

# South Hams Overview and Scrutiny Panel



<b>Title:</b>	<b>Agenda</b>												
<b>Date:</b>	<b>Thursday, 1st April, 2021</b>												
<b>Time:</b>	<b>10.00 am</b>												
<b>Venue:</b>	<b>Via Teams</b>												
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Birch</p> <p style="text-align: center;"><b>Vice Chairman</b> Cllr Smerdon</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Austen</td> <td>Cllr Reeve</td> </tr> <tr> <td>Cllr Chown</td> <td>Cllr Rose</td> </tr> <tr> <td>Cllr Jackson</td> <td>Cllr Spencer</td> </tr> <tr> <td>Cllr McKay</td> <td>Cllr Sweett</td> </tr> <tr> <td>Cllr O'Callaghan</td> <td>Cllr Thomas</td> </tr> <tr> <td>Cllr Pennington</td> <td></td> </tr> </table>	Cllr Austen	Cllr Reeve	Cllr Chown	Cllr Rose	Cllr Jackson	Cllr Spencer	Cllr McKay	Cllr Sweett	Cllr O'Callaghan	Cllr Thomas	Cllr Pennington	
Cllr Austen	Cllr Reeve												
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Cllr McKay	Cllr Sweett												
Cllr O'Callaghan	Cllr Thomas												
Cllr Pennington													
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.												
<b>Committee administrator:</b>	Democratic.Services@swdevon.gov.uk												

<b>1. Apologies for Absence</b>	
<b>2. Minutes</b>	<b>1 - 8</b>
to approve as a correct record the minutes of the Panel held on 25 February 2021;	
<b>3. Urgent Business</b>	
brought forward at the discretion of the Chairman;	
<b>4. Division of Agenda</b>	
to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;	
<b>5. Declarations of Interest</b>	
Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting;	
<b>6. Public Forum</b>	<b>9 - 10</b>
A period of up to 15 minutes is available to deal with issues raised by the public;	
<b>7. Executive Forward Plan</b>	<b>11 - 14</b>
<b>Note:</b> If any Member seeks further clarity, or wishes to raise issues regarding any future Executive agenda item, please contact Democratic Services before <b>5.00pm on Monday 29 March 2021</b> to ensure that the lead Executive Member(s) and lead officer(s) are aware of this request in advance of the meeting.	
<b>8. Section 106 Agreement Monitoring Update Report</b>	<b>15 - 22</b>
<b>9. Sustainable Community Locality Fund - Update</b>	<b>23 - 30</b>
<b>10. LGA Model Code of Conduct</b>	<b>31 - 78</b>
<b>11. Annual Report 2020-21</b>	<b>79 - 88</b>

- 12. Task and Finish Group Updates:** **89 - 96**
- (a) Feedback from Outside Bodies – Concluding Report;
- 13. 2021/22 Panel Work Programme - Initial Thoughts** **97 - 98**

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**MINUTES OF THE MEETING OF THE  
OVERVIEW & SCRUTINY PANEL,  
HELD REMOTELY VIA TEAMS, ON  
THURSDAY, 25 FEBRUARY 2021**

<b>Panel Members in attendance:</b>			
* Denotes attendance		∅ Denotes apology for absence	
*	Cllr L Austen	*	Cllr H Reeve
*	Cllr J P Birch (Chairman)	*	Cllr J Rose
*	Cllr M Chown	*	Cllr P C Smerdon (Vice Chairman)
*	Cllr S Jackson	*	Cllr B Spencer
∅	Cllr J McKay	*	Cllr J Sweett
*	Cllr D M O'Callaghan	∅	Cllr D Thomas
*	Cllr J T Pennington		

<b>Other Members also in attendance:</b>
Cllrs V Abbott, K J Baldry, H D Bastone, J Brazil, J Hawkins, N A Hopwood, K Kemp, T Holway, J A Pearce, K Pringle, R Rowe and B Taylor

<b>Item No</b>	<b>Minute Ref No below refers</b>	<b>Officers in attendance and participating</b>
All		Chief Executive; Deputy Chief Executive; Director Strategic Finance; Director Place and Enterprise; Democratic Services Manager; Monitoring Officer, Head of Housing, Revenues, and Benefits; Head of Strategy and Projects; Senior Specialist – Place making; Specialist – Leisure; and Democratic Services Specialist

**O&S.35/20 MINUTES**

The minutes of the meeting of the Overview and Scrutiny Panel held on 14 January 2021 were confirmed as a correct record.

**O&S.36/20 DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

**O&S.37/20 PUBLIC FORUM**

In accordance with the Public Forum Procedure Rules, the Chairman informed that no questions had been received for consideration.

**O&S.38/20 EXECUTIVE FORWARD PLAN**

The Panel was presented with the most recently published Executive Forward Plan and noted its content without any further comment.

**O&S.39/20 CONNECTING DEVON AND SOMERSET**

At the invitation of the Panel, Matt Barrow (Stakeholder Engagement Officer at Devon County Council (DCC)) and Cllr Rufus Gilbert (Lead Councillor DCC, for Prosperity and Broadband) were in attendance to provide a presentation that updated on the work of Connecting Devon and Somerset's broadband project. Main points outlined were:

- Aim of project was to deliver on superfast agenda from Central Government;
- South Hams District Council (SHDC) was in 'Lot F' along with Teignbridge County Council, with first premises going live in July 2021;
- 1 million premises initially identified, with 300,000 premises passed, and 270,000 superfast broadband to homes and businesses; and
- 50,165 total premises identified in SHDC area, total delivered 38,897 (77.54%). Total delivered and planned was 48,204 which left 1,961 premises, and an overview of how these would be dealt with was provided to the meeting.

The Deputy Chief Executive then updated the Panel on the imminent recruitment of a Community Broadband Support Officer. Funding for this post had been achieved through match funding bid with the Local Government Association and West Devon Borough Council, and was for a twelve month period. It was intended that, when employed, the officer would engage with communities to develop best schemes, working closely with Connecting Devon and Somerset and suppliers, to facilitate project and timescales.

It was then:

**RESOLVED**

That the Panel welcome the proposed broadband provision as set out in the report and presentation, and the appointment of a Broadband Community Support officer, who, four months after his/her appointment, will report to the Panel on the progress in respect of the responsibilities set out at paragraph 3.2 of the presented agenda report.

**O&S.40/20 LEISURE CONTRACT – FUSION ANNUAL REPORT 2020**

The Executive Member for Leisure introduced a report which provided the Panel with Fusion's annual report and outlined plans for 2021.

At the invitation of the Panel, Greg Holland (Fusion, Regional Manager) gave a presentation of the Annual Report, during which the following key points were highlighted:

- Lockdowns 1 and 3 had been hard closures, ie mothballing of centres, with lockdown 2 a soft closure where water temperatures were dropped

rather than heating turned off. Monies received from Council had been used to support maintenance and asset protection.

- Centres would be reopened following Government guidelines, with new covid-19 procedures in place, including risk assessments, increased cleaning regimes, and training for staff, including CIMSPA (Chartered Institute for the Management of Sport and Physical Activity) accredited course.
- Greatest lesson learnt from first lockdown was for increased communication with customers. Mitigation included introduction of dedicated customer service team that would be available seven days a week. Mr Holland also confirmed that it was intended to continue to build on communication with customers.
- Staff review had been carried out in July 2020, with redundancy of 37 positions concluded in November 2020
- Currently working on financial projections for April 2021 to March 2022 – once completed this, and review of pricing structure, would be brought to SHDC.

Further to questions from Members, Mr Holland confirmed that signs would remain in place, as would online bookings and 'Fusion on Demand'. It was also confirmed that the Council and Fusion had applied for funding to cover Lockdown 3, and this payment was expected imminently. Mr Holland confirmed that no staff positions had been lost through the introduction of cashless payment.

It was then:

### **RESOLVED**

That the Overview and Scrutiny Panel note the contents of Fusion's Annual Report for 2020 and proposals for 2021.

## **O&S.41/20 HOUSING STRATEGY 2021-2026 'BETTER HOMES, BETTER LIVES' – CONSULTATION RESPONSES**

The Panel was presented with a report that asked the Panel to consider the approach and responses to the Housing Strategy public and partner consultation. It was noted that there had been a good response to the public consultation with many suggestions being incorporated into the report. The lead officer also confirmed that any recommendations arising from this Panel meeting would be incorporated into the Strategy prior to its consideration by the Executive on 11 March 2021.

During questions from Members, it was clarified that the Council was restricted in its ability to counter the proliferation of second homes and holiday lets, being able to only increase Council Tax Premium (which had been effected), and lobby Central Government for a change in the law. Imposition of permanent residency clauses was constrained by Neighbourhood Plans but was utilised when available. The Leader of the Council noted that previous supply of affordable housing had not

provided for the greatest need, ie the need for family homes, but that this would now be addressed.

It was then:

### **RECOMMENDED**

That the Panel **RECOMMEND** to the Executive changes to the draft Housing Strategy as set out at paragraphs 1.4, 1.5, 2.12, 3.2, 3.3, 3.4, and 3.5 of the presented agenda report.

#### **O&S.42/20 TASK AND FINISH GROUP UPDATES: FEEDBACK FROM OUTSIDE BODIES PROPOSAL**

Further to a Question on Notice that had been raised with the Chair of the Panel at the Council meeting held on 11 February 2021, the Chair proposed the Panel approve the establishment of a Task and Finish Group to review the feedback process for Members sitting on Outside Bodies and the benefit to Council of these positions.

The Chair then recommended to the Panel that:

- A Task and Finish Group be set up to scrutinise the means of reporting back to Council and to evaluate the benefit to Council of it being represented on outside bodies;
- The Group would report back with any recommendations to the meeting of the Panel on the meeting on 1st April 2021. The Chair suggested that the Task and Finish Group should consist of three Members of the Conservative Group and three Members of the Opposition Group, and the Task and Finish Group to be chaired by Cllr Barrie Spencer.

During the ensuing discussion, the following points were made:

- (a) Several Members felt that the detail of the Task and Finish Group should have been left to discussion following the Panel voting to accept the need for a Task and Finish Group. It was also felt that this was not a priority during the Covid Pandemic impacting on officer time.
- (b) Other Members outlined their support for such a task and finish group as they felt that they were unaware of the various representations on Outside Bodies, and what benefit such representation gave to the Council.
- (c) The Chair concluded that this agenda item had been in response to a Member Question on Notice and that the Task and Finish Group

would be working to a very short timescale with a report coming back to the Panel for the meeting on the 1<sup>st</sup> April, 2021. This was to allow any recommendations to go to Executive, and then on to Full Council in time for the Annual Council meeting on 20<sup>th</sup> May 2021 when the representatives of Outside Bodies were voted upon.

- (d) It was acknowledged that many of these Outside Bodies positions were a statutory requirement.

It was then:

### **RESOLVED**

That:

- A Task and Finish Group be set up to scrutinise the means of reporting back to Council and to evaluate the benefit to Council of it being represented on Outside Bodies. And,
- The Group would report back with any recommendations to the meeting of the Panel on 1 April 2021. The Panel to consist of three Members of the Conservative Group and three Members of the Opposition Group, and to be chaired by Cllr Spencer.

Further to this decision being approved, a draft set of Terms of Reference for the Task and Finish Group were then outlined. It was further agreed that there should be only one or two meetings of the Group, and the timetable of meetings should fit into the timetable of the parallel review of the Decision Making report.

It was then:

### **RESOLVED**

- That the draft Terms of Reference (as presented to the meeting) be approved.

## **O&S.43/20 EXTERNAL REPRESENTATIVE(S) ATTENDANCE AT PANEL MEETINGS: LESSONS LEARNED**

The Panel was given an overview of issues and feedback received following attendance by external representatives, at previous meetings:

Main points were:

- Some external presentations had been too long
- With virtual meetings, a Panel meeting being held on the same day as the joint Overview & Scrutiny/Development Management meeting was not well received

- Some agenda reports were being published too close to meetings giving insufficient time for papers to be read, and
- Asking for Members questions in advance (that are then included within the external presentation) was well received

The Deputy Chief Executive then outlined recommended improvements:

- That a properly scheduled and structured annual work programme be approved (thereby ensuring that agendas are not unduly long)
- That advanced questions be invited from Members
- That presentations be time limited
- That any presentation slides /reports from external representatives be included with the published agenda at least five clear working days before the meeting.

During the ensuing discussion, the following points were made:

- (a) A Member stated that materials for meetings needed to be received in sufficient time to allow for reading before questions could be submitted beforehand;
- (b) It was clarified that questions could still be asked at the meeting; and
- (c) The work programme would give advance warning of planned attendance by outside bodies to enable Members to think about questions to be covered in any up-and-coming presentation.

It was then:

### **RESOLVED**

That the following improvements be made to the Panel's working practices:

- That a properly scheduled and structured annual work programme be approved (thereby ensuring that agendas are not unduly long)
- That advanced questions be invited from Members with these being dealt with during the representative(s) presentation;
- That presentations (and any further Member Questions) be time limited;
- That the calendar of meeting for 2021/22 (and thereafter) be drafted to ensure that a Panel meeting is not held on the afternoon of the annual O+S / DM Budget Meeting; and
- That any presentation slides /reports from external representatives be included with the published agenda at least five clear working days before the meeting.

**O&S.44/20 ANNUAL PANEL WORK PROGRAMME**

During consideration of the latest version of the Panel's Annual Work Programme, it was agreed that the final meeting of the municipal year on 1<sup>st</sup> April 2021, would include the following:

- Executive Forward Plan
- Sustainable Community Locality Fund
- Section 106 Agreement Schedule
- Report from the Task and Finish Group on Outside Body representation
- Other Task and Finish Group updates (if any)

**O&S.45/20 2021/22 PANEL WORK PROGRAMME – INITIAL THOUGHTS**

The Chair began by quoting from the Council's Constitution:

“Production of work programmes: The Scrutiny function will, early in each municipal year, produce a work programme for the Overview and Scrutiny Panel for that year. The Panel will keep the work programme under review during the course of the year. The work programme will be devised having regard to the resources available to the time constraints of the Members and officers, and the interests of the local community.

In light of this, the Chair proposed a meeting of the Chairs and Vice Chairs of Overview & Scrutiny Panel and the Executive, along with the Chief Executive, the Deputy Chief Executive, and the Manager of Democratic Services, to develop a work programme for the next municipal year. This work programme would then be brought back to the Panel on 1 April 2021 following the above proposed meeting.

This was agreed by the Panel.

