

South Hams Council



Title:	Agenda																														
Date:	Thursday, 19th May, 2022																														
Time:	2.00 pm																														
Venue:	Council Chamber - Follaton House																														
Full Members:	<p style="text-align: center;">Chairman Cllr Foss</p> <p style="text-align: center;">Vice Chairman Cllr Austen</p> <p><i>Members:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Cllr Abbott</td> <td style="width: 33%;">Cllr McKay</td> </tr> <tr> <td>Cllr Baldry</td> <td>Cllr O'Callaghan</td> </tr> <tr> <td>Cllr Bastone</td> <td>Cllr Pannell</td> </tr> <tr> <td>Cllr Birch</td> <td>Cllr Pearce</td> </tr> <tr> <td>Cllr Brazil</td> <td>Cllr Pennington</td> </tr> <tr> <td>Cllr Brown</td> <td>Cllr Pringle</td> </tr> <tr> <td>Cllr Chown</td> <td>Cllr Reeve</td> </tr> <tr> <td>Cllr Hawkins</td> <td>Cllr Rose</td> </tr> <tr> <td>Cllr Hodgson</td> <td>Cllr Rowe</td> </tr> <tr> <td>Cllr Holway</td> <td>Cllr Smerdon</td> </tr> <tr> <td>Cllr Hopwood</td> <td>Cllr Spencer</td> </tr> <tr> <td>Cllr Jackson</td> <td>Cllr Sweett</td> </tr> <tr> <td>Cllr Jones</td> <td>Cllr Taylor</td> </tr> <tr> <td>Cllr Kemp</td> <td>Cllr Thomas</td> </tr> <tr> <td>Cllr Long</td> <td></td> </tr> </table>	Cllr Abbott	Cllr McKay	Cllr Baldry	Cllr O'Callaghan	Cllr Bastone	Cllr Pannell	Cllr Birch	Cllr Pearce	Cllr Brazil	Cllr Pennington	Cllr Brown	Cllr Pringle	Cllr Chown	Cllr Reeve	Cllr Hawkins	Cllr Rose	Cllr Hodgson	Cllr Rowe	Cllr Holway	Cllr Smerdon	Cllr Hopwood	Cllr Spencer	Cllr Jackson	Cllr Sweett	Cllr Jones	Cllr Taylor	Cllr Kemp	Cllr Thomas	Cllr Long	
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Interests – Declaration and Restriction on Participation:	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.																														
Committee administrator:	Democratic.Services@swdevon.gov.uk																														

- 1. Election of the Chairman of the Council;**
(The Chairman will then read and sign the declaration of acceptance of office);
- 2. Address by the New Chairman of Council**
- 3. Vote of thanks to the Retiring Chairman**
- 4. Response by the Retiring Chairman**
- 5. Appointment of the Vice Chairman of the Council**
(The Vice Chairman will then read and sign the declaration of acceptance of office);
- 6. Declarations of Interest**
In accordance with the Code of Conduct, Members are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests including the nature and extent of such interests they may have in any items to be considered at this meeting;
- 7. Minutes** **1 - 16**
to approve as a correct record the minutes of the meeting of the Council held on 31 March 2022;
- 8. Council Constitution** **17 - 150**
- 9. Representation on Political Groups**
to approve a review carried out in consultation with leaders of the Political Groups. This is reflected in the list of Council Bodies (to follow) – see item 10 below;
- 10. Appointment of Members to Bodies of the Council**
to appoint the Members to the Council Bodies for the 2022/23 Municipal Year – to follow
- 11. Election of Chairman and Vice-Chairman of those Bodies of the Council**
to elect the Chairman and Vice-Chairman of the Bodies of the Council for the 2022/23 Municipal Year – to follow
- 12. Appointment of Governance Boards / Panels**
to agree to the appointment of the Governance Boards / Panels for the 2022/23 Municipal Year – to follow

13. Appointment of Representatives on Outside Bodies

to agree to the appointment of Members as representatives on Outside Bodies for the 2022/23 Municipal Year – to follow

NOTE: Although some of these appointments are accepted by the “Outside Bodies” for a period of years, it is the Council’s practice where possible to review all appointments annually.

14. Urgent Business

the Chairman to announce if any item not on the agenda should be considered on the basis that he considers it as a matter of urgency;

15. Exempt Information

to consider whether the consideration of any item of business would be likely to disclose exempt information and if so the category of such exempt information;

16. Chairman's Announcements

17. Reports of Bodies

to receive and as may be necessary approve the minutes and recommendations of the under-mentioned Bodies

* Indicates minutes containing recommendations to Council.

(a) Audit Committee* - 10 March 2022	151 - 156
(b) Development Management Committee - 16 March 2022	157 - 164
(c) Overview and Scrutiny Committee - 17 March 2022	165 - 170
(d) Special Executive* - 31 March 2022	171 - 172
(e) Licensing Committee - 31 March 2022	173 - 174
(f) Executive* - 7 April 2022	175 - 182
(g) Development Management Committee - 13 April 2022 To follow	
(h) Overview And Scrutiny Committee - 21 April 2022 To follow	
(i) Special Salcombe Harbour Board* - 25 April 2022	183 - 186

18. Questions

to consider the following question(s) (if any) received in accordance with Council Procedure Rule 8.

a) From Cllr Hodgson to Cllr Pearce, Leader of the Council

'South Hams District Council has not declared an economic crisis, but has declared a housing crisis, so why are we borrowing £9 Million to support Aldi and a further £5 Million to support economic development in Devonport rather than investing in the social housing in South Hams that our residents need?'

19. Notice of Motion

to consider the following motions received (if any) in accordance with Council Procedure Rule 10.1

(a) By Cllrs Abbott and Birch

"The Aldi Project at Ivybridge has given rise to planning, financial and local economic concerns from members of the public and outside bodies/organisations.

Whilst acknowledging that the planning concerns will be addressed by the Development Management Committee in the determination of the planning application, the financial and economic concerns remain to be addressed.

To address these concerns Council requests the Overview and Scrutiny Committee examine those parts of the project relating to its finance and economic consequences, and report back to the July meeting of Council with its findings and recommendations."

(b) By Cllrs Hodgson and Rose

"As part of its new climate policy for planning, this council will require Flood Modelling to be carried out for new developments over 10 houses and all new drainage assessments are based on the most recently published IPCC (intergovernmental Panel for Climate Change) reports to ensure that the most up to date risk assessment data is applied."

Agenda Item 7

MINUTES OF THE MEETING OF THE SOUTH HAMS DISTRICT COUNCIL HELD IN THE COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES ON THURSDAY 31 MARCH 2022

MEMBERS

* Cllr R J Foss – Chairman

* Cllr L Austen – Vice-Chairman

* Cllr V Abbott	* Cllr J McKay
* Cllr K J Baldry	* Cllr D M O'Callaghan
* Cllr H D Bastone	∅ Cllr G Pannell **
* Cllr J P Birch	* Cllr J A Pearce
* Cllr J Brazil	* Cllr J T Pennington
* Cllr D Brown	* Cllr K Pringle
* Cllr M Chown	* Cllr H Reeve
* Cllr J D Hawkins	* Cllr J Rose
* Cllr J M Hodgson	* Cllr R Rowe
* Cllr T R Holway	* Cllr P C Smerdon
* Cllr N A Hopwood	* Cllr B Spencer
∅ Cllr S Jackson	∅ Cllr J Sweett
* Cllr L Jones	* Cllr B Taylor
∅ Cllr K Kemp	* Cllr D Thomas
* Cllr M Long	

* Denotes attendance

∅ Denotes apology for absence

** Denotes in attendance via Teams (in a non-voting capacity)

Officers in attendance and participating:

For all items: Senior Leadership Team; Monitoring Officer; Democratic Services Manager; and Fusion Leisure Representative

70/21 **MINUTES**

The minutes of the Council meeting held on 10 February 2022 were confirmed as a true and correct record.

71/21 **DECLARATIONS OF INTEREST**

Members 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.

72/21 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman advised that whilst he had no business to bring forward, he wished to acknowledge the suffering and loss of life taking place in the conflict in Eastern Europe and led the Council in observing a moment's silence.

PLYMOUTH AND SOUTH DEVON FREEPORT UPDATE

The Council considered a report which provided an update on the Plymouth and South Devon Freeport Business Case and information on the associated financial modelling.

In discussion, reference was made to:-

(a) the following amendment was **PROPOSED** and **SECONDED**:

'That part 3b of the recommendation be deleted and a new part 6 be added as follows:

6. The approval of the Articles of Association and Reserved Matters for the Freeport Company, Member agreements between South Hams District Council (SHDC), Plymouth City Council (PCC); and Devon County Council (DCC) and other relevant legal agreements be determined by Council.'

In introducing his amendment, the proposer set out the significance of the Freeport initiative and felt that this was such that it warranted the Articles of Association and Reserved Matters for the Company being determined by Full Council as opposed to a senior officer under delegated authority.

Whilst this view was shared by some Members, other Members stated their lack of support for the amendment and made reference to both the operational nature of the Articles of Association and Reserved Matters and the ability for Members to influence their content (via the delegated authority) before any final decision was made.

When put to the vote, the amendment was declared **LOST**;

- (b) the importance of apprenticeship opportunities. A Member echoed the comments made at the Special Executive Meeting earlier in the day (Minute E.97/21 refers) whereby the Freeport initiative would lead to a number of direct benefits in relation to the provision of skilled labour opportunities and that this should be strongly encouraged and welcomed;
- (c) the initiative representing a great opportunity for the Plymouth and South Devon area. Members highlighted the extent of the opportunities and far reaching benefits that would be generated through this initiative. Whilst some Members wished to record their opposition to the Freeport concept, they also advised that they recognised the potential benefits for the South Hams in this instance and were therefore supportive of the recommendation.

It was then:

RESOLVED

1. That South Hams District Council's full participation in the Plymouth and South Devon Freeport be approved;
2. That approval be given to the formation of a company limited by guarantee and for South Hams District Council (SHDC) to be a founder member alongside Devon County Council (DCC) and Plymouth City Council (PCC) to operate the Freeport;
3. That authority be delegated to the Director of Place and Enterprise, in consultation with the Leader of the Council, lead Executive Member for Economy and Section 151 Officer to:
 - a. submit the Full Business Case (FBC) for the Plymouth and South Devon Freeport;
 - b. approve the articles of association and reserved matters for the Freeport company and enter into member agreements between SHDC, PCC and DCC, and other relevant legal agreements;
 - c. enter into the business rates retention sharing agreement with DCC, as set out in 4.22 to 4.24 of the published agenda report;
 - d. enter into land owner agreements aligned to Freeport objectives; and
 - e. acquire land at Langage to deliver Freeport objectives;
4. That borrowing of up to £5 million be approved from the Public Works Loan Board (funded from the retained business rates income generated), at such time as is advised by the Section 151 Officer, to match fund the Freeport Government seed funding relating to the delivery of the Langage site; and
5. That funding be utilised from the SHDC Business Rates Retention Earmarked Reserve in 2022/23 (£6,000) and 2023/24 (£57,000) to provide upfront funding to the Freeport, which will then be repaid in 2024/25 from the retained business rates income generated from 2024/25 onwards.

