet
Emergency Plan	HHP	Cabinet
Ombudsman Complaints	HCG&MO	Cabinet
Member Development	HCG&MO	Cabinet
State of the District Debate	CEO	Council
Developing and maintaining partnerships with other councils	CEO	Cabinet
Developing and maintaining joint arrangements for the delivery of services	CEO	Cabinet
Review Government agenda for shared services	CEO	Cabinet

**Community Well Being**

Function	Lead Officer	Committee
Community engagement and consultation	HCG&MO	CWB PDG
Community Development	HCG&MO	CWB PDG
Grants and Funding	HCG&MO	CWB PDG
Equalities	HCG&MO	CWB PDG
Leisure	HHR&D	CWB PDG
Licensing	HHR&D	Licensing
Food and water control	HHR&D	CWB PDG
Pollution and Noise control	HHR&D	CWB PDG

External Health and Safety	HHR&D	CWB PDG
Local Welfare Assistance	HF&S151	CWB PDG
Digital Transformation	HCS	Cabinet
ICT services	HBIS	Cabinet
Land Charges	HBIS	Cabinet
Information Management (Data Protection, Freedom of Information, Information Security)	HBIS	Cabinet
Gazetteer Management	HBIS	Cabinet

## Environment

Function	Lead Officer	Committee
Air Quality	HHR&D	MTE PDG
Contaminated Land	HHR&D	MTE PDG
Climate and Energy	HHP	MTE PDG
Open Spaces and Play Areas	HHP	MTE PDG
Grounds Maintenance	HHP	MTE PDG
Cemeteries	HHP	MTE PDG
Trees	HHP	MTE PDG
Waste Collection and Recycling	HF&S151	MTE PDG
Street Cleaning	HF&S151	MTE PDG
Environmental Enforcement (includes abandoned vehicles, animal control, fly tipping, fly posting)	HF&S151	MTE PDG
Flood risk management	HPR/HHP	MTE PDG
Flood defence and land drainage	HPR/HHP	MTE PDG
Car Parking	HF&S151	MTE PDG
Clocks and Monuments	HHP	MTE PDG

## Finance

Function	Lead Officer	Committee
Revenue budget development and proposals to Council for HRA and GF	HF&S151	Cabinet
Budget Monitoring	HF&S151	Cabinet
Review of virement and spending limits	HF&S151	Cabinet
Medium Term Financial Strategy	HF&S151	Cabinet
Treasury Management and Investments	HF&S151	Cabinet
Capital Programme – planning of resources and expenditure	HF&S151	Cabinet
Financial and Contract Procedure Rules	HF&S151	Audit
Annual Report and Accounts	HF&S151	Audit
Internal Audit	HCG&MO	Audit
External Auditor	HF&S151	Audit
Benefits	HF&S151	Cabinet
Council Tax & Revenues	HCS	Cabinet
Procurement	HF&S151	Cabinet

## Housing and Property Services

Function	Lead Officer	Committee
HRA Housing	HHP	DAH PDG
Neighbourhood and Tenancy Management	HHP	DAH PDG
HRA Income collection	HHP	DAH PDG
Tenant Involvement	HHP	DAH PDG
Homelessness prevention	HHP	DAH PDG
Housing Needs and Allocations	HHP	DAH PDG
Housing Enabling	HHP	DAH PDG
Building Maintenance	HHP	DAH PDG
Property Services	HHP	MTE PDG
Public Conveniences	HHP	MTE PDG
Asset Management	HHP	MTE PDG
Commercial & HRA properties	HHP	MTE PDG
MDDC depots & property	HHP	MTE PDG
Private Sector Housing	HHR&D	DAH PDG

### Planning and Economic Regeneration

Function	Lead Officer	Committee
Local Plan	HPR	Cabinet
Development Management Policies	HPR	Cabinet
Development Control	HPR	Planning
Forward Planning	HPR	Planning
Conservation	HPR	Planning
Building Control	HPR	Cabinet
Planning Enforcement	HPR	Planning
Gypsy sites	HPR	Planning
Urban and Rural regeneration	HPR	Cabinet
Economic Development	HCG&MO	Cabinet
Town Centre regeneration	HCG&MO	Cabinet
Tourism	HCG&MO	Cabinet
Services for business	HCG&MO	Cabinet
Markets	HCG&MO	Cabinet