(Meeting started at 10:00 am and concluded at 12:32 pm)

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Chairman

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## **PUBLIC FORUM PROCEDURES**

### **(a) General**

Members of the public may raise issues and ask questions at meetings of the Overview and Scrutiny Panel in relation to agenda items (and in accordance with the O&S rules in Part 4). This session will last for up to fifteen minutes at the beginning of each meeting.

### **(b) Notice of Questions**

An issue or question may only be raised by a member of the public provided that they have given written notice (which may be by electronic mail) to the Democratic Services Lead Specialist by 5.00pm on the Monday, prior to the relevant meeting.

### **(c) Scope of Questions**

An issue may be rejected by the Monitoring Officer if:

- it relates to a matter within the functions of the Development Management Committee;
- it is not about a matter for which the local authority has a responsibility or which affects the district;
- it is offensive, frivolous or defamatory;
- it is substantially the same as a question which has previously been put in the past six months; or
- it requires the disclosure of confidential or exempt information.

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## **SOUTH HAMS DISTRICT COUNCIL: EXECUTIVE LEADER'S FORWARD PLAN**

This is the Leader of Council's provisional forward plan for the four months starting April 2021. It provides an indicative date for matters to be considered by the Executive. Where possible, the Executive will keep to the dates shown in the plan. However, it may be necessary for some items to be rescheduled and other items added.

The forward plan is published to publicise consultation dates and enable dialogue between the Executive and all councillors, the public, and other stakeholders. It will also assist the Council's Overview and Scrutiny Panel in planning their contribution to policy development and holding the Executive to account.

Local authorities are required to publish updated forward plans on a regular basis. The Plan is published in hard copy and on the Council's website ([www.southhams.gov.uk](http://www.southhams.gov.uk))

*The Executive currently consists of five Councillors. Each has responsibility for a particular area of the Council's work.*

*Leader of the Council – Cllr Judy Pearce*

*Deputy Leader – Cllr Hilary Bastone*

*Lead Executive Member for Health and Wellbeing – Cllr Jonathan Hawkins*

*Lead Executive Member for Environment – Cllr Keith Baldry*

*Lead Executive Member for Customer Service Delivery – Cllr Nicky Hopwood*

Further information on the workings of the Executive, including latest information on agenda items, can be obtained by contacting Democratic Services on 01803 861105 or by e-mail to [democratic.services@swdevon.gov.uk](mailto:democratic.services@swdevon.gov.uk)

**All items listed in this Forward Plan will be discussed in public at the relevant meeting, unless otherwise indicated with \***

Portfolio Area	Report Title and Summary	Lead Member / Officer	Documents to be considered in making decision	Date of Decision	Consultees and means of Consultation
Council	<b>Title: Write Off Report for 2020/21</b> <b>Purpose:</b> The Council is responsible for the collection of: Housing Rents, Sundry Debts including Housing Benefit Overpayments, Council Tax and National Non-Domestic Rates. The report informs Members of the debt written off for these revenue streams.	Cllr Bastone / Lisa Buckle	Report of Strategic Lead of Finance	22 April 2021	
Homes	<b>Title: Community Housing Projects Update</b> <b>Purpose:</b> To present a report which gives an update on the Community Housing Projects	Cllr Bastone / Chris Brook	Report of Director of Place and Enterprise	22 April 2021	
Homes	<b>Title: Planning &amp; Planning Enforcement Improvement Plan</b> <b>Purpose:</b> To consider a report that presents a Planning and Planning Enforcement Improvement Plan for adoption.	Cllr Bastone / Steve Mullineaux	Report of Director of Customer Service and Delivery	22 April 2021	
All	<b>Title: Corporate Strategy Developments</b> <b>Purpose:</b> To consider a report that provides an update on the Corporate Strategy in advance of the draft Strategy being considered by the Executive in July.	Cllr Pearce / Drew Powell	Report of Director of Governance and Assurance	22 April 2021	
Enterprise	<b>Title: Section 106 Approval – Dartington</b> <b>Purpose:</b> To consider a report that seeks to approve Section 106 Agreement expenditure for a project in Dartington.	Cllr Bastone / Chris Brook	Report of Director of Place and Enterprise	22 April 2021	
Enterprise	<b>Title: Motorhome Strategy</b> <b>Purpose:</b> To consider proposals to permit overnight stays in certain SHDC car parks, including pricing, facilities, benefits and enforcement.	Cllr Baldry / Chris Brook / Emma Widdicombe	Report of Director of Place and Enterprise	22 April 2021	
Environment	<b>Title: Electric Charging Points in Council Car Parks</b> <b>Purpose:</b> To set out options for the Council to pursue a delivery strategy for Electric Vehicle charging in Council Car Parks	Cllr Baldry / Chris Brook	Report of Director of Place and Enterprise	22 April 2021	

Homes	<b>Title: Homelessness Strategy – Annual Action Plan</b> <b>Purpose:</b> To consider a report that presents the Annual Action Plan that underpins the Council’s Homelessness Strategy.	Cllr Bastone / Issy Blake	Report of the Head of Housing, Revenues, and Benefits	3 June 2021	
Environment	<b>Title: Grounds Maintenance – Business Plan</b> <b>Purpose:</b> To seek adoption of the business plan following on from the Grounds Maintenance review.	Cllr Baldry / Sarah Moody	Report of Business Manager – Case Management	3 June 2021	
Enterprise	<b>Title: Langage Commercial Unit Opportunity</b> <b>Purpose:</b> To review an opportunity to invest in a unit at Langage, so as to promote business growth and commercial uptake at Langage.	Cllr Bastone / Chris Brook	Report of Director of Place and Enterprise	3 June 2021	
Council	<b>Title: Climate Change and Biodiversity Strategy Update</b> <b>Purpose:</b> To present a report which gives an update on progress against delivery of the Climate Change and Biodiversity Strategy	Cllr Pearce / Drew Powell	Report of Director of Governance and Assurance	3 June 2021	
AI	<b>Title: Draft Corporate Strategy</b> <b>Purpose:</b> To consider a report that seeks to recommend to Council approval of the draft Corporate Strategy.	Cllr Pearce / Senior Leadership Team	Report of the Senior Leadership Team	July 2021	
Council	<b>Title: Section 106 Agreement Expenditure</b> <b>Purpose:</b> To consider a report that outlines the latest position in respect of Section 106 Agreement Expenditure.	Cllr Bastone / Lisa Buckle	Report of the Section 151 Officer	July 2021	
Health and Wellbeing	<b>Title: Leisure Update</b> <b>Purpose:</b> To consider a report that seeks to present a Leisure Update to the Executive.	Cllr Hawkins / Chris Brook	Report of Director of Place and Enterprise	July 2021	
Council	<b>Title: Annual Report</b> <b>Purpose:</b> To consider a report that seeks to recommend to Council approval of the Council’s Annual Report.	Cllr Pearce / Neil Hawke	Report of the Head of Strategy and Projects	July 2021	

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# Agenda Item 8

Report to: **Overview and Scrutiny Panel**  
Date: **1 April 2021**  
Title: **Section 106 Agreement Monitoring update report**  
Portfolio Area: **Cllr Hopwood**

Wards Affected: **All**

Urgent Decision: **Y** Approval and clearance obtained: **Y / N**

Date next steps can be taken:

Authors: **Catherine Bowen and Sarah Moody** Role: **Business Manager (Specialists) and Business Manager (Case Management)**

Contact: **Catherine.Bowen@swdevon.gov.uk and Sarah.Moody@swdevon.gov.uk**

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## Recommendations:

That the Overview and Scrutiny Panel notes:

1. The current position on Section 106 funding in Appendix A.
2. The current processes in place for monitoring and administering Section 106 Agreements and funding
3. That a report will be brought to an Executive meeting in the summer detailing progress against the individual projects funded by section 106 monies.

## 1. Executive summary

- 1.1. The purpose of this report is to update Members on the process of monitoring section 106 (S106) Agreements and to provide an update on the current spending and status of S106 monies.
- 1.2. The report also updates Members on the role and responsibilities of the S106 Monitoring Officer.
- 1.3. S106 Agreements are a formal mechanism which make a development proposal acceptable in planning terms (which would otherwise be unacceptable). S106 agreements can be used to impose non-financial

conditions on a planning approval, as well as to secure financial contributions towards investments in infrastructure or other demands on public services associated with a particular development or catchment area.

- 1.4. There are clear rules on the constraints on the collection and use of S106 funds, and the application of S106 funds must be:
  - Necessary to make the development acceptable in planning terms;
  - Directly related to the development; and
  - Fairly and reasonably related in scale and kind to the development.
- 1.5. This report is a high level report and a further report will be brought to a summer Executive meeting and will provide details on specific projects that are funded with S106 monies.

## **2. Background**

- 2.1. Under section 106 of the Town and Country Planning Act 1990 contributions can be sought from developers and landowners which can be put towards the costs of providing community and social infrastructure, the need for which has arisen directly as a result of a new development taking place.
- 2.2. S106 contributions therefore support and enable local communities to provide affordable housing and improve open spaces, sport, recreation and community facilities and the public realm in order to enhance the quality of life across the South Hams District.
- 2.3. It is important to note that S106 contributions may only be spent on new facilities or improvements to facilities where the new development has, at least in part, contributed to the need for that facility or will have an impact on existing facilities. This means that funding will normally be invested in facilities based within the same locality or catchment area in which the contributing development is located.
- 2.4. Between April 2015 and September 2019 there were restrictions on the pooling of planning obligations. Only five s106 contributions could be pooled for use on the same infrastructure project. This meant that where historically s106 agreements might have referred to improvements to facilities within a parish, during this period agreements typically named a specific project(s). The pooling restrictions were lifted on 1 September 2019, although the three 'tests' in the Community Infrastructure Levy Regulations on the collection and use of funds still need to be taken into account (see paragraph 1.4 above).
- 2.5. The level of contribution is negotiated with developers during the planning application process, and is based on the requirements set out in the Plymouth and South West Devon Joint Local Plan, and associated Developer Contributions Evidence Base. The Council receives the payment of S106 monies either when the development work commences or at specific phases in the development as set out within the S106 agreement. The obligation to pay the contribution rests with the developer and it is for them to ensure all S106 contributions agreed are paid when the relevant conditions are met or triggers reached. It is the role of the S106 Monitoring Officer to monitor the progress of the development to ensure that monies can be invoiced when the trigger points are reached.

- 2.6. The Council is the accountable body for the spending of S106 monies that relate to such provision as affordable housing, public open space, sport and recreational facilities and the public realm. The Council must therefore allocate all funds in accordance with the S106 legal agreement that the Council will have already entered into with the land owner or developer prior to the grant of the planning permission.
- 2.7. Legal agreements can include the County Council as a party to the agreement where, for example, developer contributions are required for education, highways and transportation, civic amenity and library facilities.
- 2.8. Legal agreements will normally specify a time period (or phases within the development) within which the S106 contributions must be spent.

### **3. Monitoring of S106 Agreements and contributions**

- 3.1. The Council has a S106 Monitoring Officer who sits within the Case Management Team but who works closely with Development Management, Finance and Place Making in order to provide day to day management of S106 Agreements. The S106 Monitoring Officer's role is to:
  - 3.1.1. Manage incoming financial contributions and ensure that they are distributed to the appropriate bodies and/or correct accounts.
  - 3.1.2. Monitor all S106 legal agreements (financial and non-financial) to ensure that the obligations have been complied with; ensure a rolling programme of monitoring for large scale developments
  - 3.1.3. Ensure that developers / landowners pay the financial contributions
  - 3.1.4. Work with planning enforcement and legal services when s106 obligations have not been met
  - 3.1.5. Respond to queries requesting confirmation that the legal obligations have been complied with
  - 3.1.6. Ensure that financial systems and schedules are kept up-to-date with the latest S106 information
  - 3.1.7. Keep relevant bodies and internal services up to date with S106 information and compliance
  - 3.1.8. Continuously identify opportunities to improve processes and implement these to become standard working practice.
- 3.2. There is a separate Place Making Officer role which is funded through specific Open Space, Sport and Recreation (OSSR) S106 contributions. The role of this Officer is to:
  - 3.2.1. Comment on planning applications in respect of OSSR, including negotiating with developers to secure financial contributions and liaising with Town and Parish Councils to identify improvement projects where necessary.
  - 3.2.2. Assist in the drafting of OSSR clauses in s106 agreements, including the projects on which funds should be spent, trigger points for payments and time period within which funds must be spent.
  - 3.2.3. Liaise with Town and Parish Councils, sports clubs and other organisations to develop and deliver OSSR projects on third party land. Where this is the case, the offer of grant is made with appropriate terms

and conditions securing the interest of the Council and ensuring that the requirements of the S106 agreement are adhered to.

- 3.2.4. Monitor compliance with the grant offers made at 3.2.3 and work with the S106 Monitoring Officer and the Case Management team to arrange payment at appropriate milestones.
- 3.2.5. Deliver OSSR improvement projects on SHDC land, including carrying out public consultation exercises, tendering for works and monitoring work carried out by contractors.
- 3.3. A separate, future report will be brought to the Executive in the Summer with details of these projects.

#### **4. Monitoring reports on S106 funding**

- 4.1. A schedule of Section 106 funds held by the Council is regularly reported to Members and was last reported to Executive on 11 March 2021.
- 4.2. A schedule of current funds held by the Council is attached at Appendix A for Members' reference.
- 4.3. As stated above, a detailed report on the progress of various projects supported by S106 contributions will be brought back to Members from the Place Making Team to an Executive meeting in the Summer.
- 4.4. The Council provides information on the South Hams website related to S106 funding for Open Space, Sport and Recreation projects<sup>1</sup>. This list will be updated in April 2021.
- 4.5. The Council must publish an annual Infrastructure Funding Statement setting out what developer contributions have been secured (financial and non-financial). This Statement helps inform the public and all interested parties on the funding and provision of new infrastructure and gives policy makers a better insight into how developer contributions are supporting new development and local infrastructure. The 2019/2020 Infrastructure Funding Statement can be seen at the following link:  
<https://www.southhams.gov.uk/Developer-contribution>

#### **5. Outcomes/outputs**

- 5.1. The Council has specific obligations regarding S106 Agreements and (through the role of the S106 Monitoring Officer), the Council has a transparent and effective system for monitoring the financial and non-financial obligations of each agreement. The Council will also ensure that funds are spent (or allocated) appropriately and information regarding these monies and obligations are published and accessible to the public and interested parties.