74/21

FUSION LIFESTYLE – LEISURE CONTRACT SUPPORT UPDATE

Consideration was given to a report that provided an update on current performance levels of Fusion Lifestyle, the Council's leisure centre operator. It informed on the recovery and business impact within the Contract experienced as a result of the Covid 19 Pandemic and proposed contract variations so as to mitigate those impacts, including the adjustment of the future management fee profile to reflect the impact of the pandemic.

In discussion, reference was made to:

- (a) future financial requests from Fusion. When questioned, the Fusion representative in attendance advised that, whilst he could not predict the future, the funding forecasts that had been carried out by the organisation were predicting that there should not be a need for any further requests to be made to the Council for additional financial support;
- (b) the pricing strategy. In expressing her disappointment over the increased Leisure Centre prices and the need for the facilities to be inclusive to all, a Member was concerned that equivalent services that were being delivered by private leisure facilities were in fact less expensive and she therefore called on Fusion to adopt a more reasonable pricing strategy;
- (c) the intention for a meeting to be held with local Ward Members regarding the Totnes Leisure Centre. In recognising the different contractual relationship for Totnes Leisure Centre, the intention for an imminent meeting to be arranged between the Executive lead Member for Leisure; the three local Ward Members; a representative of Tadpool; a representative of Fusion; and relevant lead officers was welcomed;
- (d) consideration of the Fusion Annual Report by the Overview and Scrutiny Committee. The Chairman of the Overview and Scrutiny Committee reminded the meeting that Fusion representatives were due to attend the Committee meeting to be held on 21 April 2022. As a result, Members were encouraged to ask their operational questions at this Committee meeting;
- (e) the incredible challenges that had been faced by the leisure industry. Since the offset of the COVID-19 pandemic, some Members highlighted the extent of the challenges that had been faced by the Leisure industry. Furthermore, the point was made that, in light of the spiralling energy costs, the pressures facing the industry were likely to continue;
- (f) comparisons to other local authorities across the South West region. In support of the proposals, some Members highlighted the extent of the financial subsidies that had been provided by other local authorities across the region in order to support their respective local leisure industries, which were far greater than had been allocated by South Hams District Council.

It was then:

RESOLVED

1. That the performance of the Fusion contract to date, wider market trends and the financial information on Fusion's performance in 2021 be noted;

2. That the contract variation and changes to the management fee profile as set out in Appendix A ((Table 1) of the presented agenda report) be approved;
3. That the £272,242 shortfall in income of the leisure management fee in 2021-22 be funded from the Government COVID Grant funding (This funding is in the COVID Losses Earmarked Reserve);
4. That the £174,632 shortfall in income of the leisure management fee in 2022-23 be funded from the Government COVID Grant funding (This funding is in the COVID Losses Earmarked Reserve); and
5. That the £174,632 shortfall in income of the leisure management fee in 2023-24 be funded from the Government COVID Grant funding (£33,915), the Leisure Earmarked Reserve (£42,851) and the Business Rates Retention Earmarked Reserve (£97,866).

75/21

REGENERATION AND INVESTMENT STRATEGY

The Council considered a report which outlined necessary changes and recent amendments to the Council's Investment Strategy.

In discussion, a Member expressed his opposition to the proposal and made particular reference to a number of previous projects that had been brought forward in accordance with the Commercial Investment Strategy that had proven to be unsuccessful.

It was then:

RESOLVED

That an update to the Commercial Investment Strategy, in the form of the newly titled Regeneration and Investment Strategy contained in Appendix A of the presented report, be approved.

76/21

2022/23 CAPITAL STRATEGY, 2022/23 TREASURY MANAGEMENT STRATEGY AND 2022/23 INVESTMENT STRATEGY

Consideration was given to a report recommending the approval of the proposed Capital Strategy, Investment Strategy and Treasury Management for 2022/23, together with their associated prudential indicators.

In discussion, reference was made to:

- (a) the timing of the Treasury Management related training. The lead Member confirmed his support for the views of the Audit Committee whereby the 2023 Treasury Management training should be held later in that Calendar Year as part of the Member Induction Programme following the May 2023 local elections;

- (b) the South West Mutual Bank initiative. With regard to the latest position of the initiative, it was noted that the matter was scheduled for consideration on the Overview and Scrutiny Committee Work Programme during the early months of the 2022/23 Municipal Year;
- (c) concerns relating to the draft Capital Strategy for 2022-23. In citing the Council's investment property in Dartmouth and the recent St Ann's Chapel project, a Member raised some specific concerns in relation to the draft Capital Strategy. Furthermore, the Member was of the view that the St Ann's Chapel project should be subject of a lessons learned exercise by the Audit Committee.

It was then:

RESOLVED

1. That the following strategies for 2022-23 be approved:
 - i. the Capital Strategy (as set out in Appendix A of the presented agenda report);
 - ii. the Treasury Management Strategy (as set out in Appendix B of the presented agenda report); and
 - iii. the Investment Strategy (as set out in Appendix C of the presented agenda report); and
2. That delegated authority be given to the Section 151 Officer, in consultation with the Leader of the Council and the Executive Member for Finance, to make any minor amendments to these Strategies, if required, throughout the 2022/23 Financial Year.

77/21

PAY POLICY STATEMENT AND PAY AND REWARD STRATEGY

In line with the requirements of the Localism Act 2011, Members considered a report proposing adoption of the Pay Policy Statement 2021/22 and Pay and Reward Strategy for 2021/22.

In her introduction, the Leader of Council made reference to the updated Pay and Reward Strategy that had been circulated to all Members since the agenda had been originally published.

It was then:

RESOLVED

- 1) That the Pay Policy Statement for 2021/22 (as attached at Appendix A of the presented report) be adopted; and
- 2) That the Pay and Reward Strategy 2021/22 (as attached at the updated Appendix B of the presented report) be adopted.

78/21

RINGMORE NEIGHBOURHOOD PLAN

Consideration was given to a report that sought approval of the making (adoption) of the Ringmore Neighbourhood Plan.

In discussion, the following points were raised:-

- (a) A number of Members paid tribute to the work of the Ringmore Neighbourhood Planning Group for its tireless work in reaching this point, particularly in such a small parish;
- (b) The number of planning related issues that were pertinent to Ringmore were recognised and it was hoped that pragmatic policies including a 'primary residency' requirement would help to counter the huge housing pressures that were facing the parish. Furthermore, a Member felt that all coastal areas in the South Hams should investigate the merits of including a similar 'primary residency' requirement within their respective Neighbourhood Plans.

It was then:

RESOLVED

That the Ringmore Neighbourhood Development Plan be made (adopted).

79/21

HONOURS BOARD – SOUTH HAMS DISTRICT COUNCIL CHAIRMEN

Consideration was given to a report that presented options for the continuation of a board that recognised past and future chairmen of the Council.

In discussion, the majority of Members supported the retention of a past Council Chairmen Honours Board. However, the modern day relevance and appropriateness of the term 'Chairman' was disputed by a number of Members.

It was then:

RESOLVED

That the Council support the retention of a past Council Chairmen Honours Board that is in keeping with the modern style of the new Council Chamber.

80/21

GRANT TO THE UKRAINE HUMANITARIAN APPEAL

The Council considered a report recommending that the Council made a grant of £10,000 to the Ukraine Humanitarian Appeal launched by the Disasters Emergency Committee.

In discussion, reference was made to:-

- (a) the generosity of the local communities of South Hams. A number of Members wished to put on record their thanks to the generosity of the residents of the South Hams District and the amount of money that was being raised to support the Appeal and the number of local families who were willing to accommodate refugees was felt to be remarkable;
- (b) support for the grant. Members welcomed the very important gesture of allocating a £10,000 grant to the Ukraine Humanitarian Appeal and felt that it would help to make a difference in the appeal effort.

It was then

RESOLVED

- i) That a grant of £10,000 be made to the Ukraine Humanitarian Appeal launched by the Disasters Emergency Committee (DEC); and
- ii) That the grant be funded from a £10,000 contribution from un-ringfenced revenue reserves.

81/21

REPORTS OF BODIES

That the minutes and recommendations of the undermentioned bodies be received and approved subject to any amendments listed below:-

- a) Audit Committee - 9 December 2021**
- b) Salcombe Harbour Board – 24 January 2022**
- c) Development Management Committee – 16 February 2022**
- d) Council Tax Setting Panel – 22 February 2022**
- e) Executive – 3 March 2022**

E.88/21 Housing Crisis – ‘Step On’ Scheme

In light of his belief that the public sector should not financially support the housing market, a Member expressed his opposition to the Executive recommendation to adopt the pilot ‘Step On’ Scheme.

RESOLVED

That, with effect from 1 April 2022, the pilot ‘Step On’ Scheme be adopted.

E.90/21 Planning Improvement Plan Update: Local Validation List And Planning Charter

RESOLVED

That the Local Validation List (as set out at Appendix 1 of the presented agenda report to the Executive Meeting) be approved.

E.92/21 Month 10 Revenue Budget Monitoring 2021/22

RESOLVED

That £320,000 of the additional planning income be transferred into the Planning Policy and Major Developments Earmarked Reserve at the end of the 2021/22 Financial Year to manage future fluctuations in planning income.

E.93/21 Month 10 Capital Programme Monitoring 2021/22

RESOLVED

That the Play Area Renewals Reserve be increased by £34,500 for the forecast underspend on Play Parks (as set out in paragraph 3.10 of the published agenda report to the Executive Meeting), bringing the total Reserve up to £128,000.

82/21 **PUBLIC QUESTIONS**

The Chairman informed the Meeting that no Public Questions had been received for consideration at this Meeting.

83/21 **QUESTIONS ON NOTICE**

It was noted that five Questions on Notice had been received in accordance with Council Procedure Rule 8.

a) From Cllr McKay to Cllr Pearce, Leader of the Council

‘The Leader will be aware of the Constitution-Part 4-Council Procedure Rules - Rule 13. Does the Leader agree that this rule provides a framework for the Council to consult with its residents and why has it not been employed?’

In response, Cllr Pearce advised that the Council had adopted the Council Meeting Procedure Rules in July 2021, replacing and therefore revoking, the equivalent part of the Constitution. The Rules were agreed by Council following a number of meetings with Members about the Council’s decision-making arrangements and a review of the Council’s Constitution. Cllr Pearce also recalled that Council deferred adoption of the Constitution from the Annual Meeting in May, so that Members had more time to consider the new Rules.