### Working Environment and Support Services

Function	Lead Officer	Committee
Customer First	HCS	CWB PDG
Complaints	HCS	Cabinet
Electoral Services	CEO	Cabinet
Member Services	HCG&MO	Cabinet
Legal Services	HCG&MO	Cabinet
Complaints about Councillors	HCG&MO	Standards
Human Resources	HHR&D	Cabinet
Learning and Development	HHR&D	Cabinet
Links with Trade Unions	HHR&D	Cabinet
Job Evaluation	HHR&D	Cabinet
Internal Health & Safety	HHR&D	Cabinet

Safeguarding of Children and Vulnerable Adults	HCG&MO	CWB PDG
Community Safety	HHP	CWB PDG
Anti-Social Behaviour	HHP	CWB PDG
CCTV	HHR&D	CWB PDG
Health Services	HHR&D	CWB PDG

Key:

CEO – Chief Executive (Head of Paid Service)  
HCG&MO – Head of Communities and Governance (Monitoring Officer)  
HF&S151 – Head of Finance (Section 151 Officer)  
HHP – Head of Housing and Property  
HHR&D – Head of Human Resources and Development  
HCS – Head of Customer Services  
HPR – Head of Planning and Regeneration  
HBIS – Head of Business Information Services

PETITION SCHEME

ACCESS TO INFORMATION - EXEMPT INFORMATION

Category	Qualification	Interpretation
Information relating to any individual	The exemption applies only if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (see note on public interest at the end of the table).	
Information which is likely to reveal the identity of an individual	The Public Interest Test Qualification applies, as in 1 above.	
Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>The Public Interest Test Qualification applies, as in 1 above.</p> <p>"Financial or business affairs" includes contemplated, as well as past or current, activities. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under -</p> <p>the Companies Act 2006;</p> <p>the Friendly Societies Act 1974;</p> <p>the Friendly Societies Act 1992;</p> <p>the Industrial and Provident Societies Acts 1965 to 1978;</p> <p>the Building</p>	<p>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>"person" includes any public authority, company, or other legally constituted organisations and the partners in a partnership or firm.</p>

**Category****Qualification****Interpretation**

Societies Act 1986 ["registered" in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).]; or

the Charities Act 2011.

Information relating to any consultations or negotiations, contemplated consultations or negotiations, in connect with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

The Public Interest Test Qualification applies, as in 1 above.

Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or document the question whether information is exempt or not falls to be determined. "labour relations matter" means-

any of the matters specified in paragraphs (a) to (g) of section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or

any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above,



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		<p>with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>"employee" means a person employed under a contract of service;</p> <p>"office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority;</p>
<p>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	
<p>Information which reveals that the authority proposes-</p> <p>to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>to make an order or direction under any enactment.</p>	<p>The Public Interest Test Qualification applies, as in 1 above.</p>	<p>Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.</p> <p>"person" includes any public authority, company, or other legally constituted organizations and the partners in a partnership or firm.</p>
<p>Information relating to any action taken or to be taken in connection with the</p>	<p>The Public Interest Test Qualification applies, as in</p>	

Category	Qualification	Interpretation
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prevention, investigation or prosecution of crime. 1 above.

NOTE -The Public Interest Test

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined –

The Authority must release the information unless “*in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*”.

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.

- There is a distinction between the public interest and what merely interests the public.
- Does it further the understanding of and participation in the public debate of issues of the day?
- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?
- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?
- Does it bring to light information affecting public health and public safety?

**FINANCIAL REGULATIONS**

To be inserted

**THE NOTICE OF PERSONAL INTEREST FORM**

To be inserted

**GIFTS AND HOPSITALITY FORM**

To be inserted

## Councillor Job Role

All Councillors must adhere to the code of conduct and the 7 Nolan Principles of Public Life

Councillors need to balance the needs and interests of their community, their political party or group (if they are a member) and the council as a whole.

As a councillor you would have an important role in the major decisions that affect people's lives. Local councils are responsible for a whole range of services; waste, recycling, environmental services, planning, housing, benefits, leisure facilities and many more. As a councillor you will help determine the way these services are provided, funded and prioritised.