#### **6. Proposed Way Forward**

- 6.1. That the Overview and Scrutiny Panel acknowledges the position in relation to the Monitoring of S106 Agreements and contributions, and notes that a further report will be brought to Members on progress on specific projects.

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<sup>1</sup> <https://www.southhams.gov.uk/article/4066/Section-106-Funding-for-Open-Space-Sport-and-Recreation-Projects->

## 7. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>S106 agreements are secured under Section 106 of the Town and Country Planning Act 1990 (as amended) to support projects that mitigate the impact of development. The Council has an obligation to spend the funds in accordance with the terms of the agreement which are agreed prior to the grant of planning permission.</p> <p>Under the Community Infrastructure Levy (CIL) (Amendment) (England) (No.2) Regulations 2019 there are clear constraints on the collection and use of s106 funds. The purposes to which the funds are applied must be:</p> <ul style="list-style-type: none"> <li>• Necessary to make the development acceptable in planning terms;</li> <li>• Directly related to the development; and</li> <li>• Fairly and reasonably related in scale and kind to the development.</li> </ul>
Financial implications to include reference to value for money	Y	<p>The S106 funds are held in a specific ledger code relating to S106 contributions. Each S106 has its own individual income code (Classification code on the finance system), and a separate revenue spend code is set up for expenditure as it is committed to projects or spend.</p> <p>Appendix A sets out that the total value of S106 deposits held at 31.12.2020 totalled £6,011,146.</p> <p>The Council's Financial Procedure Rules require that where expenditure over £30,000 is proposed, that this needs to be agreed by Executive.</p> <p>The expenditure relates to s106 funds specifically for the purpose of mitigating impacts from development. The parameters for expenditure (in particular the location and type of project that can be supported) are prescribed in the s106 agreement.</p>
Risk	Y	<p>There is a risk of funds not being collected or spent in accordance with the S106 agreement. To address this, where any S106 funds are passed to community groups to develop and deliver projects, offers of grants will be made with appropriate terms and conditions securing the interest of the Council and ensuring that the requirements of the S106 agreements are adhered to.</p>

		<p>There is a risk of funds not being collected in accordance with the s106 agreement. A key objective of the S106 Monitoring Officer is to ensure all monies are collected.</p> <p>Some S106 agreements have 'clawback' clauses allowing the developers to be re-paid the money if it is not spent within a certain timeframe. Thus there is a risk of communities losing out if money is not spent within the specific timeframes. Careful monitoring by the S106 Monitoring Officer prevents this from happening.</p> <p>There is a risk of funds not being spent in accordance with community aspirations and that community benefits may not be secured for the long term. Any recipients of grant offers will need to hold necessary powers and have a suitable organisational structure in place. Where necessary, in relation to OSSR, Community Use Agreements will be implemented to secure long term community use of facilities funded via S106 contributions.</p> <p>There is a risk that the requirements of the Council's Financial Procedure Rules will not be met. All payments will be made in accordance with the Rules and contracting/tendering procedures where relevant.</p>
Supporting Corporate Strategy		Homes, Communities
Climate Change - Carbon / Biodiversity Impact	N	Not directly related to this report. Specific projects will have varying impacts and will be addressed within the individual projects.
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity		N/a
Safeguarding		N/a
Community Safety, Crime and Disorder		N/a
Health, Safety and Wellbeing		N/a
Other implications		None

### **Supporting Information**

#### **Appendices:**

Appendix A: Schedule of S106 Contributions

#### **Background Papers:**

Executive – 11 March 2021 – Capital Programme Monitoring report

Classif. Code	Site	Date Received	Current Stage	Restriction/Committed End Date	Conditions	TOTAL S106 DEPOSITS £
<b>Langage Energy Centre (9/49/1020/98/1)</b>						
1007	Landscape Fund (PG01)			25 years, interest (rate not specified)	Reduce the landscape and visual impact of power station	(51,458.77)
1008	Local Liaison Group (PG02)			25 years, interest (rate not specified)	Funding of local activities in the electoral wards of the Council immediately surrounding the Phase 1A and the wards of SHDC and/or PCC	(6,349.23)
1009	Public Art (PG03)			25 years, interest (rate not specified)	Public art in or in the vicinity of the Phase 1A Land	(113,814.03)
1010	Migrant Workers (PG04)			No restriction/committed end date	Provide information and advice relating to migrant workers employed in relation to the development	(1,520.16)
1012	Ecology Park (PG06)			25 years, interest (rate not specified)	Laying out and planting of the Ecology Park	(34,144.21)
1013	Ecology Park Mtc (PG07)			25 years, interest (rate not specified)	Maintenance of the Ecology Park	(34,144.21)
2020	Construction of Starter Units (PG08)				Construction of the Starter Units and procure a site for the Starter Units on either the Energy Park or land within South Hams District	(1,195,047.08)
2021	Bus interchange - Deep Lane junction (PG09)			25 years, interest (rate not specified)	Cost of establishing a bus interchange facility in the vicinity of the Ridgeway/Deep Lane junction	(28,453.19)
2022	Enhanced bus services (PG10)			25 years, interest (rate not specified)	Securing and supporting enhanced bus services to the Phase 1A Land and the Energy Park	(227,628.54)
2118	Langage Consultants Fees (MP)				Master plan	(29,957.01)
<b>Other</b>						
2255	Land at Blackawton (New Parks Farm), Blackawton (06/2313/09/F)	05/09/11	PIF	25 years, no interest	Required as a result of the development - spent on Open Space Sport Recreation contribution within or directly relating to the parish of Blackawton or on such other Blackawton Community project as the Council shall see fit	(2,596.00)
2384	Land West of Ermington (21/1425/12/F)	12/02/2013 27/10/2017	Under Development	5 years, interest at NatWest base rate	£38900 - OSSR, 48k employment land and £5k retaining wall. £35K restrictive covenant.	(38,900.00)
2411	Maypool House Youth Hostel (30/2787/10/F) - Dwelling One	20/03/12	PIF	No restriction/committed end date	Affordable Housing contribution (£10,000.00) and Open Space (£4,868.75)	(32,415.54)
2806	Maypool House Youth Hostel (30/2787/10/F) - Dwelling Two	10/02/16	PIF	No restriction/committed end date	Affordable Housing contribution	(36,047.38)
2806	Maypool House Youth Hostel (30/2787/10/F) - Dwelling Two	10/02/16	PIF	No restriction/committed end date	OSSR	(5,386.40)
2428	Former Old Chapel Inn, St Anns Chapel, Bigbury (05/0227/11/F)	02/05/13	PIF	No restriction/committed end date	Affordable Housing contribution	(97,700.91)
2428	Former Old Chapel Inn, St Anns Chapel, Bigbury (05/0227/11/F)	02/05/13	PIF	No restriction/committed end date	Open Space Sport and Recreation contribution towards open public space	(12,075.39)
2429	Milizac Close (Underhay) Yealmpton (62/2948/11/O)	13/05/13	PIF	5 years, interest at BoE base rate +4%	Sport and Recreation contribution towards improved facilities for formal sport and recreation relating to the development	(2,464.48)
2429	Milizac Close (Underhay) Yealmpton (62/2948/11/O)	13/05/13	PIF	5 years, interest at BoE base rate +4%	SAC Contribution	(1,732.32)
2460	Loughrigg Coronation Rd, Salcombe (41/0652/11/F)	20/08/13	PIF	10 years, interest rate not specified	Affordable Housing contribution	(7,713.56)
2460	Loughrigg Coronation Rd, Salcombe (41/0652/11/F)	20/08/13	PIF	10 years, interest rate not specified	Open Space Sport and Recreation contribution	(11,389.85)
2652	Land Ven Farm Brixton (07/2022/12/F)	13/05/14	PIF	No restriction/committed end date	Sport & Recreation/Employment	(23,000.25)
2652	Land Ven Farm Brixton (07/2022/12/F)	13/05/14	PIF	No restriction/committed end date	Conservation of Tamar Estuaries Complex SPA	(967.30)
2652	Land Ven Farm Brixton (07/2022/12/F)	12/05/16	PIF	Capital spend, no interest specified	Open Space Sport and Recreation contribution - Open Space land commuted sum	(8,466.00)
2691	Warland Garage (56/2793/11/F & 56/1520/12/F)	04/08/14	PIF	25 years, no interest specified	Affordable Housing contribution	(664.01)
2698	Boat House, Dartmouth Quay, Southtown, Dartmouth (15/2046/13/F)	17/08/14	PIF	5 years, no interest specified	Tree planting and management in Dartmouth	(741.79)
2705	Trennels, Herbert Road, Salcombe (41/0929/13/F)	21/10/14	Under Development	25 years, no interest specified	Open Space Sport Recreation contribution (£13,650)	(4,367.50)
2705	Trennels, Herbert Road, Salcombe (41/0929/13/F)	21/10/14	Under Development	25 years, no interest specified	Affordable Housing contribution (£93,001)	(88,780.95)
2715	Harvey's Field (32/0844/12/F)	04/03/15	PIF	10 years, payable at 87.5% to owner and 12.5% payee of contribution, interest at 1% below Barclays base rate	Employment (Rural Growth Network) administered by LEP	(57,959.27)
2715	Harvey's Field (32/0844/12/F)	04/03/15	PIF	10 years, payable at 87.5% to owner and 12.5% payee of contribution, interest at 1% below Barclays base rate	Sports facilities contribution towards the provision of sports facilities required as a result of the development.	(472.47)
2716	Bonfire Hill, Salcombe (41/1915/13/F)	04/03/15	Under Development	5 years, interest at 1% below Barclays base rate	Ecology contribution	(58,401.25)
2716	Bonfire Hill, Salcombe (41/1915/13/F)	09/2016 & 09/01/20	Under Development	5 years, interest at 1% below Barclays base rate	Open Space and Play contribution	(14,595.20)
2716	Bonfire Hill, Salcombe (41/1915/13/F)	09/2016 & 09/01/20	Under Development	5 years, interest at 1% below Barclays base rate	Sports Provision contribution	(93,186.52)
2716	Bonfire Hill, Salcombe (41/1915/13/F)	09/2016 & 09/01/20	Under Development	5 years, interest at 1% below Barclays base rate	Open Space and Play maintenance contribution	(19,189.84)
2717	Old Grist Mill 53/1706/07/F	12/01/15	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(1,303.08)
2718	Sawmills Field, Dartington 14/1744/13/F	11/12/14	PIF	7 years, interest at 1% below Barclays base rate or 0% (whichever is higher)	Open Space and Play	(19,553.69)
2718	Sawmills Field, Dartington 14/1744/13/F	11/12/14	PIF	7 years, interest at 1% below Barclays base rate or 0% (whichever is higher)	Sports	(78,825.26)
2749	Alston Gate, Malborough 33_46/1890/11/F	29/03/15	Pre Commencement	5 years, interest at 1% above Lloyds base rate	Public Open Space contribution	(24,276.00)
2789	Marridge Farm, Ugborough (57/0633/07/F)	25/09/15	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(12,650.00)
2802	Riverside, Totnes (03_56/0447/12/O)	07/12/15	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(79,509.44)
2802	Riverside, Totnes (03_56/0447/12/O)	07/12/15	PIF	No restriction/committed end date	Affordable Housing contribution, Open Space Sport Recreation contribution	(27,384.45)
2808	Leyford Close, Wembury (58/0176/13/O)	09/02/16	PIF	5 years, interest at NatWest base rate	Sports and Recreation contribution and Tamar Estuaries SAC N	(1,215.98)
2819	Churchstow (11/0046/14/F)	29/04/16	PIF	No restriction/committed end date	Affordable Housing contribution - deposit deed	(19,689.00)
2820	Follaton Oak, Totnes (56/2346/10/O)	15/04/16	PIF	7 years, interest at 1% below Barclays base rate	Open Space, Sport and Recreation contribution (£60k)	(13,172.10)
2835	Gara Rock Hotel, East Portlemouth (20/2104/13/F)	17/05/16	PIF	No restriction/committed end date	Affordable Housing contribution	(318,406.87)
2835	Gara Rock Hotel, East Portlemouth (20/2104/13/F)	17/05/16	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(4,255.54)
2838	Treetops, St Dunstons Road, Salcombe (41/3063/13/F)	30/06/16	PIF	5 years, interest at Lloyds base rate	Affordable Housing	(13,665.79)
2838	Treetops, St Dunstons Road, Salcombe (41/3063/13/F)	30/06/16	PIF	5 years, interest at Lloyds base rate	Open Space Sport Recreation contribution	(35.43)
2850	Sorley Tunnel (11/2425/07/F)	28/07/16	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(12,195.27)
2860	Plot 2 Godwell Lane, Ivybridge (27/1758/11/F)	07/10/16	Under Development	No restriction/committed end date	Open Space Sport Recreation contribution (OSSR £195 to spend and Affordable housing £1335)	(1,530.00)
2861	Barn Conversions at Butlas Farm (07/1601/08/F)	14/12/16	PIF	No restriction/committed end date	Open space, sport and recreation contribution within or directly related to the parish of Brixton	(16,254.51)
2862	Lutton Farm Barns, Ivybridge (12/0953/07/F)	23/11/16	PIF	No restriction/committed end date	Public Open Space contribution	(8,965.15)
2863	Land at SX 8638 5117, Ivatt Road, Dartmouth (15/0587/13/F)	08/11/16	PIF	No restriction/committed end date	Open Space, Recreation and/or sports facilities within Dartmouth	(16,995.10)
2868	Venn Barn, Venn Lane, Stoke Fleming (51/1771/07/F)	29/11/16	PIF	25 years, no interest specified	Open Space, Sport and Recreation within, or directly related to, the Parish of Dartmouth	(3,434.25)
2869	Waddeton Barton Farm (52/1249/10/F)	14/09/17	PIF	Not specified	Open space, sport and recreation on sports and recreation facilities within the District - £6337.50	(6,020.64)
2869	Waddeton Barton Farm (52/1249/10/F)	14/09/17	PIF	Not specified	AH contribution of £52313.00	(49,697.35)
2894	Land at Ashburton Road (Meadowside), Totnes (14_56/2246/13)	27/03/17	Under Development	5 years, interest at NatWest base rate	Sports Pitch contribution in the vicinity of the development	(11,430.86)
2944	Land at Moorview, Marldon (34/2184/13/O)	07/07/14	PIF	10 years, interest at 1% below Barclays base rate	Sports and Recreation Contributions	(103,850.07)
2944	Land at Moorview, Marldon (34/2184/13/O)	07/07/14	PIF	10 years, interest at 1% below Barclays base rate	Offsite play Contribution	(66,324.41)