Cllr Pearce proceeded to inform that, in its adopted form, Council Meeting Procedure Rule 13 dealt with the Procedure for making amendments to Budget proposals. Previously, the same numbered Procedure Rule had provided for the Leader of the Council to have a discretion to call an annual “State of the South Hams Debate” and to decide the form of the debate “with the aim of enabling public involvement and publicity”. It was a provision that had its origin in the Model Constitution introduced by the Secretary of State following the Local Government Act 2000 coming into force, which required all local councils to have a Constitution that covered all of the Standing Orders, delegated processes and the Code of conduct for Members.

Furthermore, the Council was committed to consulting with its residents. In reality, a single annual debate, did not provide the time or the level of engagement with the public that would be needed to ensure that their views are communicated effectively and received an appropriate level of consideration. This was to be contrasted with the approach taken by the Council to consult with residents as part of the process of forming “Better Lives for All” and the various strategies that flowed from it, such as the Housing Strategy.

In addition, “Better Lives for All” also had a number of actions focussed upon how the Council could improve communication and engagement. These actions were detailed in the thematic delivery plans. They included developing a Customer Access Strategy and a forward plan of Consultation on Engagement. Both were now in place. Accordingly, the Council could show by its words and actions, that it had a firm commitment to consultation and engagement.

b) From Cllr O’Callaghan to Cllr Pearce, Leader of the Council

‘Is it true that SHDC missed the deadline set by the Information Commissioner to reply to a resident making FOI requests in relation to the council’s waste management contract? If so, why did this happen and have we ensured the resident got replies – and that other FOI requests do too?’

Prior to providing her response, the Leader reminded the meeting that it had also previously been circulated to all Members on 11 March 2022. Nonetheless, Cllr Pearce proceeded to state that:

‘The Council was of course aware of its duties under the Freedom of Information Act 2000. However, it also had a number of other competing or conflicting duties, both statutory and common law, and limited resources with which to comply with them. It was, and still was, a matter of balancing those duties; the right of the individual to know balanced against the interests of all residents and businesses that the Council was acting prudently in commercial and legal matters affecting the Council.

Members were aware that, at the time of the request, and a number of others like it, the Council was dealing with a significant number of failures by its waste contractor to implement the Devon Aligned Service or indeed to consistently and regularly collect waste across the South Hams. Seeking to protect the waste collection service and to comply with our statutory duties regarding the collection of household waste was the priority. Officers were asked to do just that. Those officers included the same officers who would otherwise have been available to consider the contract and any exemptions that may have applied to it. All those individuals who requested a copy of the contract or parts of the contract were advised of this.

Members had been advised on several occasions that the contract was complex and one of, if not the largest contracts that the Council had ever let. The Council could not simply hand-over copies of the contract to anyone who requested it. To do so, would have caused harm to the Council's wider interests and therefore those of our residents and businesses. The application of the exemptions that were necessary to protect the Council's on-going legal and commercial position in its dispute with its waste contractor was not straight-forward. The Council had taken, and was continuing to take, legal advice on the application of the exemptions. The Council would nevertheless provide what information was appropriate within the 35-day period given by the Information Commissioner's Office.'

In response to a Supplementary Question, Cllr Pearce expressed some sympathy and stated that it was her view that the Overview and Scrutiny Committee should consider the findings made by the Information Commissioner's Office as part of the Annual Report produced by the Local Government Ombudsman.

c) From Cllr Pannell to Cllr Pearce, Leader of the Council

'Will the Leadership of this Council consider following the example of Cornwall Council to devolve control and ownership of a number of its car parks to town and parish councils on the grounds that local people best understand local needs and how to manage them and, if not, why not?'

In response, Cllr Baldry, Lead Executive Member for Environment stated that Cornwall Council was currently considering devolution of some of its public open space and minor car parks. South Hams District Council had been taking this approach for some years where Town and Parish Councils had presented a compelling and reasonable case.

Cllr Baldry also advised that public open space and some car parks had been devolved in locations such as Newton and Noss; Dartmouth; and Aveton Gifford and the opportunity remained for Town and Parish Councils to make the case for devolution of non-strategic assets.

For clarity, Cllr Baldry also informed that strategic assets would include Town Centre and coastal car parks.

In response to a supplementary, Cllr Baldry agreed that, in the event of any Local Government reorganisation being proposed, then he would support in principle devolving the control and ownership of such assets to local town and parish councils.

d) From Cllr McKay to Cllr Pearce, Leader of the Council

‘The Leader will be aware that the South Hams needs to reduce its emissions of GHG’s by ~10% per year over 8 years if it is to achieve a 50% reduction by 2030. Does the Leader think the Council’s Action Plan provides a framework for doing this, and why?’

In response, Cllr Pearce advised that the Climate Emergency and the need to reduce greenhouse gas emissions was a huge challenge to us all. The Councils Action Plan was an evolving piece of work and would be subject to a review later this year after the publication of the Devon Carbon Plan. The Devon Carbon Plan had been co-produced by leading experts, the public and strategic partners and would help to set realistic carbon budgets to work towards. As a Council, we had an aim to reach net zero by 2050 across the District and whilst we had a key role to play, we could not do this in isolation and would continue to co-ordinate our efforts with partners in Devon and across the South West to achieve results in the areas over which we had the greatest level of influence.

In asking a supplementary question, Cllr McKay sought further clarity on what measures would be put in place to ensure the targets within the Action Plan were met.

In response, the Leader suggested that it would be appropriate for either a written response to be provided to Cllr McKay or for a meeting to be convened between Cllr McKay and lead officers to discuss in more detail.

e) From Cllr McKay to Cllr Pearce, Leader of the Council

‘This Council has earmarked £600k for climate change and biodiversity, largely at the behest of the opposition. But why has so little of this money been spent on the myriad opportunities it must surely be aware of to address the Emergency it declared two and half years ago?’

Cllr Pearce’s response advised that, of the £600,000 approved by Council, £359,000 had already been committed against the delivery of climate related projects within the Council’s adopted Corporate Strategy: Better Lives for All and the adopted Climate Change and Biodiversity Strategy. This included an allocation of £200,000 for grants. £50,000 had now been allocated through the Climate Engagement Fund to a range of community driven projects designed at delivering behavioural change. The next phase of our grant scheme would be published shortly. A further £93,000 had been allocated to individual Members through the Climate Locality Fund, of which £35,269 had been spent so far.

A further £46,000 had been committed to the green space management changes to improve biodiversity on our land which would ensure that our aim to increase biodiversity by 10% by 2025 would be comfortably exceeded. Smaller sums were being utilised to scope and develop larger, carbon saving projects such as EV fleet transition. We retained the remaining budget to support costs associated with operational emissions reductions and projects likely to emerge from the Devon Carbon Plan.

In his supplementary question, Cllr McKay asked whether or not there was any intention for grant funding opportunities to be made available to allow smaller organisations to secure funding in the future.

In her response, Cllr Pearce reminded Members that they had the ability to use their Locality Funds to support such organisations.

84/21

MOTIONS ON NOTICE

It was noted that four Motions on Notice had been received in accordance with Council Procedure Rule 10.1:

a) From Cllr Pearce and Cllr Hawkins

“South Hams District Council is immensely troubled by the horrific devastation in Ukraine, and the escalating terrible humanitarian crisis facing the country. In light of this, and as a way of expressing support for members of our communities who have ties with Ukraine:*

This Council:

- a) Condemns the unprovoked Russian invasion of Ukraine and stands in solidarity with the people of Ukraine and their families and friends, including those local to the South Hams.*
- b) Stands ready to provide support to those affected by this War and will open our arms to people displaced and affected.*
- c) Will work with and support the efforts of our local communities to provide help and comfort to those in need.*

**We understand that there are no Ukrainian nationals living in the South Hams, but there are 29 in Torbay and 27 in Plymouth City Council areas. Anecdotally we believe a few at least may work in the South Hams or have very close relations who do. What the figures do not tell us is how many naturalised Ukrainians there may be in any of these areas and therefore how many family relations from the Ukraine may be joining them.”*

In her introduction, the proposer highlighted the relevance of the debate earlier in the meeting (Minute 80/21 above refers).

During the ensuing debate, the following points were raised:

- (a) Some Members felt that Central Government could be acting more proactively to help the people of the Ukraine. As a result, the following amendment was **PROPOSED** and **SECONDED** as an additional point to the motion:

'd) Calls upon our MPs to lobby Government to relax its visa criteria and encourage greater access for Ukrainian refugees who wish to come to the UK.'

In discussion, there was widespread support expressed for this amendment and, when put to the vote, it was declared **CARRIED**;

- (b) A Member took issue with the word '*unprovoked*' being included in the motion. However, in discussion, a number of Members stated their disagreement with this viewpoint and felt that the word should be retained in the motion.

It was then:

RESOLVED

"South Hams District Council is immensely troubled by the horrific devastation in Ukraine, and the escalating terrible humanitarian crisis facing the country. In light of this, and as a way of expressing support for members of our communities* who have ties with Ukraine:

This Council:

- a) Condemns the unprovoked Russian invasion of Ukraine and stands in solidarity with the people of Ukraine and their families and friends, including those local to the South Hams.
- b) Stands ready to provide support to those affected by this War and will open our arms to people displaced and affected.
- c) Will work with and support the efforts of our local communities to provide help and comfort to those in need.
- d) Calls upon our MPs to lobby Government to relax its visa criteria and encourage greater access for Ukrainian refugees who wish to come to the UK.

*We understand that there are no Ukrainian nationals living in the South Hams, but there are 29 in Torbay and 27 in Plymouth City Council areas. Anecdotally we believe a few at least may work in the South Hams or have very close relations who do. What the figures do not tell us is how many naturalised Ukrainians there may be in any of these areas and therefore how many family relations from the Ukraine may be joining them."

b) From Cllr McKay and Cllr Birch

'This Council recognises the fundamental importance of its Constitution to its governance and to the residents it serves and that the Constitution should provide a clear and concise account of its rules and procedures so that all (Members, officers and the public) are able to understand them and to hold the Council to account where necessary.

This Council therefore resolves that:

- 1. In recognition of its importance, no changes to the constitution should be made without full consultation with all members and approved by Full Council. Minor changes may be made but only where they are limited to correcting or improving layout, spelling or grammar and have regard to 2 below;*
- 2. All changes, including minor changes, are logged and a version history and change-log is maintained and published on the Council's website;*
- 3. The Constitution on the Council's website is always the latest approved version and marked as such, and there is access to archived versions;*
- 4. The Constitution is made available for download as a single pdf file;*
- 5. The website provides a means of searching the whole of the currently approved constitution, as published on its website;*

and that the Constitution is updated to reflect this resolution.'

In their introductions, the proposer and seconder highlighted the current state of the Council Constitution and the commitment of the 15 July 2021 Council meeting for further progress reports to be presented (36/21 below refers). In particular, the Members highlighted the importance of point 4 of their motion.