All councillors are advocates for their communities and are 'case workers' for their individual constituents when advice or support is requested. Whilst councillors do spend time in council meetings, much of a councillor's time is spent within their communities speaking and working with members of the public and community groups.

All councillors are members of the full Council which sets the overall policies and budget.

A common role for all councillors however, irrespective of any formal position or membership of a committee is that of 'community leadership'. For the individual councillor, being a community leader can mean a number of things. Acting as an advocate for the best interests of one's ward; lobbying for local concerns; influencing partner organisations to work to a common vision; resolving conflict amongst community organisations; encouraging community organisations to develop solutions in their own communities; balancing competing demands for resources when making decisions in the best interests of the whole authority area.

In your role as a Mid Devon District Councillor you may be appointed to serve on outside bodies such as a partnership between the council and other organisations, or to the committee or board of a local voluntary organisation. These are important positions for the council to fulfil its community leadership role. Some of these positions can be very demanding and some may require you to build up new knowledge or develop specialist skills. Some positions have legal responsibilities and liabilities as you may be accepting the position of director of a company or trustee of a charity, depending on the legal structure of the organisation concerned. If in doubt, ask for full advice before being nominated for a position.

### **All Councillors:-**

#### **Community Leader**

- Champion your Ward
- To represent individual constituents and local organisations, undertaking casework and enquiries on their behalf

- Represent the community within the Council and other agencies
- Campaign on local issues
- Able to engage with all groups within your Community
- Keep in touch with community issues and be accessible to constituents

### **Decision maker and influencer**

- Make well informed decisions at Council meetings
- Make decisions based on the best interest of the whole District
- To represent the Council (subject to appointment) on outside bodies
- Liaise with Town and Parish Councils and Parish Meetings
- To contribute actively to the scrutiny of the Council.

### **Day to Day Councillor**

- Adhere to the various codes of conduct and protocols that the Council may adopt and to act at all times with probity
- Develop and maintain a general working knowledge of the Council and other organisations and services within the District
- Develop good working relationships with Council officers
- Prioritise and manage own workload, managing conflicting demands on your time
- Understand, challenge and interpret information
- Maintain confidentiality in all relevant Council business and constituent casework
- Communicate effectively with different audiences
- Act as a facilitator.
- Participate in training and development provided for Councillors by the Council
- Feedback information to the other Councillors from representation on an outside body or from any relevant training
- Being prepared for meetings – reading agendas and if you have questions contact the relevant department

### **Rights of Councillors**

- Submit a motion to Council
- Participate in a debate at Council
- Ask a question at Council
- Question the decision-making process by using the 'call-in' facility in respect of Cabinet decisions (if the principles of decision-making in Article 12.02 have not been followed)
- In your capacity as a Ward Councillor call in a planning application to the Planning Committee if there is an appropriate material planning consideration

### **Duties and responsibilities of Councillors**

- To declare any Disclosable Pecuniary Interests and Personal Interests as and when appropriate
- Councillors will not make public information which is confidential or exempt or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it

- Find a substitute for a meeting for which substitution is permissible, when personal attendance is not possible and to brief the substitute on the meeting to be attended

## **Chairman of non-regulatory Committees**

The non regulatory Committees are the Policy Development Groups, Audit Committee and Standards Committee

For information on the roles of the Policy Development Groups, the Audit Committee and Standards Committee please see Articles 7 to 10

The Policy Development Group (PDG)/Committee chairman will:

- Provide leadership and direction to the PDG/Committee
- Ensure that adequate resources (including officer support) are identified and sought from the Council
- Encourage Committee members to obtain necessary skills to contribute the work of the Committee and to work with officers to provide training if necessary
- Chair the PDG/Committee meetings and ensure that the PDG/Committee achieves its terms of reference
- Lead the PDG/committee in prioritising its work so as to ensure effectiveness
- Endeavour to engage all members of the PDG/Committee within the work of the PDG/Committee
- Develop a constructive relationship with relevant Cabinet Members and Heads of Service
- To co-ordinate work with the Scrutiny Committee and PDGs/Audit Committee