Classif. Code	Site	Date Received	Current Stage	Restriction/Committed End Date	Conditions	TOTAL S106 DEPOSITS £
2945	Knighton Road, Wembury (58/1352/12/F)	19/05/17	Under Development	5 years, interest at NatWest base rate	Marine Contribution towards the maintenance of Plymouth Sounds SAC	(1,158.00)
2945	Knighton Road, Wembury (58/1352/12/F)	28/06/19	Under Development	5 years, interest at NatWest base rate	Footpath Contribution	(100,000.00)
2945	Knighton Road, Wembury (58/1352/12/F)	28/06/19	Under Development	5 years, interest at NatWest base rate	Foot Path Contribution - £9600k to be transferred to National Trust.	(9,600.00)
2946	Higher Hatch Farm, Kingsbridge (32/0215/11/F)	15/06/17	PIF	25 years, no interest specified	Open Space, Sport and Recreation contribution	(5,700.00)
2972	Home Field, West Alvington (59/2482/14/F)	05/09/17	Under Development	No restriction/committed end date	Play Contribution	(26,678.00)
2972	Home Field, West Alvington (59/2482/14/F)	05/09/17	Under Development	No restriction/committed end date	Sport and Recreation contribution	(43,527.17)
2973	Land off Palm Cross Green, Modbury (35/0059/15/F)	23/08/2017 & 15/08/19	Under Development	No restriction/committed end date	Open Space, Sport and Recreation contribution	(201,530.55)
2974	Holywell Stores, Bigbury (05/2557/13/F)	11/06/18	Under Development	25 years, no interest specified	Affordable Housing contribution	(65,193.00)
2974	Holywell Stores, Bigbury (05/2557/13/F)	11/06/18	Under Development	25 years, no interest specified	Open Space, Sports and Recreation Contribution	(9,155.33)
2993	Land at Fairfield, South Brent (0354/14)	10/08/17	PIF	No restriction/committed end date	Off-site Public open Space Contribution	(0.50)
2994	Land SE of Torhill Farm, Ivybridge (27_57/1347/14/F)	9/07/2017 & 21/09/18	Under Development	No restriction/committed end date	Air Quality	(5,724.64)
2994	Land SE of Torhill Farm, Ivybridge (27_57/1347/14/F)	19/07/2017 & 21/09/18	Under Development	No restriction/committed end date	Tamar Estuaries	(7,918.23)
2994	Land SE of Torhill Farm, Ivybridge (27_57/1347/14/F)	19/07/2017, 21/09/18 & 28/06/19 & 17/01/20	Under Development	No restriction/committed end date	Filham Park Contribution instalments 1,2 & 3 + BCIS	(489,503.15)
3000	Land at Woodland Road, Ivybridge (27/1859/15/F)	31/10/17	Under Development	10 Years no interest specified	Tamar SAC Contribution	(2,459.73)
3000	Land at Woodland Road, Ivybridge (27/1859/15/F)	31/10/17 & 04/12/18	Under Development	10 Years no interest specified	1st Instalment OSSR & 2nd Invoiced	(154,947.89)
3000	Land at Woodland Road, Ivybridge (27/1859/15/F)	04/12/18	Under Development	10 Years no interest specified	1st & 2nd Instalment Open Space and Play	(44,126.45)
3001	Land adjacent to Elwell House, Totnes (56/1214/14/F)	12/04/18	PIF	25 years, no interest specified	OSSR - £1596 to spend	(1,669.99)
3001	Land adjacent to Elwell House, Totnes (56/1214/14/F)	12/04/18	PIF	25 years, no interest specified	Affordable Housing contribution £11704 to spend	(626.01)
3028	Stowford Mill, Harford Road, Ivybridge (27/1336/15/F)	04/05/18	Under Development	No restriction/committed end date	Ivybridge Mill Group Archives Contributions	(10,000.00)
3081	Webbers Yard Dartington (14/1745/13/O)	02/05/2018 & 19/09/18	Under Development	No restriction/committed end date	1st & 2nd instalment of Sports Provisions	(57,101.74)
3081	Webbers Yard Dartington (14/1745/13/O)	02/05/2018 & 19/09/18	Under Development	No restriction/committed end date	1st & 2nd instalment of Open Space and Play Contribution	(28,078.15)
3082	Venn Farm, Brixton (07/1196/15/F)	08/05/18	Under Development	10 years	Brixton Play Provision Contribution	(46,450.90)
3082	Venn Farm, Brixton (07/1196/15/F)	08/05/18	Under Development	10 years	Sports and Recreations Contribution	(0.22)
3082	Venn Farm, Brixton (07/1196/15/F)	08/05/18	Under Development	10 years	Open Space Contribution	(13,182.59)
3082	Venn Farm, Brixton (07/1196/15/F)	08/05/18	Under Development	10 years	Tamar SAC	(662.73)
3094	Land Noss Marina Kingswear (2266/17/FUL)	12/06/18	Under Development	5 years	New Interpretation panel Contribution	(60.00)
3101	Land at Pendarves Loddiswell (S106 -32/1722/15/F)	31/07/18	PIF	10 Years	Affordable Housing Contributions	(13,016.73)
3116	Gara Rock Hotel (3586/16/FUL)	07/11/18 & 22/02/19	Under Development	No restriction/committed end date	1st, 2nd and 3rd instalment of Affordable Housing	(200,000.00)
3132	Former Gas Works, Salcombe (0362/16/FUL)	24/01/19	PIF	25 Years	Affordable Housing	(53,611.32)
3132	Former Gas Works, Salcombe (0362/16/FUL)	24/01/19	PIF	10 Years	OSSR - £14,280 towards The Berry	(15,752.46)
3149	Land East of Allern Lane, Tamerton Foliot (04/1129/15/F)	27/02/196 & 14/03/19	Under Development	5 years	Tamar European Marine Site contribution	(2,274.99)
3149	Land East of Allern Lane, Tamerton Foliot (04/1129/15/F)	13/02/20	Under Development	5 years	Sports and Recreation	(103,029.56)
3160	Brimhay Bungalows, Dartington - 14/0142/15/F	19/03/19	Under Development	None	OSSR - £44752.50 towards either Gidley Meadows, Dorothy Elmhist Recreation Field or provide a games area at Meadowbrook	(44,752.50)
3199	Land at The Fairway, Newton Ferrers - 1372/16/FUL	19/09/19	Under Development	10 Years	Open Space and Recreation	(19,211.11)
3224	Cornwood Road, Ivybridge - 2208/16/FUL	03/10/19	Under Development	5 years	Affordable Housing Contribution	(167,200.00)
3224	Cornwood Road, Ivybridge - 2208/16/FUL	03/10/19	Under Development	5 years	Off-Site Open Space	(46,539.85)
3233	Great Court Farm - 03/2163/14/O	04/10/19	Under Development	None	50% Bridge Town Corridor Contribution	(72,613.44)
3233	Great Court Farm - 03/2163/14/O	04/10/19	Under Development	10 years	80% Sports and Recreation Contribution	(75,631.18)
3256	Land at Marlborough Park (0549/17/OPA)		Under Development	7 years	1st Instalment of OSSR	(63,723.63)
3258	Land at Rivermaid Marine - (4140/16/Ful)	09/03/20	Under Development	10 Years	Sports and Recreation Contribution	(18,050.00)
3262	West Palm Cross Phase 2 (S106 -1391/18/F)	17/02/20	Under Development	10 Years	Public Play Space	(54,943.93)
3262	West Palm Cross Phase 2 (S106 -1391/18/F)	17/02/20	Under Development	10 Years	Sport Contribution	(30,804.48)
3271	Land at the Royal British Legion Club, Brixton - 1884/18/FUL & 2771/16/FUL		Under Development	5 Years	£13,337.58 for pitches at Horsham Playing Fields	(12,670.70)
3271	Land at the Royal British Legion Club, Brixton - 1884/18/FUL & 2771/16/FUL		Under Development	5 Years	£8,518.12 for play facilities on the Brixton Play Trail	(8,092.21)
3282	Land at Cornwood Road Ivybridge (Phase 2) -3954/17/Ful	15/05/20	Under Development	10 Years	50% Open Space, Sport and Recreation Contribution	(97,231.11)
3287	Land at Town Farm - French Furze - 06/0992/14/F				50% Sports pitch and Community Facilities	(32,739.51)
3380	Land Adj Sea View Heybrook bay (1165/20/VAR)	22/06/20			Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(36.76)
3385	Paignton Road Stoke Gabriel - 52/1503/15/F				100% OSSR Contribution to improve football facilities in Stoke Gabriel	(92,825.65)
3407	Telecom Mast West Hill Wembury post (3612/19/Ful)				ACONB Mitigation Contribution	(108,636.30)

**Subtotal (5,910,813.24)**

**Sherford**

2603	Fees - Monitoring					(66,267.10)
2604	Economy - Economy & Training					(24,219.84)
3161	Sherford Design Review Body					(9,846.27)

**Subtotal (100,333.21)**

**TOTAL S106 DEPOSITS (WITH CONDITIONS) (6,011,146.45)**

**S106 DEPOSITS (NO CONDITIONS)**

PG28	Rathvendon, Bigbury (1023)				No conditions	(7,312.50)
PG36	Sedgewell Sands, Marine Drive				No conditions	(7,372.00)
2726	St Johns Ambulance, Dartmouth 15/1389/12/F				Affordable Housing - provision, enhancement, management	(23,000.00)

**TOTAL S106 DEPOSITS (WITH NO CONDITIONS) (37,684.50)**

**Capital Grants Unapplied**

	Fallapit House, East Allington				Affordable Housing	(87,124.50)
	Tesco Site, Kingsbridge					(30,000.00)

**TOTAL CAPITAL GRANTS UNAPPLIED (117,124.50)**

**Capital Grants Receipts in Advance**

	Penn Torr, Salcombe				Affordable Housing	(84,000.00)
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**TOTAL CAPITAL GRANTS RECEIPTS IN ADVANCE (84,000.00)**

**Notes:**

- The amounts shown above are before any monitoring fee has been deducted, where this is set out in the S106 Agreement. (See Section 3.16 of the covering report which explains this in more detail)
- The deposits as at 31st December 2020 reflect income already received by the Council or where a debtor has recently been raised to a third party.

Report to: **Overview & Scrutiny Panel**

Date: **1 April 2021**

Title: **Sustainable Community Locality Fund – Update**

Portfolio Area: **Cllr Judy Pearce  
Leader of the Council**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y / N**

Date next steps can be taken: N/A

Author: **Neil Hawke** Role: **Head of Strategy & Projects**

Contact: **t. 01803 861323 e. neil.hawke@swdevon.gov.uk**

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**Recommendations:**

**That Overview and Scrutiny Panel notes the update on the Council's Sustainable Community Locality Fund.**

**1. Executive summary**

- 1.1 The Sustainable Community Locality Fund provides each District Councillor with a budget to enable them to support a wide range of projects.
- 1.2 Each District Council has an annual Locality Fund of £2,000 to support not for profit groups or organisations to deliver community projects that benefit their ward or the wider local area.
- 1.3 This report provides an update on the use of the fund during the 2020/21 Financial Year.

**2. Background**

- 2.1 South Hams District Council implemented the Sustainable Community Locality Fund in 2009 as a light touch grant scheme enabling each District Councillor to award up to £1,000 to support community projects and strengthen their community leadership roles.
- 2.2 The fund was so successful that in 2015/16, the grant allowance per District Councillor was increased to £2,000 and has remained at that level each year since.

- 2.3 In 2019/20 (the first year of this Council term), a total of £41,448 was contributed from the grant fund to community schemes in South Hams. The overall costs of the projects supported was in excess of £635k.

### **3. Outcomes/outputs**

- 3.1 There is a lower grant limit of £100 per project. Applications for larger projects requesting grants of over £2,000 can be supported by Ward Councillors wishing to combine their resources. Any unspent allocations are carried forward annually until the end of the current Council term.
- 3.2 In applying for funding, applicants are requested to demonstrate that the project:-
- a. demonstrates clear local support and / or need;
  - b. links with their existing local town, village, parish community plan or emerging neighbourhood plan (if applicable);
  - c. involves and engages with local residents and voluntary / community groups;
  - d. tackles real local issues and supports hard to reach groups (young people, older people, unemployed people, ethnic minorities, etc).

#### **Projects Supported through the Sustainable Locality Community Fund during 2020/2021**

- 3.3 Focusing on the 2020/21 financial year, the Sustainable Community Locality Fund has contributed £43,800 to 78 projects with a total cost of £379,000. Note that where more than one Member has contributed to the project, we have only included the total project cost once so as not to duplicate.
- 3.4 The detail of schemes supported in the 2020/21 financial year is set out in Appendix A to this report. It should be noted that at the time of publishing this report, there is still a week of the financial year left and therefore the position may change.