During debate, there was support expressed for the thrust of the motion. However, the Leader informed that the work into the Constitution Review was already well underway by the Monitoring Officer. Furthermore, there was a commitment given for Member Briefings to be arranged on the proposals before the item was considered at the Annual Council meeting to be held on 19 May 2022. As a consequence, the majority of Members felt that circumstances were such that the motion was not necessary.

When put to the vote the Motion was declared **LOST**.

c) From Cllr McKay and Cllr Birch

'This Council recognises the importance of considering motions put to full council by Members in a fair and orderly way and resolves that any motions that are not heard, due to the 45 minute rule, or for any other reason that is time related, are automatically carried over to the next meeting and that the running order is preserved, and that the Constitution is updated to reflect this resolution.'

In his introduction, the proposer felt that, as a matter of principle, motions should be rolled over to the next scheduled Council meeting.

In discussion, other Members felt that the 45 minute rule was appropriate and felt that, should the need arise, there was always the provision for the Chairman of Council to exercise their discretion to extend this time limit. Moreover, the point was made that rolling over motions to the next meeting was likely to result in motions being stockpiled thereby preventing any other motions from being considered in a reasonable time.

When put to the vote the Motion was therefore declared **LOST**

d) From Cllr McKay and Cllr Birch

'This Council recognises that its Constitution needs to provide the flexibility to allow officers to take swift action in the case of an emergency. However, it further recognises that at a time of emergency this Council needs to be kept informed and able to guide the response, and that any emergency powers taken must be ratified by Full Council within 14 days and every 30 day thereafter to ensure the Council is able to exercise proper democratic control over how it manages an emergency.'

It is therefore resolved that Part 3a, section 7 should be modified so that any emergency powers taken by officers are time-limited as previously described.'

In light of the previous discussions in relation to the Council Constitution (Notice of Motions (c) and (d) above), the proposer, in accordance with Meeting Procedure Rule 15.8, sought the consent of the meeting to withdraw the motion. However, when put to the vote, this procedural motion was declared **LOST**.

In the subsequent discussion, the proposer emphasised the fundamental principle of democracy being elected Member involvement. However, it was felt that, since the Emergency Powers provision had only been used once during this Council administration, then this motion was unnecessary and disproportionate.

When put to the vote the Motion was declared **LOST**

(Meeting commenced at 2.00 pm and concluded at 5.30 pm)

Chairman

Report to: **Council**
Date: **19 May 2022**
Title: **Council Constitution**
Portfolio Area: **Leader of the Council – Cllr Pearce**
Wards Affected: **All**
Urgent Decision: **N** Approval and **Y / N**
clearance obtained:

Date next steps can be taken: **On approval of the recommendation**

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

Contact: **Telephone/email: 01803
[861359/david.fairbairn@swdevon.gov.uk](mailto:861359@david.fairbairn@swdevon.gov.uk)**

RECOMMENDATIONS:

It is RECOMMENDED that:

- (1) subject to (2) the Council adopts the following documents as set out at Appendix A as a part of its Constitution and the Constitution is amended with immediate effect:**
 - a. Chapter 1 – Introduction;**
 - b. Chapter 2 – Scheme of Delegation; and**
 - c. Chapter 3 – Meeting Procedure Rules;**
- (2) Paragraph B1 of Appendix B and Paragraph C1 of Appendix C to the Meeting Procedure Rules insofar as they exclude the Annual Meeting of Council will apply from the next Annual Meeting of the Council.**
- (3) A further report is brought to the July meeting of the Council to consider and approve revised Chapters 4, 5 and 6 of the Constitution.**

1. Executive summary

- 1.1 The Council operates a Council Leader and Executive model as its governance arrangements. Functions are executive functions unless regulations say otherwise. The Leader is responsible for all executive functions and decides, through the Leader's scheme of delegation, which of these functions to delegate to other Executive members, committees or officers.

- 1.2 The Council has a legal duty to publish an up to date Constitution reflecting its governance arrangements and which contains its standing orders, its councillor code of conduct, such information as the Secretary of State directs or that the Council considers appropriate. The Constitution should be reviewed annually with any necessary changes being normally considered at the annual council meeting.
- 1.3 Appendix A proposes an entirely new Chapter 2 (Responsibility for Functions) to replace the existing two-part scheme of delegation together with amended Chapter 1 (Introduction) and Chapter 3 (Meeting Procedure Rules). A further report to the July meeting of the Council will propose a new Chapter 4 (Access to Information Procedure Rules); Chapter 5 (Other Procedure Rules); and Chapter 6 (Codes and Protocols).

2. Background

- 2.1 Under Section 9B of the Local Government Act 2000 there are essentially only two permitted forms of governance arrangements for local authorities in England; executive arrangements or a committee system. The legislation does not permit a mix and match approach. Executive arrangements may in turn consist of either a mayor and cabinet executive; or a leader and cabinet executive.
- 2.2 Under the latter of these, which is also the form of the arrangements adopted by the Council, the Leader appoints two or more (up to a maximum of ten) councillors to the Executive. The Leader must appoint a Deputy Leader to act in the Leader's absence. Neither the Executive nor any Executive committees need be politically balanced. The Leader is responsible for all executive functions and determines the scheme of delegation for those functions and the ability to sub-delegate cascades down the executive hierarchy. Executive functions may therefore only be discharged by the Leader and subject to appropriate delegations, the Executive, a member of the Executive, an Officer or by other local authorities or under joint arrangements.
- 2.3 Functions are executive functions unless regulations say otherwise. With the exception of a very limited number of functions, where functions are expressly reserved to the full Council or the Council can decide as a matter of local choice whether it or the Executive will be responsible for them, a function will be an executive function if the regulations say so or are silent. In practice, this means that the division of functions between the Executive and the Council is as follows:
 - (a) Determination of the Council's policy framework and budget and other constitutional and quasi-legislative functions are to be the responsibility of the full council.

- (b) The Executive is not responsible for functions that involve either determining an application from a person for a licence, approval, consent, permission or registration or direct regulation of a person (except in cases where there is only limited discretion in the discharge of the function) together with any related enforcement actions (including prosecution); and
 - (c) All other functions are the responsibility of the executive.
- 2.4 The Council has agreed improvements its decision-making framework and arrangements to secure greater transparency, accountability, clarity of roles, and efficiency of the democratic process (Min. CM.50/20 refers).
- 2.5 The Council has also adopted a new corporate strategy to ensure that Council resources are aligned to secure the efficient and effective delivery of the ambition and priorities set by Members (Min 44/21 refers).
- 2.6 These two decisions when taken together evidence an intention for the Council to be a council for the 21st century with governance arrangements and ways of working aligned to delivering the vision set out in Better Lives for All. To achieve this, there needs to be an approach to decision-making processes, which involves councillors and officers operating within a clearly defined, but light-touch framework that balances efficient decision-making with appropriate levels of overview and scrutiny. The first of the Council's decisions began that process.
- 2.7 Section 9P of the Local Government Act 2000 requires the Council to prepare and keep up to date a document, to be known as the Constitution, which contains:
 - (a) a copy of the authority's standing orders for the time being;
 - (b) a copy of the authority's code of conduct;
 - (c) such information as the Secretary of State may direct; and
 - (d) such other information (if any) as the authority considers appropriate
- 2.8 The existing Constitution is based upon the Modular Constitution that was introduced following the Local Government Act 2000 coming into force. Most local authorities did so. However, there is a large measure of repetition within and between elements of the existing Constitution, in particular the Articles and other parts, and within the Financial Procedure Rules. This makes the document cumbersome and longer than it needs to be. As Council has recognised, the Constitution is now dated and can be improved by

the use of web links, graphics and better presentation in a revised structure.

- 2.9 The Constitution has not been helped by being amended over a number of years. Unfortunately, this has resulted in the Constitution being less than satisfactory in terms of its user-friendliness.
- 2.10 At its meeting in July 2021, Council agreed a new format for the Constitution. Councillors agreed a new Introduction and Meeting Procedure Rules. It was acknowledged that the remaining parts would come forward as they were completed. In the interim, the Council agreed that its constitution would comprise a mix of the old and new (Min CM.36/21 refers). Councillors have nevertheless rightly raised concerns about the progress in bringing forward the remaining parts and it not being as envisaged.

3. Amendments to the Constitution

- 3.1 Appendix A contains an entirely new Chapter 2 (Responsibility for Functions) to replace the existing two-part scheme of delegation together with amended Chapter 1 (Introduction) and Chapter 3 (Meeting Procedure Rules). It is proposed new Chapters 4 (Access to Information Procedure Rules); 5 (Other Procedure Rules); and 6 (Codes and Protocols) will be tabled at the July meeting.
- 3.2 When the fully reviewed Constitution goes live, it is planned that hyperlinks within the single document will make it easier to navigate around the Constitution. The intended hyperlinks are shown in red and underlined. Hyperlinks will also be used to reference policies and procedures that are referred to, but do not form part of the Constitution.
- 3.3 Chapters 1, 2 and 3 of the draft constitution are clearly badged as being part of the Council's Constitution and with that in mind, have been written specifically to reflect the executive arrangements operated by the Council.
- 3.4 Chapter 1 - Introduction – Summary and explanation. This was agreed in July 2021. The purpose of the chapter is to provide information about how the Council works. However, an amendment is proposed to include reference to the principles of good decision-making.
- 3.5 Chapter 2 – Responsibility for functions and scheme of delegation. The purpose of the Council's Scheme of Delegation is to define the remits of the Council's decision-making bodies, and to specify the powers and functions that the Council and the Leader of the Council have delegated to those bodies and to officers.
- 3.6 This replaces the current scheme in its entirety. It includes the Leader of the Council's scheme of delegation, which is not referred

to in the existing Constitution, although it a legal requirement for there to be one. This is an important point, as it is not a matter for Council to determine the delegation of executive powers.

- 3.7 The Leader of the Council's scheme limits executive decision making by executive Members to the Executive only. Ultimately, this is a matter for the Leader of the Council.
- 3.8 The scheme also includes a list of those officers who are to exercise those functions identified in legislation as being exercisable by the Proper Officer.
- 3.9 Financial thresholds for decisions are, for the time being, unchanged. This includes the threshold for a decision being a Key Decision. For the purposes of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, an executive decision is a key decision if it is likely, among other things, "to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates". The Council's current threshold is £50,000 for revenue expenditure or savings and £100,000 for capital expenditure or savings.
- 3.10 The number, size and terms of reference of committees are set out in the scheme (Tables 1 and 3). Previously this information had been in the Articles, the scheme of delegation and in other parts of the Constitution.
- 3.11 Tables 1 and 3 reflect too, that what the Council might have previously described as being outside bodies, are in fact, joint committees or joint advisory committees. An example of the former is the PATROL Joint Committee, while the Tamar Valley AONB Partnership is an example of the latter.
- 3.12 The opportunity has been taken to review the terms of reference for some of the committees. It is proposed that the Audit Committee assume responsibility for standards and is re-named the Audit and Governance Committee to reflect this. To reflect CIPFA guidance on the independence of the chair of the audit committee, provision is made to prevent the chair of the Audit and Governance Committee from being be the chair or vice-chair of another committee or member of the Executive.
- 3.13 Historically, the Council has appointed councillors to the Discretionary (Major) Business Rate Relief Decision Panel. The Panel is however not included in the Council's Constitution and its terms of reference are uncertain. In addition, it appears not to have met for a number of years. Tables 1 and 3B do not therefore make reference to it.