Members on the PDG/Committee will:

- Assist with the development of an effective work programme
- Be responsible for the outputs and outcomes of the work of the PDG/Committee
- Receive evidence in an impartial manner
- Analyse and challenge information presented to the PDG/Committee
- Make recommendations based on the PDG's/Committee's deliberations
- Obtain necessary skills to carry out the role and to work with officers to provide specialist training if necessary
- Find a suitable substitute and brief them on the meeting due to be attended, on occasions when personal attendance is not possible and where substitutes are permissible
- Ensure that they treat visitors, whether other members or officers or people from outside of the Council, with respect, courtesy and politeness

## **Chairman of regulatory Committees**



The regulatory Committees are Planning Committee, Licensing Committee and the Licensing Regulatory Committee

For information on the roles of the Planning Committee, Licensing Committee and Licensing Regulatory Committee please see Article 11

The Planning, Licensing or Licensing Regulatory Committee chairman will:

- Provide leadership to the Committee
- Demonstrate to the public, applicants, objectors etc, fair and open decision making by or on behalf of the Committee
- Ensure that adequate resources are identified and sought from the Council
- Chair and manage Committee meetings and ensure the Committee achieves its terms of reference.
- Encourage Committee members to obtain necessary skills to contribute the work of the Committee and to work with officers to provide training if necessary
- Endeavour to engage all members of the Committee in its activities
- Lead the Committee, in consultation with officers, in prioritising its work
- Develop a constructive relationship with the relevant Heads of Service and their staff and where appropriate, with the relevant Cabinet Member(s)
- Be willing to learn about the professional disciplines and services relevant to the work of the Committee
- Find a suitable substitute and to brief them on the meeting due to be attended, on occasions when personal attendance is not possible
- Chair the committee in a fair and open manner in accordance with the procedures of the committee, applicants and objectors to put their arguments to the committee
- Guide, with the assistance of officers, the committee to reach decisions based on the information presented to it.
- Chair all planning working groups and site visits in accordance with the specific procedures

Members on the Planning Committee will:

- Undertake specialist planning committee training
- Have up to date knowledge of planning and development control, law and regulations
- Have up to date knowledge of local and national planning policy (including Local Development Plans, Code of Good Practice for Planning and the National Planning and Policy Framework)
- Have an understanding of case law
- Have an understanding of the Mid Devon District Council Local Plan

Members on the Licensing & Licensing Regulatory Committees will:

- Undertake specialist training
- Have up to date knowledge of licensing regulations
- Have up to date knowledge of the Licensing Act 2003 and the Gambling Act 2005
- Have up to date knowledge of local and national licensing policy

- Have an understanding of case law
- Have an understanding of Community Plans and Crime and Disorder Strategies

## **Chairman of the Council**

The Chairman of the Council is elected annually by Full Council at the Annual General Meeting

For information on the role of the Chairman of the Council please see Article 5

Chairman of the Council and in his/her absence, the Vice-Chairman will have the following roles and functions:

- Chairing the Council meeting, upholding and promoting the purposes of the Constitution, and interpreting the Constitution when necessary
- Presiding over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community
- Ensuring that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the Cabinet to account
- The Chairman (or in their absence the deputy Chairman) to attend such civic and ceremonial functions as the Council, the Chairman or the Leader determines appropriate
- Be consulted by the Chief Executive in respect of any motions submitted by Councillors to ensure that all appropriate and relevant motions are included on the Council agenda

## **Leader of the Council**

- Provide an overall cohesive, political and strategic leadership and direction for the Council
- Appoint, manage and remove the Deputy Leader and Cabinet Members
- Lead and chair the Cabinet and ensure its overall effectiveness
- Work with Cabinet Members to ensure effective delivery of services
- Ensure effective communication and explanation of all Cabinet's decisions and recommendations to Council and the public
- Ensure that the Cabinet manages the business of the Council within the financial parameters and framework set by the Council
- Encourage Cabinet members to obtain necessary skills to contribute the work of the Cabinet and to work with officers to provide training if necessary
- Act as Line manager to the Chief Executive Officer
- Communicate the Administration's policies and priorities to the Management Team and to receive their advice
- Be the main political representative of the Council, with others as appropriate, in dealing with the Community, business, voluntary sector and other local and national organisations