### **5. Proposed Way Forward**

- 5.1 This report provides an update of the community projects and schemes supported through the Sustainable Community Locality Fund throughout 2020/21. It is therefore suggested that the Overview and Scrutiny Panel notes the schemes supported to date and the following planned actions for the coming months:
- a. That the Council Grant Funding web pages be updated to include examples of projects supported to date
  - b. That we remove reference to projects having to align to our corporate strategy themes within the online guidance. This over complicates the process as the guidance already states that funding applications should align with existing local town, village and parish plans.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	N	Section 236 of the Local Government and Public Involvement in Health Act 2007 authorises arrangements for the exercise of the Council's functions by ward councillors including providing them with a budget to spend on projects in their local communities.
Financial implications to include reference to value for money	N	This report does not recommend any changes to the current approach. Each Councillor has an allocation of £2,000 per annum to support community schemes. Any unspent funding carries forward until the end of the Councillors current term in office.
Risk	N	This is an update report and therefore there are no risks identified.
Supporting Corporate Strategy	N	All
Climate Change - Carbon / Biodiversity Impact	Y	Councillors can support a range of schemes including climate related schemes.
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity	Y	Applications are only considered where there are no negative Equality and Diversity implications.
Safeguarding	N	None
Community Safety, Crime and Disorder	N	None
Health, Safety and Wellbeing	N	None
Other implications	N	None

### **Supporting Information**

#### **Appendices:**

Appendix A – 2020/21 SCLF Funding Awarded by Councillor

#### **Background Papers:**

None

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Sustainable Community Locality Fund 2020/21						
Cllr Name	Opening Balance	Group Name	Grant Amount	Total Project Cost	Closing Balance 22.03.2021	Project Info
Abbott	£2,850.00	Ugborough Football Club	£100.00	£630.00		Provide youth goalposts (Cllr Holway / Taylor)
		Ivybridge Brewing Co.	£200.00	£25,000.00		Support project to move brewery (Cllr Austin / Pringle)
		Libraries Unlimited	£100.00	£30,000.00		Mobile Library ( plus 5 x Cllrs)
		Ivybridge Community Arts	£125.00	£350.00		Christmas cards and Cd's for elderly (Cllrs Austen, Pringle)
		Ugborough PC	£100.00	£400.00		Lucerne Fields Bench (Cllr Pringle)
		Ugborough PC	£250.00	£14,344.00		Bittaford Play Area project (Cllr Pringle)
		Ivybridge Rotary Club	£250.00	£26,000.00		Online Learning Project (Cllr Pringle)
		Youth Mental Health Foundation	£250.00	£250.00		Believe in Yourself Project
		Ivybridge Bowls Club	£250.00	£8,790.00		Replace machinery
					<b>£1,225.00</b>	
Austin	£2,000.00	Ivybridge Brewing Co.	£200.00			Support project to move brewery (Cllr Abbott / Pringle)
		Ivybridge Community Arts	£125.00			Christmas cards and Cd's for elderly (Cllrs Abbott, Pringle)
		PL:21 Ivybridge	£500.00	£500.00		Support for R Erme Monitoring project
		Park Life South West CIC	£1,000.00	£2,598.00		Woodlands park Tree Planting project
					<b>£175.00</b>	
Baldry	£2,450.00	Newton & Noss Partnership	£188.00	£1,350.00		(Cllr Thomas) Support to replace defibrillator at membland
		Newton & Noss PC	£250.00	£4,470.00		(Cllr Thomas) Support for Butts Park Pavilion
		Newton & Noss Community Street Ba	£234.00	£1,452.00		(Cllr Thomas) Support for creating music project
		Newton Ferrers Network	£200.00	£1,500.00		(Cllr Thomas) Support for Village Green Lighting Project
		Yealm Cricket Club	£100.00	£250.00		(Cllr Thomas) Support for Cricket Club
		Saltram Rotary Club	£250.00	£10,000.00		(Cllr Thomas) Support for Online Learning Project
		Dartmoor Zoo	£250.00	£2,998.00		(Cllr Thomas) Support for Wellbieng through Zoo Nature Project
		South Dartmoor Community Energy	£100.00	£17,553.42		(Cllr Thomas) Support for Net Zero Hero Project
		1st Yealm Brownies	£250.00	£730.00		Sustainability of 1st Yealm Brownies
		1st Yealm Rainbows	£250.00	£432.00		Support for 1st Yealm Rainbows
					<b>£378.00</b>	
Bastone	£2,500.00	Dartmouth Town Council	£500.00	£9,000.00		Defibrillator purchase x 4 and maintain for the public (Later Cllr Rowe/Hawkins)
		Dartmouth Literacy Society	£200.00	£400.00		Litter pick Equipment (plus Cllr Hawkins)
					<b>£1,800.00</b>	
Birch	£2,010.00	Totnes Trust	£300.00	£10,449.00		Wheel Mill repair (plus Cllr Sweett)
		SASHA	£150.00	£565.00		Project DV set up (plus Cllr Sweett, Rose & McKay)
		Follaton Oak Residents Group	£132.80	£132.80		Speed Awareness Signs
		Bob The Bus	£150.00	£0.00		CD19 Perspex (Earlier Cllr Sweett)
		Libraries Unlimited	£250.00	£0.00		Mobile Library (Cllr Abbott & 4 Cllrs)
		Youth Mental Health Foundation	£271.00	£271.00		School Workshops
		Totnes Rotary	£300.00			School Computers (plus Cllr Smerdon, Pannell Sweet & Rose)
		MEND Assembly	£300.00	£600.00		Project (plus Cllr Rose)
					<b>£156.20</b>	
Brazil	£3,000.00	Chilli Wood Voles	£117.00	£117.00		Woodland signage for the 4 entrances
		Chivelstone Parish Community Hall	£1,000.00	£4,000.00		Maintenance & equipment for upcoming events to help funds during Covid
					<b>£1,883.00</b>	
Brown	£2,550.00	Wembury Allotment Association	£300.00	£600.00		Encourage wildlife project (Cllr Chown)
		Wembury Environment Group	£500.00			Support for activity programme (Cllr Chown)
		South Dartmoor Community Energy	£300.00			Net Zero Heroes Project (Cllr Chown)
		Wembury PC	£150.00	£11,632.22		DAAT Night landing Lights project (Cllr Chown)
					<b>£1,300.00</b>	
Chown	£2,798.00	Wembury Allotment Association	£300.00			Encourage wildlife project (Cllr Brown)
		Wembury Caring Volunteers	£250.00	£2,500.00		Support for ongoing project
		Wembury Environment Group	£500.00	£3,000.00		Support for activity programme (Cllr Brown)
		Libraries Unlimited	£200.00			Mobile Library ( Cllr Abbott & 4 Cllrs)
		South Dartmoor Community Energy	£500.00	£17,553.42		Net Zero Heroes Project (Cllr Brown)
		Wembury PC	£150.00			DAAT Night landing Lights project (Cllr Brown)
					<b>£898.00</b>	
Foss	£3,500.00	Frogmore & Sherford parish council	£500.00	£10,000.00		Play park refurbishment
					<b>£3,000.00</b>	
Hawkins	£2,120.00	Dartmouth Town Council	£500.00			Defibs ( Also Cllr Rowe and earlier Cllr Bastone)
		Townstal Community Partnership	£150.00	£150.00		Children Half Term meals
		Dartmouth Bowling Club	£400.00	£420.00		Cleaning Equipment
		Stoke Gabriel Parish Council	£500.00	£600.00		Memorial improvements
		Dartmouth Literacy Society	£200.00			Litterpick Equipment (plus Cllr Bastone)
		Dart Valley Sustainability Group	£150.00	£300.00		Education Publicity material (plus Cllr Rowe)
					<b>£220.00</b>	
Hodgson	£2,000.00	Staverton Parish Council	£500.00	£5,766.00		Air Ambulance Night Landing Lights
		TRAYE	£1,000.00	£0.00		TRAYE project (also Cllr Smerdon earlier)
		Sirona Horsemanship	£500.00	£500.00		Covid project
					<b>£0.00</b>	
Holway	£2,000.00	Ugborough PC	£200.00			Replacement defibrillator for Ugborough Parish (Cllr Abbott 2019/2020)
		Ugborough Football Club	£100.00			Provide youth goalposts (Cllr Holway / Taylor)
		Ermington Pre-School	£200.00	£380.00		Self select shed project
					<b>£1,500.00</b>	
Hopwood	£2,400.00	Woolwell Community Centre	£156.84	£156.84		Update Christmas tree lights
		Woolwell Community Centre	£100.00	£100.00		Litter Pickers
		1st Woolwell Brownies	£200.00	£429.00		census subscription 2021
					<b>£1,943.16</b>	

Cllr Name	Opening Balance	Group Name	Grant Amount	Total Project Cost	Closing Balance 22.03.2021	Project Info
Jackson	£2,400.00	Martina Edmonds	£400	£1,200.00		Producing laundry wash bags for key workers and care home staff
		Kingsbridge Foodbank	£500			Help and support
		Kingsbridge Gymnastics club	£500		£1,000.00	Provide disabled facilities
Kemp	£3,000.00	Loddiswell Playing field and village hall	£1,500.00	£4,170.00	£1,500.00	Construction of disabled parking bay and access pathway to tennis courts
Long	£3,450.00	Salcombe Pre School	£200	£200.00		Computer replacement
		Kingsbridge Foodbank	£500			Help support
		Salcombe Christmas Lights	£200	£2,500.00	£2,550.00	Purchase bulbs and features to make up for losses during COVID
May	£2,800.00	Rotary Club of Ivybridge	£1,000.00	£2,278.00	£1,800.00	Upgrade lap tops and iPad for local families / education
McKay	£3,609.00	Ash Meadow Committee	£200.00	£6,035.00		Devon Air ambulance night landing lights
		Harbertonford Community Ltd	£210.99	£210.99		Covid 19 community support - leaflets and materials for scrubs
		SASHA	£115.00	£0.00		DV Project Set Up (with Cllr Birch, Sweett & Rose)
		Ashprington Parish Council	£100.00	£100.00		Commemorate and celebrate VE day in the parish with entertainment
		Ashprington Parish Council	£305.29	£305.29		Highway signs to warn of Toads and frogs and also educate
		Harbertonford Community Ltd	£265.00	£265.00		Purchase of a Pocket Radar to help reduce speed
		Cornworthy Parish Council	£250.00	£550.00		Purchase of a new laptop for the parish clerk for council business
		Devon Mobile Library	£500.00			Purchase of new mobile library and equipment inside
		TRAYE project	£500.00	£10,000.00	£1,162.72	Supporting youth activities in 5 surrounding parishes of Totnes
O'Callaghan	£2,400.00	Martina Edmonds	£400			Producing laundry wash bags for key workers and care home staff
		Kingsbridge Foodbank	£500.00			Supporting the local community with food and deliveries
		Kingsbridge Gymnastics club	£500.00		£1,000.00	Provide disabled toilet facilities
Pannell	£2,550.00	Holne Parish Council	£100.00	£6,500.00		Air Ambulance Lighting mast
		Diptford Parish Council	£200.00	£500.00		Notice Board
		South Brent FC	£150.00	£300.00		Finesse equipment
		Art House CIC	£200.00	£17,695.00		Start up project (Also Cllr Smerdon)
		Diptford School	£200.00	£20,000.00		Equipment (Also Cllr Smerdon)
		Libraries Unlimited	£250.00			Mobile Library (Cllr Abbott & 4 Cllrs)
		Totnes Rotary	£150.00			School Computers ( plus Cllr Smerdon, Birch, Sweett & Rose)
		South Brent Parish Council	£200.00		£1,100.00	Footpath repairs (with Cllr Smerdon)
Pearce	£3,500.00	Thurlestone Parish Council	£259.98	£259.98		Repair of Phone box which is used as a community library and focal point
		Malborough Village Hall & Play Assoc	£500.00	£12,000.00	£2,740.02	Repair and refreshment of village hall to hire - Windows and flooring
Pennington	£2,500.00	Littlehempston PC Community Orchard	£650.00	£650.00		Tools
		Berry Pomeroy Church	£1,000.00		£850.00	Clock Repairs (also Cllr Sweett)
Pringle	£2,425.00	Ivybridge Brewing Co.	£200.00			Support project to move brewery (Cllr Abbott / Austin)
		Ivybridge Town Council	£500.00	£750.00		Support for Christmas Day Lunch
		Ivybridge Community Arts	£125.00			Christmas cards and Cd's for elderly (Cllrs Abbott, Austen )
		Ugborough PC	£100.00			Lucerne Fields bench (Cllr Abbott)
		Ugborough PC	£250.00			Bittaford Play Area Project (Cllr Abbott)
		Ivybridge Rotary Club	£250.00		£1,000.00	Online Learning Project (Cllr Abbott)
Reeve	£2,750.00	Halwell & Moreleigh Parish Council	£1,000.00	£5,000.00		Licence for 'No Through Road signage on dangerous junction in parish.
		Kingsbridge Foodbank	£150.00			Support for food and deliveries
		Stoke Fleming Parish Council	£500.00	£25,000.00		Bird Walk project
		Libraries Unlimited South West	£150.00			Mobile Library Project
		Blackawton Playing Fields Committee	£600.00	£1,500.00	£350.00	Provide a Pentanque court for the villagers of Blackawton
Rose	£3,250.00	SASHA	£150.00	£0.00		DV Project set up (with Cllr Birch, Sweett & McKay)
		Totnes Fairtrade	£250.00	£450.00		2021 Fortnight Events
		Libraries Unlimited	£250.00			Mobile Library (Cllr Abbott & 4 Cllrs)
		Youth Mental Health Foundation	£271.00	£271.00		School Workshops
		Totnes Rotary	£100.00			School Computers (plus Cllr Smerdon, Pannell, Birch & Sweett)
		MEND Assembly	£300.00		£1,929.00	Project (with Cllr Birch)
Rowe	£3,000.00	Stoke Gabriel Parish Council	£150.00	£150.00		COVID 19 Leaflets
		Stoke Gabriel Parish Council	£150.00	£200.00		Larger Litter Bin
		Dartmouth Town Council	£500.00			Defibs ( Also Cllr Hawkins and earlier Bastone)
		Dart Valley Sustainability Group	£150.00		£2,050.00	Education Publicity material (plus Cllr Hawkins)
Smerdon	£2,020.00	Holne Community	£250.00	£600.00		Security
		TRAYE	£500.00	£6,000.00		Youth Project (later Cllr Hodgson)
		Art House CIC	£200.00			Start up project ( Also Cllr Pannell)
		Diptford School	£200.00			Equipment (Also Cllr Pannell)
		Libraries Unlimited	£250.00			Mobile Library (Cllr Abbott & 4 Cllrs)

Cllr Name	Opening Balance	Group Name	Grant Amount	Total Project Cost	Closing Balance 22.03.2021	Project Info
		Totnes Rotary	£150.00	£5,600.00		School Computers (plus Cllr Pannell, Birch, Sweett & Rose)
		South Brent Parish Council	£200.00	£2,437.00	<b>£270.00</b>	Footpath repairs (with Cllr Pannell)
Spencer	£3,150.00	Shaugh Prior Parish Magazine	£200.00	£2,400.00	<b>£2,950.00</b>	Support for Parish Magazine project
Sweett	£2,730.00	Totnes Trust	£300.00	£0.00		Mill Wheel repair (with Cllr Birch)
		SASHA	£150.00	£0.00		DV Project Set up (with Cllr Birch, Rose & McKay)
		Bob The Bus	£350.00	£1,476.00		Perspex Screens (later Cllr Birch)
		Totnes Rotary	£200.00			School Computers (plus Cllr Smerdon, Pannell, Birch & Rose)
		Berry Pomeroy Church	£200.00	£6,290.00	<b>£1,530.00</b>	Clock repairs (later Cllr Pennington)
Taylor	£3,150.00	Bigbury Parish Council	£500.00	£1,250.00		Community skip for recycling
		Ugborough Football Club	£100.00			Provide youth goalposts (Cllr Holway / Taylor)
		Kingsbridge Foodbank	£100.00			Providing food support and deliveries during Covid crisis
		Modbury Parish Council	£850.00	£2,975.00		Bus shelter for residents
		Ringmore Parish Council	£300	£1,036		Skip hire for parishioners to dispose of unwanted household & electrical goods.
		Ringmore Parish Council	£300	£500.00		Community bench for residents and visitors
		Modbury Parish Council	£200.00	£500.00		Produce 'Reduce your speed' signs with local primary school
		Modbury Parish Council	£307.00	£307.00	<b>£493.00</b>	Supply adequate litter pick equipment for the community
Thomas	£3,040.00	Newton & Noss Partnership	£187.00			(Cllr Baldry) Support to replace defibrillator at membland
		Newton & Noss PC	£250.00			(Cllr Baldry) Support for Butts Park Pavilion
		Newton & Noss Community Street Ba	£150.00			(Cllr Baldry) Support for creating music project
		Newton Ferrers Network	£300.00			(Cllr Baldry) Support for Village Green Lighting Project
		Yealm Cricket Club	£150.00			(Cllr Baldry) Support for Cricket Club
		Saltram Rotary Club	£250.00			(Cllr Baldry) Support for Online Learning Project
		Dartmoor Zoo	£250.00			(Cllr Baldry) Support for Wellbeing through Zoo Nature Project
		South Dartmoor Community Energy	£100.00		<b>£1,403.00</b>	(Cllr Baldry) Support for Net Zero Hero Project
<b>Overall Opening Balance</b>	<b>£83,902.00</b>		<b>£43,745.90</b>	<b>£379,630.96</b>		
				<b>Closing Balance at 22.03.2021 (to be carried forward to 2021.22)</b>	<b>£40,156.10</b>	

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Report to: **Overview and Scrutiny Panel**

Date: **1 April 2021**

Title: **LGA Model Code of Conduct**

Portfolio Area: **Cllr Nicky Hopwood (Lead Executive Member for Customer Service Delivery)**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **N/Y**

Date next steps can be taken: The recommendation(s) of the Panel will be considered by Full Council at its next meeting on 20 May 2021.