- 3.14 The scheme seeks to provide clearer accountability for the Council's harbour functions by conferring the Council's harbour authority functions on the Executive (insofar as those functions are not already executive functions). This means that the Executive becomes the Duty Holder for the purposes of the Port Marine Safety Council and will receive training to allow it to fulfil that role. The Salcombe Harbour Board will use its knowledge and expertise to advise the Executive under the terms of a memorandum of understanding which will be put in place. The scheme as drafted reflects the recommendation from the Salcombe Harbour Board made at its meeting on 25 April 2022.
- 3.15 The scheme of delegation cascades powers from Council/the Leader of the Council down to the Head of Paid Service and Directors, with the power for further delegation of those powers to officers within their respective service areas. There are appropriate safeguards set out in Table 6, in that:
- (a) In all cases, delegated authority is subject to any policies and procedures that have been approved by Council.
 - (b) There can be no delegation of functions that are reserved to full Council or that cannot be delegated by law to an officer.
 - (c) A decision can be cascaded upwards if in the circumstances it is appropriate to do so.
- 3.16 Further to the safeguards set out in the previous paragraph, Table 6 also reflects the requirement under the Openness of Local Government Bodies Regulations 2014 for a written record to be produced and retained of decisions made by an individual councillor or officer that:
- (a) grant a permission or licence;
 - (b) affect the rights of an individual; or
 - (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.
- 3.17 Chapter 3 – Meeting Procedure Rules. The Meeting Procedure Rules bring together the rules that are currently in three separate parts of the Constitution. They comprise the rules that apply to meetings of the Council, committees, panels and governance boards, the Executive and the Overview and Scrutiny Committee. As these were adopted in July 2021 following consultation with councillors, only limited changes are proposed. The principal changes are:
- an amendment to CPR 1.2 to comply with the legal requirement that the executive arrangements must make provision for the term of office of the Leader.

- the redrafting of the provisions as to the calling of a special meeting of the full Council to provide greater clarity (Council Procedure Rule 3.1)
- The anomaly highlighted during a recent debate in Council Procedure Rule 15.3(a) has been corrected.
- provision is made to regularise the attendance of non-members of the Council, the Executive or a Committee to attend via Teams (Council Procedure Rule 19.2).
- the addition of a Procedure Rule and further appendix setting out the Council's rules for the filming and recording of meetings and the use of social media during meetings (Council Procedure Rule 23 and Appendix F);
- Executive Procedure Rule 6 has been amended to clarify that all members of the Executive are entitled to notice of meetings of Executive Committees and to attend, whether they are members of the committee or not. The Rule also makes provisions about informal meetings of the Executive.
- For consistency with Council Procedure Rule 1.2 and greater clarity, for the purposes of Questions by Councillors (Appendix B) and Notices of Motion, the reference to meetings of the full Council do not include the Annual Meeting of the Council (Appendix B paragraph B1 and Appendix C paragraph C1).
- A minor amendment is made to clarify that any notices of motion that are not moved and seconded due to the time limit imposed by CPR 8.3(b) expiring, lapse and must be submitted again if they are to be considered at a future meeting of the Council. There is no rolling-over of notices of motion, unless postponed with the Chairman's consent (Council Procedure Rule Appendix C Paragraph C8).
- Scrutiny Procedure Rule 6 allows any councillor to request that an item is included in the Overview and Scrutiny Committee's work programme. Amendments are made to Rules 6.1(a) and (b) so that requests for items and the reasons for them are considered by the Overview and Scrutiny Committee. Only if the Committee is satisfied that there are sufficient reasons to justify the inclusion of the item, is the item to be included.
- There are some minor corrections to cross-references.

4. Risk, consultation and next steps

4.1 The risks of not having an up-to-date, consistent and complete Constitution are that responsibility and accountability for decisions is unclear, decision-making lacks transparency and ultimately decisions are made unlawfully. Pending the outcome of the further report to full Council in July, if Council approves the amendments to Chapters 1, 2 and 3, the Council's Constitution will comprise:

- a. Chapter 1 – Introduction
- b. Chapter 2 – Responsibility for Functions
- c. Chapter 3 – Meeting Procedure Rules
- d. Access to Information Procedure Rules (Part 4(a) of the existing Constitution)
- e. Other Procedure Rules (Parts 4(b), 4(c), 4(f), and 4(g), of the existing Constitution)
- f. Codes and Protocols (Councillors' Code of Conduct adopted in July 2025 and Parts 5(b), 5(c) and 5(d) of the existing Constitution)
- g. Councillors' Allowance Scheme (Part 6 of the existing Constitution).

4.2 Group Leaders, Portfolio Holders and the Chairman and Vice-Chairman of the Overview and Scrutiny Committee have been consulted and presentations have been made to all political groups.

5. Conclusions

5.1 Local authorities must prepare a constitution, which must be kept updated and made available to the public. This report seeks the approval of a document comprising Chapters 1, 2 and 3 that continues the process of seeking to improve the clarity, efficiency, and accountability of decision-making that were agreed by the Council previously. Unfortunately, the work on updating the Constitution was unable to progress as rapidly as might have been liked or was envisaged. The amendments to Chapters 1, 2 and 3 represent the first stage in providing the Council with an up-to-date Constitution.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The legal and governance implications are explained throughout the report.

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Financial implications to include reference to value for money	N	There are no financial implications arising directly from this report.
Risk	Y	See paragraph 4.1 of the report.
Supporting Corporate Strategy	Y	Having a Constitution that sets out clearly and simply a framework for decision-making that is lawful aligns fully with the aspiration to be a modern organisation delivering quality services as efficiently as possible.
Climate Change - Carbon / Biodiversity Impact	N	There are no climate change or biodiversity implications arising directly from this report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no equality and diversity implications arising directly from this report.
Safeguarding	N	There are no safeguarding implications arising directly from this report.
Community Safety, Crime and Disorder	N	There are no community safety or crime and disorder implications arising directly from this report.
Health, Safety and Wellbeing	N	There are no health, safety or wellbeing implications arising directly from this report.
Other implications		

Supporting Information

Appendices:

Appendix 1 – Draft Chapter 1, 2 and 3 of the Constitution.

Background Papers:

There are none.

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CHAPTER 1 - INTRODUCTION

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CONSTITUTION OF THE COUNCIL

This Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, others are a matter for the Council to choose.

Hyperlinks between different parts of the Constitution have been included wherever possible to make it easy to navigate around the information. Hyperlinks to other documents/sites have also been included where this will be helpful. All hyperlinks are coloured [red like this](#).

Chapter 1 - Summary and explanation

The Local Government Act 2000 requires a council to set out in a constitution how the council operates. The purpose of this Constitution is to provide an efficient and effective framework for:

- How the Council operates
- How its decisions are made and
- The procedures and rules which will be followed.

The Council

The Council is composed of 31 Councillors who are each elected to represent a particular Ward. There are 20 Wards in the Council's area. Details of the Wards and the Councillors elected to each Ward can be found [here](#).

The election of all Councillors is normally held every four years on the first Thursday in May. The term of office for Councillors starts on the fourth day after being elected and finishes on the fourth day after the date of the next regular election.

Councillors

Councillors are democratically accountable to residents of their ward. Their overriding duty is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to observe [a Code of Conduct](#) to ensure high standards in the way they undertake their duties. Councillors also have to register and declare certain interests which are available for public inspection in [a Register of Interests](#).

How the Council operates

All Councillors meet together as the Council. Formal meetings of the Council are open to the public except for certain exempt or confidential matters. Here Councillors decide overarching policies of the Council and set the budget each year.

The Council approves the creation of Committees and makes appointments to them based on nominations by political groups. The Council also appoints one Councillor to be its Leader.

The following principles will guide the Council's decision-making:

- The rule of law;
- Reasonableness and proportionality;
- a presumption in favour of openness;
- the general principles of the Councillors' Code of Conduct;
- due consultation and the taking of professional advice from officers or appropriately qualified consultants;
- respect for human rights and equality, and considerations of biodiversity, sustainability, and the impact on crime and disorder;
- consideration of the Council's Corporate Strategy and Themes; and
- clarity of aims and desired outcomes.

Strategic decisions

The Council operates an Executive and Leader governance model by which all executive powers vest in the Leader. The Leader then makes arrangements for others to also to exercise executive powers.

The Executive is made up of the Leader and between 2 to 9 (inclusive) other Councillors appointed by the Leader. Political balance requirements do not apply to the Executive. Normally, when it is anticipated that executive Key Decisions are to be taken, the details will be published in [the Executive Forward Plan](#).

The Executive usually takes the lead in deciding strategic matters. However there some decisions which are of particular importance or are required by law, which must be made the Full Council. Such decisions will often be considered by the Executive in advance who will then make recommendations for Full Council to consider.

Formal meetings of the Executive are open for the public to attend except where exempt, confidential or private matters are being discussed.

Overview and Scrutiny

The Council has one Overview and Scrutiny Committee that supports the Council. The Overview and Scrutiny Committee plays an important role in reviewing and scrutinising the Council's policies, budget and service delivery.

The Overview and Scrutiny Committee may also be consulted by Leader/Executive or the Council on upcoming decisions and the development of policy.

The Council operates a 'call-in' process in respect of executive decisions that means decisions that have been made, but not yet implemented can be called in for review by the Overview and Scrutiny Committee. The call in process enables the Overview and Scrutiny Committee to make recommendations to the Leader/Executive about decisions that have been called-in.

To reinforce the key role that the Overview and Scrutiny Committee plays in policy development and scrutiny, it meets two weeks after the Executive. The Overview and Scrutiny Committee has the power to appoint task and finish groups which carry out a specific piece of work and at its conclusion, the task and finish group reports back to the Committee.

Other arrangements

In addition to the Overview and Scrutiny Committee, the Council has a number of other Committees which make decisions and carry out other activities. These focus on quasi-judicial matters for which the Council has responsibility, such as planning and licensing.

The Council has also entered into arrangements with other Councils to create joint/shared opportunities for the delivery of some of its functions and activities. Details of these arrangements are set out in the [Scheme of Delegation](#).