- Contribute to fully effective liaison with political groups within the Council
- Call the annual State of the District debate

Note: The above duties and responsibilities are in addition to the member's role as a Councillor and as a Cabinet Member (see separate job profile)

## **Deputy Leader**

- Assist and work with the Leader of the Council in delivering his/her responsibilities to the Council
- Deputise for the Leader of the Council in his/her absence from Cabinet meetings and any other responsibilities as requested
- Carry out the requirements of his/her role so far as legally possible in the absence of the Leader of the Council
- Carry out such other duties and undertake portfolio responsibility as delegated by the Leader of the Council

Note: The above duties and responsibilities are in addition to the member's role as a Councillor and as a Cabinet Member (see separate job profile)

## **Cabinet Member**

The Cabinet is responsible for all local authority functions which are not the responsibility of any other part of the Council, provided the decisions made are within the Council's agreed policy and budget framework.

For more information about the roles and functions of the Cabinet Member please see the Cabinet Member functions list – Appendix C

- Act as the Lead Member for a particular portfolio as may be determined by the Leader of the Council, but in doing so, have regard to the overall collective responsibilities of the Cabinet and the Council's corporate policy objectives. Champion the portfolio concerned within that strategic context
- Participate effectively as a Cabinet Member at Cabinet Meetings taking joint responsibility for all actions and be collectively accountable
- Make delegated decisions within the portfolio
- Build good relationships with appropriate officers and work with them in developing policy or strategic issues prior to formal reporting. Be supportive in dealing with any problems at a strategic level
- Take a proactive approach to the early engagement of overview through Policy Development Groups to help in policy development
- Provide political direction to Officers working within the portfolio
- Ensure up to date knowledge of related developments and policies at national, regional and local level
- Enhance the Council's reputation through taking the national stage where possible and participating in regional and national networks
- Attend Scrutiny Committee meetings in relation to Portfolio responsibilities and decision making
- Have an overview of performance management, efficiency and effectiveness of the portfolio

- Act as a strong, competent and persuasive figure to represent the portfolio and be a figurehead in meetings with stakeholders
- Be prepared to take part in learning and development opportunities to ensure that the role is undertaken as effectively as possible
- Represent the Council on external bodies and feed back to Cabinet or Council any issues of relevance and importance.
- Influence operational decisions relating to the Portfolio.
- Deal with the media on issues relating to the Portfolio.
- With colleague Cabinet Members and the Management Team be available and accessible to other Members to discuss queries or matters of concern
- Communicate with ward members any issues taking place in their area and of any visits or meetings that are taking place in their ward area

## **Scrutiny Committee**

For information on the role of the Scrutiny Committee please see Article 7

### **Scrutiny Committee Chairman**

The Chairman of Scrutiny is elected annually by Full Council at the Annual General Meeting

The Scrutiny Committee chairman will:

- Provide leadership and direction to the Committee
- Ensure that adequate resources (including officer support) are identified and sought from the Council
- To chair the Scrutiny Committee meetings and ensure that the Committee achieves its terms of reference
- Lead the committee in prioritising its work so as to ensure effective scrutiny
- Endeavour to engage all members of the Committee within the Scrutiny process
- Develop a working relationship with the Cabinet
- Develop a constructive relationship with Management Team
- To co-ordinate work with the Policy Development Groups and Audit Committee
- To encourage Committee members to obtain necessary skills to contribute the work of the Committee and to work with officers to provide training if necessary

### **Scrutiny Committee Member**

Members on the Scrutiny Committee will:

- Assist with the development of an effective work programme
- Engage with all stages of the scrutiny process
- Be responsible for the outputs and outcomes of scrutiny

- Receive evidence in an impartial manner
- Analyse and challenge information presented to the Committee
- Make recommendations based on the Committee's deliberations
- Obtain necessary skills to carry out the Scrutiny role and to work with officers to provide training if necessary
- Find a suitable substitute and brief them on the meeting due to be attended, on occasions when personal attendance is not possible and where substitutes are permissible
- Ensure that they treat visitors, whether other members or officers or people from outside of the Council, with respect, courtesy and politeness

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