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

Contact: **Telephone: 01803 861359/email: david.fairbairn@swdevon.gov.uk**

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## **RECOMMENDATION**

**It is RECOMMENDED that the Panel RECOMMEND that the Council adopts the Code set out in Appendix C from the date of the Annual Council.**

### **1. Executive summary**

- 1.1 The Local Government Association has produced a New Model Member Code of Conduct which is appended to this report at Appendix A.
- 1.2 The Overview and Scrutiny Panel is responsible for monitoring the Code of Conduct and for making recommendations to Full Council on any changes to the Code.
- 1.3 The Panel is asked to recommend that Council adopts the code of conduct in Appendix C which is a customised version of the LGA Model Code, in accordance with the best practice recommendations of the Committee for Standards in Public Life.

## 2. Background

- 2.1 The Council has a statutory duty to promote and maintain high standards of conduct by Councillors and Co-opted Members of the authority. To that end the Council is required to adopt a Code of Conduct consistent with the Nolan Principles of good governance and to appoint at least one Independent Person whose views must be sought and taken into account before the Council makes any decision about an alleged breach of the Code that has been investigated.
- 2.2 The Council's current Code of Conduct is appended to this report as Appendix B.
- 2.3 The Committee for Standards in Public Life (CSPL) in the January 2019 [Report on Local Government Standards](#) found that there was considerable variation in the length, quality and clarity of codes of conduct. This the CPSL said created confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct the CPSL said failed to address adequately important areas of behaviour such as social media use and bullying and harassment. It therefore recommended that an updated model code of conduct should therefore be made available to local authorities to enhance the consistency and quality of local authority codes. The model was to be voluntary and local authorities should be able to adapt it so they had ownership.
- 2.3 The Local Government Association (LGA) has published a Model Councillor Code of Conduct following consultation with stakeholders and examining good practice in local government and other professions (Appendix A).
- 2.4 The LGA model code is largely self-explanatory. However, the following points are to be noted:
  - (a) The LGA Model Code seeks to build upon the CSPL's seven "Nolan Principles" of public life (selflessness; integrity; objectivity; accountability; openness; honesty and leadership). It builds on these principles with a set of "general principles" developed specifically for the role of the councillor. These are, like the Council's Code of Conduct phrased in the first person, which reinforces ownership by councillors.
  - (b) The LGA Model Code uses "respect" rather than "civility" which had been suggested in earlier drafts. There is a definition of respect in case it is not immediately obvious or perhaps as a useful reminder to reflect upon. The model code confirms that councillors can "express, challenge, criticise and disagree with views, ideas, opinions and

policies in a robust but civil manner” but that they should not “subject individuals, groups of people or organisations to personal attack”. The model code also confirms that councillors have a right to expect respectful behaviour from the public, other councillors and employees.

- (c) The LGA Model Code contains specific references to councillors not bullying or harassing others and includes definitions of bullying and harassment.
- (d) The preamble to the LGA Model Code makes it clear that the code applies to “all forms of communication and interaction” including online meetings, on the telephone and via social media.
- (e) The LGA Model Code contains new duties to undertake code of conduct training and to cooperate with any code of conduct investigation undertaken.
- (f) The LGA Model Code uses the terminology of “disclosable pecuniary interests”, “other registerable interests” (and “non-registerable” interests. This contrasts with the Council’s Code’s references to disclosable pecuniary interests and personal or other interests.
- (g) The LGA Model Code requires gifts and hospitality with a value of £50 or more to be declared. This is less than the Council’s current requirement to register gifts and hospitality in excess of £100.

2.5 Although the Council’s present Code of Conduct is largely fit for purpose, adoption of the LGA Model Code of Conduct would bring about improvements and greater consistency.

### **3. Outcomes/outputs**

- 3.1 High standards of conduct in local government are needed to demonstrate that decisions are taken in the public interest and to maintain public confidence. The adoption of the LGA Model Code of Conduct will help address areas that are not covered by the Council’s present Code of Conduct.
- 3.2 The Model Code as customised for adoption by the Council is appended to this report as Appendix C. The “customisation” relates to a revised introduction and the replacement of references to the LGA with the Council in the main body.

### **4. Options available and consideration of risk**

- 4.1 The CPSL identified a number of risks in local government. It said that the current rules around conflicts of interest, gifts, and hospitality were inadequate; and the increased complexity of local

government decision-making was putting governance under strain. It therefore recommended that there should be a new model, but voluntary, code of conduct.

4.2 The Panel has a number of options at this stage, including:

- (a) Recommend to Full Council the adoption of the LGA Model Councillor Code of Conduct;
- (b) Recommend to Full Council the adoption of the LGA Model Councillor Code of Conduct with potential amendments;
- (c) Reject the LGA Model Councillor Code of Conduct and resolve to continue with the existing Code of Conduct; or
- (d) Resolve to await the outcome of the Government consideration of the CSPL's recommendations, and in the meantime invite parish and town councils, community organisations, neighbouring authorities and other interested parties, individuals and stakeholders for comments on both the Council's existing Code of Conduct and the LGA's Model.

## 5. Proposed Way Forward

5.1 It is proposed that the Panel recommends to Council the adoption of the Code of Conduct appended to this report as Appendix C with effect from the Annual Meeting. Given the extensive consultation undertaken by the LGA in the lead up to the publication of the Model Code and the parties involved in the drafting it is not suggested that the Council needs to undertake its own consultation.

5.2 An important consideration in adopting the Model Code is whether doing so will remove confusion among councillors who represent more than one tier of local government. To that end, the Monitoring Officer has spoken with Monitoring Officers across Devon. Most are taking the LGA Model Code to their standards committees with a view to it being adopted, although that is not uniformly so. A number of parishes across both West Devon and South Hams have approached the Monitoring Officer about the adopting the Model Code.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Section 27 of the Localism Act 2011 requires all local authorities to have a code setting out the standards of behaviour expected of councillors. Although the adoption of a model code of conduct

		was recommended by the CSPL there is no legal requirement to do so.
Financial implications to include reference to value for money	N	There are no financial implications arising from the report.
Risk	Y	The adoption of a new Code of Conduct would provide clarity on a number of issues and provide clear expectations of councillors regarding their conduct. Adoption at the Annual Council will link to the formal adoption of the Constitution (and any changes arising from the adoption of the code).
Supporting Corporate Strategy	Y	The operation of a robust Code of Conduct supports the proper delivery of all of the Council's functions and therefore the Corporate Strategy.
Climate Change - Carbon / Biodiversity Impact	N	There are no direct climate change, carbon or biodiversity impacts arising from this report.
<b>Comprehensive Impact Assessment Implications</b>		
Equality and Diversity	N	There are no direct equality and diversity implications arising from this report.
Safeguarding	N	There are no direct safeguarding implications arising from this report.
Community Safety, Crime and Disorder	N	There are no direct community safety, crime and disorder implications arising from this report.
Health, Safety and Wellbeing	N	There are no health, safety and wellbeing implications arising from this noting report.
Other implications		

### **Supporting Information**

#### **Appendices:**

Appendix A – LGA Model Code

Appendix B - The Council's Members' Code of Conduct

Appendix C – Customised LGA Model Code

#### **Background Papers:**

None

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## **Local Government Association**

### **Model Councillor Code of Conduct 2020**

#### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

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 of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

##### **As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **2. Bullying, harassment and discrimination**

### **As a councillor:**

#### **2.1 I do not bully any person.**

#### **2.2 I do not harass any person.**

#### **2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

**8.1 I undertake Code of Conduct training provided by my local authority.**

**8.2 I cooperate with any Code of Conduct investigation and/or determination.**

**8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

#### **As a councillor:**

**9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering

### interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable pecuniary interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it

is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
  - a. your own financial interest or well-being;
  - b. a financial interest or well-being of a friend, relative, close associate; or
  - c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
<b>Securities</b>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registerable Interests**

<p>You have a personal interest in any business of your authority where it relates to or is likely to affect:</p> <ul style="list-style-type: none"> <li>a) any body of which you are in general control or management and to which you are nominated or appointed by your authority</li> <li>b) any body <ul style="list-style-type: none"> <li>(i) exercising functions of a public nature</li> <li>(ii) any body directed to charitable purposes or</li> <li>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)</li> </ul> </li> </ul>
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## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

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# Part 5

## Members' Code of Conduct



### PART 1 GENERAL PROVISIONS

#### 1. PUBLIC DUTY AND PRIVATE INTERESTS: An introduction

- 1.1 This Code applies to you as a Member or a Co-opted Member of South Hams District Council ('the Council').
- 1.2 When acting in your capacity as a Member or Co-opted Member of the Council, you should have regard to the Principles of Public Life namely:

Selflessness  
 Honesty/Integrity  
 Objectivity  
 Accountability  
 Openness  
 Personal judgment  
 Respect for others  
 Duty to uphold the law  
 Stewardship  
 Leadership

- 1.3 When acting in your capacity as a Member or Co-opted Member of the Council:
- (a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate;
  - (b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
  - (c) when carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;
  - (d) you are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office;

## 1. PUBLIC DUTY AND PRIVATE INTERESTS: An introduction (cont'd)

- (e) you must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council or contained in its Constitution;
  - (f) you must declare any private interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
  - (g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the Council's reasonable requirements;
  - (h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Council;
  - (i) you must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- 1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any question which Members have to decide.
- 1.5 Do nothing as a Member which you could not justify to the public.
- 1.6 The reputation of the Council depends on your conduct and what the public believes about your conduct.
- 1.7 It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.
- 1.8 It is your responsibility to comply with the provisions of this Code.

## 2. DEFINITIONS

In this Code:

- 2.1 '**close associate**' includes someone you are in either regular or irregular contact with over a period of time who is more than just an acquaintance and who is someone a reasonable member the public might think you would be prepared to favour or disadvantage.

## 2. DEFINITIONS (cont'd)

- 2.2 '**family**' includes your parents, parent-in-law, son/daughter, brother/sister, son/daughter-in-law, stepson/stepdaughter, grandparent, grandchild, nephew/niece, uncle/aunt or any of the above of a partner or any partners of these people.
- 2.3 '**interest or interests**' have the meanings set out in Part 2 of this Code.
- 2.4 '**meeting**' means any meeting of:
- the Council;
  - the Executive of the Council
  - any of the Council's or its Executive's Committees, Sub-Committees or Joint Committees or Joint Sub Committees.
  - one or more Members, formal or informal and with or without officers, relating to the discharge of the Council's functions where a formal record is made by a Council Officer.
- 2.5 '**member**' includes a co-opted member.
- 2.6 '**relevant person**' means:
- you
  - your spouse or civil partner
  - a person with whom you are living as husband and wife or as civil partners and you are aware that the other person has an interest.
- 2.7 'relevant period' means a period of 12 months ending with the date on which you notified the Monitoring Office of an interest.
- 2.8 'the Regulations' means 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI2012/1464)' or any statutory amendment of them.

## 3 SCOPE

You must comply with this Code whenever you are acting in your official capacity, when:

- (a) you are engaged on the business of the Council; or
- (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council.

## 4. GENERAL OBLIGATIONS

### 4.1 You must:

- (a) treat others with courtesy and respect,
- (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council.

### 4.2. You must not:

- (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (b) do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
- (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);
- (d) intimidate or attempt to intimidate any person who is or is likely to be:
  - (i) a complainant,
  - (ii) a witness, or
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct;
- (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
- (f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

#### 4. GENERAL OBLIGATIONS (cont'd)

- (f) (iv) the disclosure is:
  - (a) in the public interest; and
  - (b) made in good faith and
  - (c) in compliance with the reasonable requirements of the Council;
- (g) prevent another person from gaining access to information to which that person is entitled by law;
- (h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

#### 5. REGISTER OF INTERESTS

5.1. You must, within 28 days of:

- (a) this Code being adopted by, or applied to, the Council; or
- (b) your taking office as a Member or Co-opted Member of the Council, whichever is the later, and annually thereafter, provide written notification to the Council's Monitoring Officer of:
  - (i) any disclosable pecuniary interest as defined by Regulations, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife); and
  - (ii) any other personal interest laid down by the Council, as set out at paragraph 7 below:

“which will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at: [www.southhams.gov.uk](http://www.southhams.gov.uk)”

5.2 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the Council's Monitoring Officer.

5.3 Whether or not an interest within paragraphs 7.1 and 7.2 below has been entered onto the Council's register, you must disclose any interest to any meeting at which you are present in any matter being considered, in line with paragraph 8 below, where the matter is not a 'sensitive interest'.