The Council will look to remove barriers between it, town/parish councils and local communities so that issues are addressed holistically and for there to be appropriate levels of engagement in decisions.

The Council's Staff

The Council has people working directly and indirectly for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

The [Protocol on Councillor/Officer Relations](#) guides Councillors and Officers of the Council in their relations with one another to ensure the smooth running of the Council. Officers also have to comply with [the Code of Conduct for Officers](#).

Under the Council's [Senior Management Structure](#), the most senior Officer is the Chief Executive, who is also the Council's Head of Paid Service. Other senior managers lead different parts of the Council's services. Some Officers have specific

duties to ensure that the Council operates within the law and uses resources wisely. These are the Monitoring Officer and the Section 151 Officer (Chief Finance Officer).

The functions and responsibilities which the Council has given to the senior Officers are listed in the [Scheme of Delegation](#).

Rights of members of the public

Members of the public have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.

Members of the public have the right to:

- vote at local elections if they are registered and eligible;
- [contact their local councillor](#) about any matters of concern to them;
- access a copy of the Constitution;
- [attend formal meetings](#) of the Council and its Committees, Panels and Sub-Committees except where exempt or, confidential matters are being discussed or the meeting is being held in private;
- find out from the Forward Plan what key decisions are to be discussed by the Executive or decided by the Leader, Executive or Officers, and when;
- [ask questions, make statements, attend as a deputation and submit petitions](#) at meetings of the Executive and the Full Council meetings;
- [see publically accessible reports and background papers](#), and any record of decisions made by the Council, the Executive, Committees and Sub-Committees;
- [complain to the Council about something the Council has done wrong](#), something that the Council should have done or if the Council has not treated an individual in a professional or civil manner;
- [complain to the Local Government and Social Care Ombudsman](#) if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process; and
- inspect [the Council's accounts](#) during the public inspection period and make their views known to the external auditor.

Where members of the public use specific Council services they may have additional rights. These are not covered in this Constitution.

Review of the Constitution

The Constitution is to be kept under review by the Monitoring Officer. Unless any change to the Constitution is one that can be made by the Monitoring Officer under [the Scheme of Delegation](#) the Audit and Governance Committee will normally consider any proposed change before it is considered by Full Council.



CHAPTER 2 - RESPONSIBILITY FOR FUNCTIONS AND SCHEME OF DELEGATION

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RESPONSIBILITY FOR FUNCTIONS AND SCHEME OF DELEGATION

Introduction

The functions of the Council comprise all its legal duties (the things it must do) and powers (the things it may do). These functions are divided into ‘non-executive functions,’ which are ultimately the responsibility of the full Council, and ‘executive functions,’ which are the responsibility of the Council’s Executive.

Non-executive functions are those functions that Parliament has said must be exercised by the Council or which as a matter of local choice, the Council has reserved to itself. Non-executive functions may be exercised by the Full Council, or be delegated to a Council Committee or Sub-Committee, to an Area Committee, to Joint Arrangements or to a Council officer. Matters delegated to a Committee or Sub-Committee are set out in its terms of reference.

Executive functions are all the other functions of the Council. Legally, the Leader of the Council can exercise all the Council’s executive functions. The Leader of the Council may allocate executive functions between:

- the Executive as a whole;
- individual Executive members;
- Committees of the Executive (the membership of which can only include Executive members);
- Area Committees; and
- Officers of the Council (‘Officers’)

The Leader of the Council must, maintain a Scheme of Delegation recording the allocation of executive functions.

Local Choice Functions. Parliament has identified those functions that are executive functions and those that are non-executive functions. In some cases, however Parliament left it up to the Council to decide whether a function is executive or non-executive. These are known as “Local Choice Functions”.

This Part of the Constitution sets out which bodies and individuals within the Council that are responsible for carrying out particular functions.

RESPONSIBILITY FOR FUNCTIONS AND SCHEME OF DELEGATION

1. General

The details of the bodies and individuals who are responsible for the carrying out the Council's functions are set out in the following tables:

[Table 1: Decision-making bodies of the Council](#)

[Table 2: Local Choice Functions](#)

[Table 3A: Responsibility for Council Functions – decision-making bodies](#)

[Table 3B: Responsibility for Council Functions – governance boards and advisory panels](#)

[Table 4: The Leader of Council's Scheme of Delegation](#)

[Table 5: Functions Delegated to Officers](#)

[Table 6: Conditions on Delegated Powers](#)

2. The Leader of the Council's Scheme of Delegation

The tables include the Leader of the Council's scheme of delegation of executive functions. Nothing in the Scheme of Delegation limits the authority of the Leader of the Council to exercise any of the Council's executive functions, or affects the validity of any specific delegation of authority, which the Leader of the Council may confer by way of a specific Executive Leader decision.

3. Proper Officer functions

3.1 Many legislative provisions require the appointment of a "Proper Officer" to undertake formal responsibilities on behalf of the Council. The Head of Paid Service is the Proper Officer of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless:

- (a) Council has designated another officer; or
- (b) the Head of Paid Service appoints another officer of the Council to be the Proper Officer for a specific service area or function.

3.2 The Monitoring Officer maintains the Proper Officer Register, which records all Proper Officer appointments, as set out in [Table 7](#)

Table 1: Decision-making bodies of the Council

The following table defines the membership of the various decision-making bodies used in Table 2 and Table 3.

Ref	Decision-making body	Membership
1.1	Council	31 Councillors
1.2.	The Executive	Up to 10 Councillors including the Leader of the Council.
1.3	The Overview and Scrutiny Committee	13 Councillors
1.4	Audit and Governance Committee	7 Councillors. The Chairman cannot be the chairman or vice-chairman of another committee or a member of the Executive.
1.4.1	Audit and Governance (Hearings) Sub-Committee	3 Councillors from the membership of the Audit and Governance Committee. No Councillor who has been consulted about the Monitoring Officer's assessment of a complaint as part of the Assessment Panel may be a member of the Sub-Committee hearing the outcome of the investigation into the same complaint.
1.5.	Council Tax Setting Committee	4 Councillors.
1.6.	Development Management Committee	12 Councillors. The Chairman and Vice-Chairman cannot be members of the Executive. Neither the Leader of the Council nor the member of the Executive with responsibility for planning can be members of the Committee.

Ref	Decision-making body	Membership
		A new member appointed to Development Management Committee must not take part in or vote on any decision made by Development Management Committee until they have attended at least one training session on planning related topics
1.7.	Licensing Committee	12 Councillors. A new member appointed to the Licensing Committee must not take part in or vote on any decision made by Licensing Committee until they have attended at least one training session on Licensing related topics.
1.7.1	Licensing Sub-Committee	3 Councillors from the membership of the Licensing Committee
1.8	PATROL Joint Committee	1 Councillor from each member authority

The Council also has the following governance boards/panels:

Ref	Governance boards/Advisory Panels	Membership/Council representation
1.9	Devon Building Control Partnership	2 Councillors from each member authority
1.10	Joint Local Plan Partnership Board	2 Councillors from each member authority
1.11	Rate Relief Panel	Leader of Council Deputy Leader of Council Lead Executive Member for Communities
1.12	Salcombe Harbour Board	4 Councillors and 4 co-opted members

Ref	Governance boards/Advisory Panels	Membership/Council representation
1.13	Slapton Line Steering Group	2 Councillors
1.14	South Devon AONB Partnership	2 Councillors
1.15	Tamar Valley AONB Partnership	1 Councillor
1.16	Waste Partnership Board	Lead Executive Member for Environment and 2 Councillors

Table 2: Local Choice functions

Ref	Function	Decision-making body	Delegation of functions
2.1	Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	The Executive	See Tables 4, 5 and 6
2.2	The conduct of Best Value Reviews in accordance with the provisions of any order for the time being having effect under Section 5 (best value reviews) of the Local Government Act 1999	The Executive	See Tables 4, 5 and 6
2.3	Any function relating to contaminated land:		
	(i) approval of contaminated land strategy	The Executive	See Tables 4, 5 and 6
2.4	(ii) preparation of draft contaminated land strategy	The Executive	See Tables 4, 5 and 6
2.5	(iii) all other functions relating to contaminated land	The Executive	See Tables 4, 5 and 6
2.6	The discharge of any function relating to the control of pollution or the management of air quality	The Executive	See Tables 4, 5 and 6
2.7	The service of an abatement notice in respect of a statutory nuisance	The Executive	See Tables 4, 5 and 6
2.8	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area	The Executive	See Tables 4, 5 and 6

Ref	Function	Decision-making body	Delegation of functions
2.9	The inspection of the authority's area to detect any statutory nuisance	The Executive	See Tables 4, 5 and 6
2.10	The investigation of any complaint as to the existence of a statutory nuisance	The Executive	See Tables 4, 5 and 6
2.11	<p>The obtaining of particulars of a person's interest in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976:</p> <p>(i) in so far as the information is required in connection with a function of the Development Management Committee</p>	The Development Management Committee	See Tables 5 and 6
2.12	(ii) in so far as the information is required in connection with a function of the Licensing Committee	The Licensing Committee	See Tables 5 and 6
2.14	(iii) in so far as the information is required in connection with a function of the Executive	The Executive	See Tables 4, 5 and 6

Table 3A: Responsibility for Council Functions – decision-making bodies

Ref	Decision-making body	Function	Delegation of function
3.1	Full Council	<p>Approving and adopting the following which together comprise the <u>Policy Framework</u>:</p> <ul style="list-style-type: none"> • Corporate Strategy; • Capital Strategy; • Asset Management Plan; • Regeneration and Investment Strategy; Risk Management Policy Statement and Strategy; • Treasury Management Strategy; • Housing and Homelessness Strategy • Climate Change and Biodiversity Strategy • Licensing and Gambling Policy Statements • Plans and strategies comprising the Development Plan 	See Tables 5 and 6
3.2		<p>Approving the Budget including the allocation of financial resources to different services and projects; the Medium Term Financial Plan/Strategy; proposed contingency funds; setting the Council Tax; and decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits.</p>	See Tables 5 and 6
3.3		<p>Making Neighbourhood Plans and Neighbourhood Development Orders</p>	See Tables 5 and 6

Ref	Decision-making body	Function	Delegation of function
3.4		<p>Elections and Electoral Registration</p> <p>The exercise of powers relating to elections as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (“the Functions Regulations”)</p>	See Tables 5 and 6
3.5		<p>Community Governance</p> <p>The exercise of powers relating to community governance as set out in Schedule 1 to the Functions Regulations</p>	See Tables 5 and 6
3.6		<p>Byelaws</p> <p>The exercise of powers relating to byelaws as set out in Schedule 1 to the Functions Regulations</p>	
3.7		<p>Health and Safety</p> <p>Functions relating to Health and Safety under any “relevant statutory provisions” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer.</p>	See Tables 5 and 6
3.8	Audit and Governance Committee	Functions relating to audit, the regulatory financial framework and accounting policies	See Tables 5 and 6