## 5. REGISTER OF INTERESTS (cont'd)

- 5.4 Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 5.5 In relation to **disclosable pecuniary interests** in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

"body in which the relevant person has a beneficial interest"	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
"director"	includes a member of the committee of management of an industrial and provident society
"land"	excludes an easement, servitude, interest, or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
"relevant authority"	means the authority of which you are a member
"relevant person"	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners
"securities"	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

## 6. DISCLOSABLE PECUNIARY INTERESTS

- 6.1 The interests you **must** register are:

Those disclosable pecuniary interests defined by the Regulations, namely:

- (a) **Employment** - any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
- (b) **Sponsorship** - any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;

## 6 DISCLOSABLE PECUNIARY INTERESTS (cont'd)

- (c) **Contracts** - any contract which is made between you or, so far as you are aware, a relevant person (as defined at Paragraph 2 above) (or a body in which the relevant person has a beneficial interest) and the Council:
- i. under which goods or services are to be provided or works are to be executed; and
  - ii. which has not been fully discharged
- (d) **Land** - any beneficial interest in land held by you, or so far as you are aware, a relevant person, which is within the area of the Council;
- (e) **Licence** - any licence (alone or jointly with others) to occupy land held by you, or so far as you are aware, a relevant person in the area of the Council which will last for a month or longer;
- (f) **Corporate Tenancies** - any tenancy where (to your knowledge):
- (i) the landlord is the Council; and
  - (ii) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
- (g) **Securities** - any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
- i. that body (to your knowledge) has a place of business or land in the area of the Council and
  - ii. either:
    - (a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
    - (b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## 7 PERSONAL OR OTHER INTERESTS

7.1 Those other personal interests specified by the Council, including:

- (a) Your membership of any body to which you have been appointed by the Council or exercising functions of a public nature directed to charitable purposes or whose principal purposes include influence of public opinion or policy, your membership of any other local Authority and of any political party or trade union.

## **7 PERSONAL OR OTHER INTERESTS (cont'd)**

- (b) In addition to those interests listed at 7.1 and 7.2 (a) above which you are required to register, you may wish also to declare membership of anybody which, in your view, might create a conflict of interest in carrying out your duties as a Councillor, [such as membership of the Freemasons or any similar body].
- (c) any interest where you think a reasonable person with knowledge of the relevant facts may either regard the interest itself as so significant, or otherwise as having so much greater impact upon you than upon the majority or residents or inhabitants in the affected area, that it may prejudice your judgement of the public interest; or
- (d) any membership of any body or
- (e) any other area which, in your view, might create a conflict of interest in carrying out your duties as a Councillor, including but not confined to the receipt of gifts or hospitality to a value greater than £100.

7.2 Where a matter arises at a meeting which affects the wellbeing or financial interest or position of you, any relevant person, member of your family or close associate (other than a Disclosable Pecuniary Interest) more than it would affect the majority of people living within the ward or electoral division affected by the matter.

7.3 Where the Council's Monitoring Officer agrees that any information relating to your interests is "sensitive information" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

7.4 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.

## **8 DECLARATION OF INTERESTS AND PARTICIPATION IN MEETINGS**

8.1 Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a disclosable pecuniary interest as defined by the Regulations and you must also observe any restrictions the Council may place on your involvement in matters where you have any interest as defined by the Council and shown at Paragraph 7 above.

## **8 DECLARATION OF INTERESTS AND PARTICIPATION IN MEETINGS (cont'd)**

8.2 Where you have any interest in any business of the Council and you attend any meeting at which that business is to be considered, you must:

- (a) disclose to that meeting the existence and nature of that interest (unless it is a sensitive interest in which case you need only disclose the fact that there is a disclosable pecuniary interest in the matter concerned);
- (b) disclose any interest in accordance with the Council's reasonable requirements, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (d) where you have an interest under Paragraph 7.2, you shall not take part in the discussion or vote on that matter save that you may speak on the matter before withdrawing from the meeting room if members of the public are also allowed to speak at the meeting.
- (e) not seek to influence improperly any decision about that business;

unless you have obtained a dispensation from the Council's Monitoring Officer or the Corporate Performance and Resources Scrutiny Panel.

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## **Part 5(a) - Councillors' Code of Conduct**

“The role of councillor across all tiers of local government is a vital part of our country’s system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public’s trust in local government.”

Extract from the Local Government Association Model Councillor Code of Conduct

## Introduction

All councils are required to have a local Councillor Code of Conduct. This code of conduct has been adopted by South Hams District Council (**the Council**) as its Code of Conduct and is based on the Local Government Association (LGA) Model Councillor Code of Conduct.

## Definitions

For the purposes of this Code of Conduct:

**“councillor”** means a member or co-opted member of a local authority or a directly elected mayor.

**“co-opted member”** is “a person who is not a member of the authority but who

a) is a member of any committee or sub-committee of the authority, or;

b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; and

who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

**‘director’** includes a member of the committee of management of an industrial and provident society.

**“Disclosable pecuniary interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 in Appendix B.

**“Other Registerable Interest”** means an interest of yourself within the descriptions set out in Table 2 in Appendix B.

**“Partner”** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

**“local authority”** includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

**‘securities’** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

A **‘sensitive interest’** is as an interest which, if disclosed, could lead to you, or a person connected with you, being subject to violence or intimidation.

## Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles (Appendix A).

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community;
- I do not improperly seek to confer an advantage, or disadvantage, on any person;
- I avoid conflicts of interest;
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my Council's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor;
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings;
- at online or telephone meetings;
- in written communication;
- in verbal communication;
- in non-verbal communication; and
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

**As a councillor:**

**1.1 I treat other councillors and members of the public with respect.**

**1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

**Respect** means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack. In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the Council's councillor-officer protocol.

#### **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the Council**

**As a councillor:**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a councillor:**

#### **4.1 I do not disclose information:**

**4.1.1 given to me in confidence by anyone; or**

**4.1.2 acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**

- (a) I have received the consent of a person authorised to give it;**
- (b) I am required by law to do so;**
- (c) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
- (d) the disclosure is:**
  - (da) reasonable and in the public interest; and**
  - (db) made in good faith and in compliance with the reasonable requirements of the Council; and**
  - (dc) I have consulted the Monitoring Officer prior to its release.**

#### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

#### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

### **As a councillor:**

#### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or the Council and may lower the public's confidence in you or the Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

### **As a councillor:**

#### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the Council provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

### **As a councillor:**

#### **7.1 I do not misuse council resources.**

#### **7.2 I will, when using the Council's resources or authorising their use by others:**

**7.2.1 act in accordance with the Council's requirements; and**

**7.2.2 ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed**

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a councillor. Examples might include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of Council buildings and rooms. These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.

## **8. Complying with the Code of Conduct**

### **As a Councillor:**

- 8.1 I undertake Code of Conduct training provided by the Council.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

#### **As a councillor:**

#### **9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the Council.

You need to register your interests so that the public, Council employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

### **10. Gifts and hospitality**

#### **As a councillor:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £100 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

To protect your position and the reputation of the Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to

you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendix A**

### **The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B

### Registering interests

- 1 Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1**. You should also register details of your other personal interests which fall within the categories set out in **Table 2**.
- 2 You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
- 3 Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

### Disclosure of Other Registerable Interests

5. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
7. Where a matter arises at a meeting which **affects**:
  - 7.1. your own financial interest or well-being;
  - 7.2. a financial interest or well-being of a friend, relative, close associate; or
  - 7.3 a body included in those you need to disclose under Disclosable Pecuniary Interestsyou must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

8. Where a matter **affects** your financial interest or well-being:
  - 8.1. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - 8.2 a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest,

you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
9. Where you have a personal interest in any business of the Council and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. Any unpaid directorship.
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director or a body that such person has a beneficial interest in the securities of) and the Council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director of or has a beneficial interest in the securities of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

**Table 2 – Other Registerable Interests**

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by the Council: or
- b) any body:
  - (i) exercising functions of a public nature;
  - (ii) any body directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

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Report to: **Overview and Scrutiny Panel**  
Date: **1 April 2021**  
Title: **Annual Report 2020-21**  
Portfolio Area: **Cllr Nicky Hopwood (Lead Executive Member for Customer Service Delivery)**  
Wards Affected: **All**  
Urgent Decision: **N** Approval and clearance obtained: **N/Y**

Date next steps can be taken:

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

Contact: **Telephone: 01803 861359/email: david.fairbairn@swdevon.gov.uk**

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**Recommendations:**

**It is RECOMMENDED that the Panel notes the contents of the Report.**

**1. Executive summary**

- 1.1 The Overview and Scrutiny Panel is responsible for promoting and maintaining high standards of conduct by Councillors and co-opted Members.
- 1.2 Although there is no legislative requirement for standards committees to produce an Annual Report, doing so is recognised as good practice. Not only does the report publicise the work of the committee to the general public, it is also a means for a council itself to monitor the committee's work.
- 1.3 The Annual Report is for noting and provides information on the number and outcome complaints made during the current year together with any trends that have been identified. The report notes the progress on the Committee for Standards in Public Life's recommendation that there should be a model code of conduct for councillors, which is considered elsewhere on the agenda.

## 2. Annual Report

- 2.1 **The Overview and Scrutiny Panel.** The Panel's terms of reference include:
- (a) to provide and maintain high standards of conduct by Councillors (and co-opted members if appointed);
  - (b) to assist Councillors (and co-opted members) of the Council to observe the Council's Code of Conduct;
  - (c) to advise the Council on the adoption or revision of the Members' Code of Conduct and on matters relating to the ethical conduct of the Council and its Members;
  - (d) to advise and train Councillors (and co-opted members) on matters relating to the Code of Conduct; and
  - (e) to consider complaints alleging a breach of the Code of Conduct by District Councillors (and any co-opted members where relevant) and those members of town and parish councils in the District of South Hams.
- 2.2 **Independent Persons.** Under the Localism Act 2011, the Council is required to appoint one or more Independent Persons to assist in the standards process. The functions of the Independent Persons are:
- (a) To be consulted by the Council before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decide on action to be taken in respect of that Member; and
  - (b) to be consulted by the Council in respect of a standards complaint at any other stage and they may be consulted by a Member or a co-opted member.
- 2.3 The Council shares its Independent Persons with West Devon Borough Council. The Independent Persons are appointed until May 2023.
- 2.4 **Code of Conduct complaints.** The Monitoring Officer has been delegated by the Council to receive complaints that members of the Council or any town or parish council in the Council's area have failed to comply with their council's Code of Conduct. The Monitoring Officer has delegated power, after consultation with the Independent Person, if appropriate, to determine whether a complaint merits formal investigation. Wherever practicable, the Monitoring Officer seeks resolution of complaints without formal investigation. The Monitoring Officer has a discretion to refer the

outcome of a formal investigation for a hearing by the Overview and Scrutiny Standards Panel where the complaint is serious or complex and it is considered to be in the public interest.

- 2.5 There have been 19 complaints in 2020/21. This compares with 23 complaints in 2019/20. None of the complaints received in the past two years have needed the Overview and Scrutiny Standards Panel to meet.
- 2.6 Although there have been a similar number of complaints this year, it has taken longer to resolve them due to competing priorities and vacancies within the Legal Services Team. This resulted in complaints being outsourced to Cornwall Council.
- 2.7 As Members will be aware from a recent e-mail sent by the Monitoring Officer to all Town and Parish Councils there has been a worrying increase in the number of allegations of town and parish clerks being bullied or harassed by members of their respective councils. The Monitoring Officer has advised all Town and Parish Councils that they should, as employers, put in place appropriate policies and procedures to prevent such bullying and harassment.
- 2.8 The other trend has been the use of the standards process by complainants to challenge decisions of parish councils with which they do not agree.
- 2.9 **Policy and Procedure.** The Council has an adopted policy and procedure for dealing with code of conduct complaints. The policy and procedure was last reviewed in 2019. The aim of the policy and procedure is to manage expectations as to what can and cannot be considered, while providing transparency as to how any complaint will be handled. Unfortunately, for the reasons explained in the previous paragraphs, timescales for acknowledging and dealing with complaints have not always been met.
- 2.10 **Committee for Standards in Public Life (CSPL).** In its 2019 report [Local Government Ethical Standards](#) the CSPL reviewed the standards framework to see if it was conducive to promoting and maintaining the standards expected by the public. Having expressed concerns about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making, the CSPL made a number of recommendations. Most of the recommendations were made the responsibility of Government as they required legislative changes. The Local Government Association was however recommended to create an updated model code of conduct and this has now been consulted upon and the final version published.
- 2.11 The CSPL made a number of best practice recommendations directed to local authorities in the expectation that they would

implement them. The Council responded to a follow-up questionnaire from the CSPL in November 2020. This is appended to this report as Appendix A. With regards to Recommendation 15, with the appointment of the “new Monitoring Officer” this can now be implemented.

**2.12 Training and development.** Training is an important part of promoting high standards of behaviour. However, due to the events of the past year no training has been carried out. Training was last delivered to all members of the Council in June 2019. Training would therefore be expected to take place in 2021/2022 and if a new code of conduct is adopted with effect from the Annual Meeting, this will be essential.

### 3. Proposed Way Forward

3.1 The Annual Report summarises the Panel’s role and the events of 2020/21 relating to the standards of behaviour in local government and code of conduct complaints.

### 4. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Overview and Scrutiny Panel is responsible for promoting and maintaining high standards of conduct by Members and it is important that the Panel has an overview of actions taken over a period of time, with an opportunity to make any recommendations.
Financial implications to include reference to value for money	N	There are no financial implications arising from the report.
Risk	Y	There is a risk that, without an annual report and overview, the Panel cannot fulfil its responsibilities for promoting and maintaining high standards of conduct by Members
Supporting Corporate Strategy	Y	Maintaining high standards of behaviour supports the proper delivery of all of the Council’s functions and therefore the Corporate Strategy.
Climate Change - Carbon / Biodiversity Impact	N	There are no direct climate change, carbon or biodiversity impacts arising from this report.

Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no direct equality and diversity implications arising from this report.
Safeguarding	N	There are no direct safeguarding implications arising from this report.
Community Safety, Crime and Disorder	N	There are no direct community safety, crime and disorder implications arising from this report.
Health, Safety and Wellbeing	N	There are no health, safety and wellbeing implications arising from this noting report.
Other implications		

### **Supporting Information**

#### **Appendices:**

Appendix A – Progress in implementing best practice recommendations (Nov 2020).

#### **Background Papers:**

None

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## CSPL local government ethical standards 15 best practice recommendations

### Name of local authority:

#### South Hams District Council and West Devon Borough Council

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**1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

#### **Progress:**

The codes of the two Councils include a definition of bullying, but not harassment. The two Councils are reviewing their corporate policies on bullying and harassment so there is a need for those policies and the codes to be aligned with each other. Equally, the Councils recognise that the Local Government Association template code will reflect all of the best practice recommendations and understand that publication of the template code is imminent. The Councils are therefore reluctant to adopt codes giving effect to any amendments to their existing codes required by these Best Practice Recommendations when it is likely they will look to adopt the LGA code of conduct shortly afterwards

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**2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

#### **Progress:**

The Councils recognise that the Local Government Association template code will reflect all of the best practice recommendations and understand that publication of the template code is imminent. The Councils are therefore reluctant to adopt codes giving effect to any amendments to their existing codes required by these Best Practice Recommendations when it is likely they will look to adopt the LGA code of conduct shortly afterwards.

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**3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

#### **Progress:**

In accordance with previous best practice an Annual Standards Report is presented to the respective Council's committee responsible for standards. This will identify any issue that have arisen during the year and will, if considered appropriate, make recommendations for amendments of the code of conduct.

The Councils will consider wider consultation, but adoption of the LGA template code may influence the extent to which this is done and the frequency of any such consultation.

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**4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Progress:**

Completed

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**5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Progress:**

The Councils will consider further.

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**6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Progress:**

The Councils recognise that the Local Government Association template code will reflect all of the best practice recommendations and understand that publication of the template code is imminent. The Councils are therefore reluctant to adopt codes giving effect to any amendments to their existing codes required by these Best Practice Recommendations when it is likely they will look to adopt the LGA code of conduct shortly afterwards.

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**7:** Local authorities should have access to at least two Independent Persons.

**Progress:**

Completed

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**8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Progress:**

The Councils already do this as part of their procedures.

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**9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Progress:**

The Councils already do this as part of their procedures.

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**10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Progress:**

Completed.

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**11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

**Progress:**

The Councils are uncertain about how this can be required and will continue to accept complaints from the clerk.

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**12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Progress:**

Completed.

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**13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Progress:**

The Councils procedures deal with conflicts of interest. Completed.

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**14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

**Progress:**

The Councils' Leadership Team has been advised of the recommended best practice

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**15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

**Progress:**

The Councils will look to adopt this recommendation following the appointment of a new Monitoring Officer within the next month.

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Report to: **Overview and Scrutiny Panel**

Date: **1 April 2021**

Title: **Feedback from Outside Bodies – Task and Finish Group Concluding Report**

Portfolio Area: **Leader – Cllr Judy Pearce**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: *Some conclusions arising from the Review will need to be reported to the Annual Council Meeting on 20 May 2021 as part of the Outside Bodies Appointments report.*

Author: **Darryl White** Role: **Democratic Services Manager**

Contact: [darryl.white@swdevon.gov.uk](mailto:darryl.white@swdevon.gov.uk) or **01803 861247**

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## RECOMMENDATION

**That the Overview and Scrutiny Panel be RECOMMENDED to approve the conclusions of the Feedback from Outside Bodies – Task and Finish Group (as set out at Sections 3.5.1 to 3.5.6 below).**

### 1. Executive summary

- 1.1 In line with the request from the Overview and Scrutiny Panel (Minute O&S.42/20 refers), this report presents the conclusions from the Task and Finish Group Review into Member representatives providing feedback on Outside Bodies to which they have been formally appointed by the Council.

### 2. Background

- 2.1 At the Full Council meeting held on 11 February 2021, Cllr Abbott asked the following Question on Notice (Minute 42/20 refers):

*'Will the Chair of the Overview and Scrutiny Panel be prepared to request the Panel to scrutinise the means of reporting back to Council and to evaluate the benefit to the Council of it being represented on the Outside Bodies?'*

2.2 In responding to this Question, Cllr Birch stated that:

*'In thanking Cllr Abbott for his question, Cllr Birch stated that, at the next meeting of the O&S Panel to be held on 25 February 2021, he would seek to obtain the Panel's agreement to set up a Task and Finish Group to examine the matters raised in the question. In doing so, it would be required to report back with any recommendations to the meeting of the Panel on 1 April 2021. Furthermore, Cllr Birch informed that it would be his intention to propose that membership of the Task and Finish Group would extend beyond the Panel's membership.'*

2.3 As a result, the Overview and Scrutiny Panel met on 25 February 2021 and resolved that:

1. *a Task and Finish Group be set up to scrutinise the means of reporting back to Council and to evaluate the benefit to Council of it being represented on Outside Bodies;*
2. *the Group would report back with any recommendations to the Panel meeting on 1 April 2021, with the Panel consisting of three Members of the Conservative Group and three Members of the Opposition Group and to be chaired by Cllr Spencer; and*
3. *the draft Terms of Reference (as presented to the Panel meeting) be approved.*

2.4 Following consultation with the Leader of Council and the Leader of the Opposition Group, Cllrs Abbott, Austen, Pannell, Rowe, Spencer (Chair), Sweett were subsequently nominated to serve on the Task and Finish Group.

2.5 The agreed Terms of Reference for the Review are attached at Appendix A to this report.

### **3. Task and Finish Group Conclusions**

3.1 The Group met on Wednesday, 10 March and was joined by the Chief Executive; Monitoring Officer; Democratic Services Manager and Cllrs Baldry, Birch and Pearce. The conclusions arising from this Group meeting are set out below;

3.2 As a starting point to the Group's deliberations, Cllr Abbott had posed the following questions:

- Can the Council receive a more analytical report from an Outside Body (rather than just the minutes arising from a meeting)? With such a report including an evaluation of why our representative attended; what they had learned over the last twelve months; what changes had occurred to the Outside Body; and what (if any) added value had been obtained by the Council and/or its local communities;
- Is there anything that the wider membership can do to support the Outside Bodies and our appointed representatives?

- Should the Council develop an annual reporting system that focuses on:
    - A description of the Outside Body; its work; and its relevance to the Council;
    - The range and number of meetings that had been held during the year and why our representative(s) had chosen to attend the meetings that they did;
    - The expenses incurred (if any);
    - Changes to the Outside Body over the course of the year;
    - Consequences (and (any) added value) to our residents, local communities and to the Council; and
    - Publicity resulting from the work of the Outside Body?
- 3.3 To further provide some context to the Review, officers also reminded the Group that, in the absence of an Annual Council meeting in May 2020, the current list of Outside Bodies had not been reviewed for two years. Furthermore, it was confirmed that the appointments process was outside of the scope of this Review and was also an Annual Council function;
- 3.4 In its deliberations, Group Members made particular reference to:
- The importance of representatives advising local Ward Members when matters relating to their local Wards are to be discussed at a future Outside Body meeting;
  - The current picture was a mixed one with some representatives already complying with the requirements to feedback, whereas others were not;
  - Any additional requirements arising from this Review being the responsibility of the appointed Member representatives and not to place any additional work pressures on officers;
  - The extent to which a representative needs to provide feedback being a matter for their own judgement; and
  - The need to develop a mechanism to enable the Council to review the performance of the Outside Bodies.
- 3.5 Having discussed the key issues and challenges, the Group proceeded to recommend that:
- 3.5.1 As part of its Annual Work Programme deliberations, the Overview and Scrutiny Panel be requested to schedule an Annual Report on the performance of each of the Outside Bodies to which the Council has made appointment(s). This Annual Report to be considered early in the Calendar Year in order that the Council has the opportunity to consider the value of re-appointing to each Outside Body at the Annual Council meeting in May. In making this recommendation, the Group has stated that appointed representatives will need to report more frequently when Outside Bodies are to make

decisions (or have discussions) about matters deemed of significance / relevance / importance to the Council;

- 3.5.2 Representative(s) be required to inform local Ward Members when matters specifically relating to their local Ward(s) are to be discussed at a future Outside Body meeting;
- 3.5.3 That reports produced by representatives should summarise any such discussions or decisions made and explain how the Council (or its residents) will be impacted or what the Council is being requested to do. In so doing, representatives will be required to consider how these discussions or decisions will contribute to the delivery (once adopted) of the Corporate Strategy;
- 3.5.4 That, in order to facilitate reporting, the Democratic Services Manager be asked to produce a template for completion by representatives on Outside Bodies. The template (once drafted) to be appended to the Outside Bodies report for adoption at the Annual Council meeting to be held on 20 May 2021;
- 3.5.5 That such reports from representatives be published via the Members' Bulletin publication. In so doing, that officers be asked to revisit the format of the Bulletin to ensure that its content can be copied and pasted; and
- 3.5.6 That a role profile ('Job Description') for Members be drafted and also appended to the Annual Council report on the Constitution for adoption.

**4. Options available and consideration of risk**

- 4.1 Adoption of the recommendations should provide added value to the Council whilst enabling for improved performance monitoring.

**5. Implications**

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council Constitution requires the Council to approve the list of (and subsequent appointments to) Outside Bodies.
Financial implications to include reference	Y	There are no financial implications linked to this report.

to value for money		
Risk	Y	The risk implications are set out at Section 4 above.
Supporting Corporate Strategy	Y	Council Theme – <i>Efficient and effective</i>
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	N/A
Climate Change & Biodiversity	N	N/A
Safeguarding	N	N/A
Community Safety, Crime and Disorder	N	N/A
Health, Safety and Wellbeing	N	N/A
Other implications	N	None

**Appendices:**

A – Review Terms of Reference

**Background Documents:**

Council Constitution;  
Annual Council Agenda and Minutes – 16 May 2019 Meeting;  
Council Agenda and Minutes – 11 February 2021 Meeting; and  
Overview and Scrutiny Panel Agenda and Minutes – 25 February 2021 Meeting

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## **Feedback from Outside Bodies: Task and Finish Group**

### **Terms of Reference – Draft**

#### 1. Membership

##### **Task and Finish Group Members**

Cllr Abbott

Cllr Austen

Cllr Pannell

Cllr Rowe

Cllr Spencer (**Chair**)

Cllr Sweett

##### **Lead Executive Member**

Cllr J Pearce (Leader of Council)

##### **Officer Support:**

Andy Bates, Chief Executive

David Fairbairn, Monitoring Officer

Darryl White, Democratic Services Manager

#### 2. Purpose of the group

The primary purpose of a Task and Finish Group is to either review existing and/or develop new Policy/Strategy. Task and Finish Group recommendations are, in the first instance, considered by the Overview and Scrutiny function before then being presented to either the Executive or Full Council for approval.

The purpose of this Group is to review the means by which Members who are appointed to represent the Council on Outside Bodies provide feedback and added value to the Council.

The Group will present its concluding report to the Overview and Scrutiny Panel at its 1 April 2021 meeting.

#### 3. Role & Function

- To develop a mechanism to enable the Council to review the performance of the Outside Bodies on which the Council has appointed elected Members representatives; and
- To investigate ways by which all appointed Members can provide regular feedback to the Council on the work of their Outside Bodies.

#### 4. Out of Scope

The following are out of the scope of this review:

- The appointments process for Outside Bodies; and
- The suitability of those Members who have been appointed to represent the Council on the list of Outside Bodies.

#### 5. Governance Arrangements

The Task and Finish Group has no decision-making powers and is accountable to the Overview and Scrutiny Panel; and

The Quorum of the Group will be 3 Members.

#### 6. Duration

The Task and Finish Group will present its concluding report to the Panel meeting on 1 April 2021.

#### 7. Meeting and Working Practices

The Group Chairman may call a meeting of the Group as and when required in order to meet the reporting deadlines for the Review. Any such meetings shall be held remotely (over Teams).

Any Member of the Council may attend a meeting of the Group and, at the discretion of the Chairman, may take part in the deliberations.

It is recognised that the lead Member has a fundamental role to play in the Review and will be invited to attend each meeting of the Group and contribute to its deliberations.

## OVERVIEW AND SCRUTINY PANEL

### INITIAL DRAFT ANNUAL WORK PROGRAMME PROPOSALS– 2021/22

Date of Meeting	Report	Lead Officer
June 2021	Climate Change and Biodiversity Action Plan: Six-Monthly Update	Drew Powell
	Overview & Scrutiny Annual Report: 2020/21	Darryl White
	Council Delivery Against Key Performance Indicators	Jim Davis
	Task and Finish Group Updates <i>(if any)</i>	
	O+S Annual Work Programme <i>(to include preparation for next meeting)</i>	
July 2021	Task and Finish Group Updates <i>(if any)</i>	
	O+S Annual Work Programme <i>(to include preparation for next meeting)</i>	
Page 97	Key Strategic Partners: Dartmoor National Park Authority Reps; and South Devon AONB	
	New Waste Service Implementation	Jane Savage
September 2021	Task and Finish Group Updates <i>(if any)</i>	
	Third Sector Partners – Council for Voluntary Service and Citizens Advice	
	Council Delivery against Corporate Theme 1	
	O+S Annual Work Programme <i>(to include preparation for next meeting)</i>	
November 2021	Task and Finish Group Updates <i>(if any)</i>	
	Review of Localities New Service	Sarah Moody
	Community Safety Partnership	Louisa Daley
	Council Delivery against Corporate Theme 2	
	O+S Annual Work Programme <i>(to include preparation for next meeting)</i>	
December 2021	Climate Change and Biodiversity Action Plan: Six-Monthly Update	Drew Powell
	Council Delivery Against Key Performance Indicators	Jim Davis
	Task and Finish Group Updates <i>(if any)</i>	
	Council Delivery against Corporate Theme 3	

	O+S Annual Work Programme <i>(to include preparation for next meeting)</i>	
January 2022	Draft Budget Proposals 2022/23 <i>(NB. Joint Meeting with the DM Committee)</i>	
March 2022	Task and Finish Group Updates <i>(if any)</i>	
	Fusion (Leisure) Annual Report	Jon Parkinson
	Council Delivery against Corporate Theme 4	
	O+S Annual Work Programme <i>(to include preparation for next meeting)</i>	
April 2022	Task and Finish Group Updates <i>(if any)</i>	
	O+S Annual Work Programme <i>(to include preparation for next meeting)</i>	
	Council Delivery against Corporate Theme 5	
	Livewest (Housing Provider)	
8698 To be considered for scheduling:	FCC (Waste, Recycling and Streetscene contract performance)	
	Devon Health and Wellbeing Board	
	Broadband & Connecting Devon and Somerset	