Ref	Decision-making body	Function	Delegation of function
		<p>The promotion and maintenance of high standards and conduct within the Council and within the Town and Parish Councils in the Council's area</p> <p>To advise the Council on the adoption or revision of its Code of Conduct for Members.</p>	See Tables 5 and 6
3.9	Audit and Governance (Hearings) Sub-Committee	To decide any complaints of a breach of The Councillors' Code of Conduct and or breaches of the relevant Town or Parish Council Code of Conduct.	See Tables 5 and 6
3.10	Council Tax Setting Committee	To set the Council Tax for the District, having taken into account the precepts provided to them by Devon County Council, Devon and Cornwall Police Authority, Devon and Somerset Fire and Rescue Service and the Local Town and Parish Councils.	
3.11	Development Management Committee	<p>Planning and Conservation</p> <p>Functions relating to town and country planning, conservation and listed buildings and development control as specified in Schedule 1 to the Functions Regulations</p>	See Tables 5 and 6
3.12		<p>Trees and Hedgerows</p> <p>The exercise of powers relating to the preservation of trees and protection of important</p>	See Tables 5 and 6

Ref	Decision-making body	Function	Delegation of function
		hedgerows as set out in Schedule 1 to the Functions Regulations	
3.13		Brownfield Register (and other Registers) To undertake the functions of the Council under Part 2 of the Planning and Compulsory Purchase Act 2004 (local development), Section 14A (Register of Land), including preparation of a Brownfield Land Register as required by The Town and Country Planning (Brownfield Land Register) Regulations 2017	See Tables 5 and 6
3.14		Rights of Way The exercise of powers relating to public rights of way as set out in Schedule 1 to the Functions Regulations	See Tables 5 and 6
3.15	Licensing Committee	Licensing Act 2003 To discharge the functions of the Council as Licensing Authority under the Licensing Act 2003 with the exception of the Statement of Licensing Policy which is reserved to Council	See Tables 5 and 6
3.16		Taxi, gaming, entertainment, food and miscellaneous licensing	See Tables 5 and 6

Ref	Decision-making body	Function	Delegation of function
		Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations	
3.17	Licensing Sub-Committee	<p>To:</p> <ul style="list-style-type: none"> • determine applications for licences where representations have been received and not withdrawn, and applications for the review of licences, covered by the Licensing Act 2003 and the Gambling Act 2005. • consider and determine matters relating to all licences, consents, registrations and certificates that fall within the terms of reference of the Licensing Committee and appeals against decisions delegated to officers in respect of such matters. 	See Tables 5 and 6
3.18	Overview and Scrutiny Committee	To carry out the overview and scrutiny functions under the Local Government Act 2000.	
3.19	PATROL Joint Committee	To provide independent adjudication under the Traffic Management Act 2004 in respect of off-street parking	

Table 3B: Responsibility for Council Functions – governance boards and advisory panels

Ref	Governance board/advisory panel	Function
3.20	Devon Building Control Partnership	To oversee the delivery of building control services, value for money and performance of the Partnership and the Host Council
3.21	Joint Local Plan Partnership Board	To make recommendations to the partnership authorities to ensure that they maintain a clear programme for preparation, monitoring and review of the Joint Local Plan and associated Supplementary Planning Guidance through annual updates of the Local Development Scheme and other matters as set out in Plymouth and South West Devon Joint Local Plan – Delivery and Governance dated March 2019
3.22	Rate Relief Panel	To be consulted by the Section 151 Officer on applications under the Locally Administered Business Rate Relief Policy.
3.23	Salcombe Harbour Board	To advise the Executive on matters relating to the discharge of the Council's functions as harbour authority for Salcombe Harbour and for improving, maintaining and managing the Salcombe-Kingsbridge Estuary
3.24	Slapton Line Steering Group	<ul style="list-style-type: none"> • To oversee the delivery of the Adaptation Plan • To ensure the obligations of the DEFRA contract are met • To ensure that effective and up-to-date contingency plans are maintained for responding to erosion events; • To commission or acquire any necessary expertise, research and studies to inform decision making; • To ensure that community interests are engaged in the process.
3.25	South Devon AONB Partnership	To prepare, implement, monitor and review the South Devon AONB Management Plan on behalf of the Local Authorities responsible for the AONB

Ref	Governance board/advisory panel	Function
3.26	Tamar Valley AONB Partnership	To prepare, implement, monitor and review the Tamar Valley AONB Management Plan on behalf of the Local Authorities responsible for the AONB
3.27	Waste Partnership Board	To consider the Contractor's annual Service Delivery Report and Plan and the Contractor's statement and/or decisions in respect of operating profits and costs pressures; commodity values as regards dry recyclables; pensions; and performance.

Table 4: The Leader of the Council's Scheme of Delegation

Ref	Decision-making body	Function	Delegation
4.1.	The Leader of the Council	The Leader will act as the chair of Executive meetings and may act on behalf of, or instead of, any other members of the Executive.	
4.2		To appoint the Deputy Leader	
4.3		The creation of portfolios of related functions and the delegation to members of the Executive to portfolios.	
4.4	The Executive	All functions of the Council that are not the responsibility of any other part of the Council as defined in this Constitution. Without prejudice to which, the Executive shall be responsible specifically for:	See Tables 5 and 6
4.4.1		<p>Key decisions Decisions that would:</p> <p>(a) result in the Council spending or saving or raising/reducing annual income by more than £50,000 or more than £100,000 for capital spending or saving; or</p> <p>(b) have a significant impact on communities living or working in two or more wards.</p>	
4.4.2		Policy decisions and strategy	

Ref	Decision-making body	Function	Delegation
		<p>Making recommendations on the policy framework and budget to Council; Appointing representatives to outside organisations whose work relates to executive functions including appointment to local authority companies;</p> <p>Agreeing policies and strategies that will have a significant impact on two or more Wards.</p>	<p>Policies within the policy framework are excluded.</p>
4.4.3		<p>Finance and contract decisions Making recommendations to Council on:</p> <ul style="list-style-type: none"> • the budget; • any changes to the net revenue budget; • the Treasury Management Strategy; • the Prudential and Treasury indicators; • the medium term financial strategy; transfers between revenue cost centres; • the Corporate Asset Management Plan; and • the Capital Programme. <p>Setting the Council Tax base.</p>	
4.4.4		<p>Property (including land) decisions Approving the acquisition/disposal of land and property according with any acquisition/disposal strategy of the Council.</p>	

Ref	Decision-making body	Function	Delegation
4.4.5		<p>Making compulsory purchase orders.</p> <p>Salcombe Harbour To exercise all functions of the Council as a harbour authority that relate to any matter concerning issues of administration, harbour operations and/or the management of Salcombe Harbour and associated harbour land.</p> <p>To be the Duty Holder for the purposes of the Port Marine Safety Code</p> <p>NOTE: In exercising these functions the Executive will be advised by the Salcombe Harbour Board.</p>	
4.4.6		<p>Decisions about services Strategic decisions relating to the provision of services if this will have a significant impact on two or more wards;</p> <p>Designating conservation areas;</p> <p>Setting up external partnerships, shared service arrangements local authority companies and transfer services to third parties;</p>	
4.5.	Portfolio Holders	Such functions as are related to the Portfolio but only those that the Leader to the Council agrees in writing	The Leader to the Council is not obliged to delegate functions to Portfolio Holders. Portfolio Holders will

Ref	Decision-making body	Function	Delegation
			still be the lead councillor for the functions within their portfolio.

Table 5: Functions delegated to Officers

Ref	Functions	Conditions
PART A – General delegations		
All Officers		
5.1.	<p>To act as a witness:</p> <p>(a) on behalf of the Council in any proceedings in which the Council is directly involved; and/or</p> <p>(b) where so directed by a court, tribunal, hearing or other inquiry with power so to do; and/or</p> <p>(c) in any other circumstance with the prior written approval of the Monitoring Officer</p>	See Table 6
5.2.	To undertake all action relevant to that Officer that is required by or identified in Financial Procedure Rules and/or Contract Procedural Rules as applicable to that Officer.	See Table 6
The Head of Paid Service and all Directors (individually a Chief Officer” and collectively “Chief Officers” where the context requires)		
5.3.	To manage and promote the services for which they are responsible and to enter into arrangements, or do anything else which is considered necessary or expedient in the management of the services and functions for which they are responsible including the acquisition of goods, works and services within budgets and policies approved by the Council and in compliance with the provisions of this Constitution.	See Table 6

Ref	Functions	Conditions
5.4	To appoint staff (including temporary and agency staff) and in consultation with the Head of Human Resources, to determine the terms and conditions of employment of staff subject to the same being within the Council's General Fund Budget and consistent with Council Policy but not any employment matter reserved to full Council	See Table 6
5.5	To manage disciplinary matters.	See Table 6
5.6	In consultation with the Head of Human Resources to declare an employee redundant and to determine applications for ill-health retirement subject to Council Policy and the Officer Employment Procedure Rules	See Table 6
5.7	To vire within revenue budget blocks and between capital schemes within approved limits.	See Table 6
5.8	To sign statutory notices and advertisements; and to apply for planning permission and building regulations approval in respect of the Council's land and buildings.	See Table 6
5.9	To exercise on behalf of the Council any right to enter on land conferred by statute in relation to matters within his/her jurisdiction for the purposes of the exercise of the Council's functions with regard to such matters.	See Table 6
5.10	To authorise the write-offs of stocks and stores deficiencies in accordance with the Financial Rules and Scheme of Financial Delegation.	See Table 6
5.11	To deal with the media in accordance with Council Policy	See Table 6
5.12	To submit responses to consultation papers	See Table 6
5.13	To make ex gratia payments up to £10,000 to resolve justifiable complaints.	See Table 6

Ref	Functions	Conditions
5.14	To incur reasonable expenses by way of hospitality.	See Table 6
5.15	To authorise the allocation of external funding awarded to the Council and entry in to the associated financial and legal agreements in consultation with the relevant portfolio holder and Leader of the Council	See Table 6
	In relation to Enforcement	
5.16	Notwithstanding any specific powers detailed elsewhere to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of their functional area	See Table 6
5.17	To authorise officers to exercise rights of entry to land and premises	See Table 6
5.18	Each Chief Officer shall have the responsibility for those powers from the delegations listed below which relate to their functional areas	
	Assets	
5.19	To manage the Council's property and engineering assets. To undertake the Council's asset management functions.	See Table 6
	Building Control	
5.20	To exercise any power conferred on the Council under any of the acts or statutory instruments in Appendix A to the scheme of delegation in so far as each is relevant to the Council's Building Control function.	See Table 6
5.21	To act as the Council's Appointing Officer in respect of the Party Wall Act and to resolve disputes arising under that Act	See Table 6
5.22	To act as a building authority.	See Table 6

Ref	Functions	Conditions
5.23	To fix, vary, recover and advertise charges	See Table 6
5.24	To authorise and serve building control enforcement notices irrespective of whether authorised work and work carried out in contravention of building regulations and other building control related legislation and to authorise officers to exercise rights of entry to land and premises.	See Table 6
Business Development		
5.25	<p>Generally to take action and operate all legislative and administrative procedures in pursuit of economic and industrial development of the district. Specifically, but not exclusively,:</p> <p>(a) to enter into leases and licences and assignments thereof in respect of the Council's commercial land and premises.</p> <p>(b) to authorise expenditure on economic development initiatives in consultation with the portfolio holder</p>	See Table 6
Car Parking		
5.26	To operate and manage off street car parks including the authorisation of/or taking of enforcement action where appropriate	See Table 6
Conservation of Historic Buildings		
5.27	To administer and operate any Historic Building Grant Scheme	See Table 6
5.28	<p>To:</p> <p>(a) issue Urgent Works Notices in relation to Listed Buildings and properties in conservation areas</p>	See Table 6

Ref	Functions	Conditions
	<p>(b) issue Repairs Notices in relation to Listed Buildings and properties in conservation areas</p> <p>(c) in cases of urgency in consultation with the Chairman of the Development Management Committee (unless such consultation would have a detrimental effect on this power) to:</p> <p>(i) authorise an application for an injunction (ii) authorise the commencement of any legal proceedings,</p> <p>such actions to be notified to the next scheduled meeting of the Development Management Committee,</p>	
	Food Safety Services, Health Services and Environmental Services	
5.29	Generally to take action, to operate all legislative and administrative procedures including, but not limited to authorising any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instrument set out in Appendix A to this Scheme, (including the power to appoint or revoke the appointment of authorised officers) if and in so far as each is relevant to the Council's environment functions.	See Table 6
5.30	Generally to take action and operate all legislative and administrative procedures in relating to the licensing and regulation of premises and activities. To issue licences and certificates or effect registration under powers conferred by any of the Acts or Statutory Instruments listed in Appendix A to this scheme of delegation and to make representations in respect of applications.	See Table 6
5.31	To act as inspector and to appoint others to act as inspectors (including the termination of appointment of those inspectors) in accordance with any powers contained in any of the Acts of or Statutory Instruments listed in	See Table 6

Ref	Functions	Conditions
	Appendix A to this scheme of delegation in relation to the Council's food safety, environmental and health functions.	
	Housing Functions	
5.32	To allocate tenancies, set rents, approve disturbance payments, adaptations and alterations and consent to transfers and mutual exchanges and to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document and the determination of grants in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of the Council's housing function.	See Table 6
5.33	To certify Housing Corporation and Registered Social Landlords.	See Table 6
5.34	To administer and manage the Council's homelessness functions and the Housing Register.	
	Land Charges	
5.35	To act as the Registrar of Local Land Charges	See Table 6
	Land Drainage	
5.36	To undertake and exercise the Council's land drainage functions, including the repair, maintenance and cleansing of Watercourses and culverts and the approval to culvert.	See Table 6
	Land Ownership	
5.37	To approve terms for any lease or letting of land or property where the rent payable is not less than the open market rent for that property.	See Table 6

Ref	Functions	Conditions
5.38	To authorise the renewal and termination of commercial leases protected by Part 2 of the Landlord and Tenant Act 1954	See Table 6
5.39	To authorise the commencement and settlement of rent reviews in line with the provisions of existing leases to which the Council is a party	See Table 6
5.40	To authorise licences to assign for any lease, grant any wayleave or easement, or to agree any change (including revocation) of any freehold or leasehold covenant where it is in the Councils interest to do so.	See Table 6
5.41	To authorise the freehold acquisition or disposal of any land	See Table 6
5.42	To authorise the appropriation of land to any purpose provided that any statutory consultation has been complied with and in the absence of any representations.	See Table 6
Markets and Fairs		
5.43	<p>To operate and manage the Council's markets including:</p> <ul style="list-style-type: none"> (a). The granting of pitch licences; (b). The management and organisation of the markets and their activities; (c) Updating market regulations and codes of conduct in consultation with the relevant Portfolio Holder; and (d) the authorisation of or the taking of enforcement action where appropriate. 	See Table 6
5.44	To operate and manage fairs including the authorisation of or taking of enforcement action where appropriate.	See Table 6

Ref	Functions	Conditions
Harbour		
5.45	The operation and administration of the Council's powers and duties as Harbour Authority including the authorisation and/or taking of enforcement action where appropriate.	See Table 6
5.46	To operate the Port Marine Safety Code.	See Table 6
Transport		
5.47	To maintain the Council's fleet of vehicles, including lease cars, in accordance with the Construction and Use Regulations 1986;	See Table 6
5.48	To dispose of all used assets with regards to transport, plant and equipment owned by the Council	See Table 6
All Heads of Service		
5.49	Operational decisions. To take all steps necessary to deliver the services for which they are responsible.	See Table 6
5.50	People Management. To manage and deal with all people, welfare, inclusivity and training issues below Director level within their service area	See Table 6
PART B – Additional delegations to specific officers		
Chief Executive		
5.51	To act as Head of Paid Service under and for the purposes of section 4 of the Local Government and Housing Act 1989.	

Ref	Functions	Conditions
5.52	To determine the terms and conditions of service of the Deputy Chief Executive, and Chief Officers.	See Table 6
5.53	To undertake the functions of the Council in relation to elections.	
5.54	To be the Electoral Registration Officer and to appoint Deputy Electoral Registration Officers.	
5.55	To be the Returning Officer and to appoint Deputy Returning Officers for elections to the District Council and Parish Councils within the District.	
5.56	To have delegated authority to affect immediate changes to membership of committees at the request of political groups within the allocations set at Council, such changes to be reported to Council at its next meeting for ratification.	See Table 6
5.57	In cases of urgency and/or emergency to have a general power, after consultation with the Leader of the Council and/or the member holding the appropriate Executive portfolio or the Chairman of the relevant committee as the case may be, to deal with any matter not delegated to any other officer by statute or other legislation on which the Chief Executive considers to require a decision before the next meeting of the appropriate body within the Council.	
Section 151 Officer		
5.58	To act as Chief Financial Officer under section 114 of the Local Government Finance Act 1988 and section 151 of the Local Government Act 1972.	
5.59	To be responsible for, and do anything required for the proper administration of the financial affairs of the Council	

Ref	Functions	Conditions
5.60	To invest the funds of the Council in line with the approved Treasury Management Strategy.	See Table 6
5.61	To make arrangements for the internal audit of the Council.	See Table 6
5.62	To write down debts in cases of bankruptcy/liquidation and to write off debts that are irrecoverable or uneconomic to recover up to the figures contained in the Financial Procedure Rules in consultation with the Finance Portfolio Holder	See Table 6
5.63	To attend Valuation Tribunal hearings or to nominate an appropriate officer to present the Council's case.	See Table 6
5.64	To approve fees and charges unless part of the annual budget setting in consultation with the appropriate Director and Portfolio Holder	See Table 6
	In relation to Non-Domestic Rates	
5.65	To determine claims for relief	See Table 6
	In relation to the billing, collection, recovery of the other income	
5.66	To action changes of interest rates on housing advances.	See Table 6
5.67	To authorise Government returns and subsidy claims.	See Table 6
Director of Customer Service and Delivery		
5.68	As Deputy Chief Executive, in the absence of the Chief Executive, to exercise all of the powers of the Chief Executive including as Head of Paid Service.	See Table 6
5.69	To be the Council's Senior Information Risk Officer.	See Table 6

Ref	Functions	Conditions
	In relation to Council Tax, Non-Domestic Rates, Community Charge, Housing Advances, Benefit Overpayment, Sundry Debtors and Miscellaneous Income, Housing and Council Tax Benefit	
5.70	To collect and recover Council Tax including determining the liability for the tax, benefits and discounts available. To enter into agreements regarding payment, to make any necessary adjustments to charges, to impose penalties, to request information and institute legal proceedings in the case of non-disclosure of information.	See Table 6
5.71	To administer the Housing Benefit and Council Tax Benefit scheme on behalf of the Council and to determine whether benefit payments should be made to a landlord	See Table 6
5.72	To determine and administer applications under the Discretionary Housing Payment Scheme.	See Table 6
5.73	To authorise the prosecution for fraudulent claims for Housing and Council Tax Benefit and issue formal cautions and administrative penalties.	See Table 6
5.74	To appoint and authorised officers with powers to enter on to land and premises to secure the payment of sums due to the Council	See Table 6
5.75	To recover debts due to the Council by civil action	See Table 6
5.76	To institute, appear or authorise appropriate officers to appear on behalf of the Council in civil or criminal proceedings	See Table 6
5.77	To appoint Bailiffs or refer debts to bailiff or debt collection agencies.	See Table 6
5.78	To determine whether benefit overpayments are recoverable.	See Table 6

Ref	Functions	Conditions
5.79	To authorise Government returns and subsidy claims.	See Table 6
5.80	To enter into joint working arrangements with external agencies.	See Table 6
5.81	To institute possession proceedings in the County Court for the recovery of housing advance arrears.	See Table 6
5.82	To appoint debt recovery agents	See Table 6
	In relation to the administration of Housing and Council Tax Benefits	
5.83	To determine claims, conduct reviews, administer discretionary housing payments, review decisions, issue formal cautions in administrative, initiate prosecutions and respond to appeals.	See Table 6
5.84	To appear at Appeal Tribunal Hearings, to serve any relevant notices.	See Table 6
5.85	To issue requests for rent or such determination and re-determinations.	See Table 6
5.86	To appoint authorised officers with powers to enter business premises, make enquiries and interview persons.	See Table 6
5.87	To determine whether benefit overpayments are recoverable and, if so, from whom.	See Table 6
5.88	To determine if benefit payments should be made to landlords	See Table 6
5.89	To agree Service Level Agreements with benefit agency, rent officer and other external agencies.	See Table 6

Ref	Functions	Conditions
5.90	To appoint and train officers to verify documents comply with the document verification framework and to represent the Council at liaison meetings and to enter into joint working arrangements with the benefit agency.	See Table 6
5.91	To make any financial transaction including the borrowing and lending of money in line with the member approved Treasury Management Strategy	See Table 6
5.92	To determine applications by staff for car loans under the Assisted Car Purchase Scheme.	See Table 6
5.93	To effect adequate insurance cover for the Council.	See Table 6
5.94	To authorise payments to employees for loss or damage to personal property up to a maximum of £500 for any one claim	See Table 6
Director of Place and Enterprise		
5.95	<p>To undertake all action relating to:</p> <p>(a) the acquisition or disposal of any land or building; and/or</p> <p>(b) any grant and/or termination of any lease or licence for any land or building;</p> <p>(c) any other transaction associated with any land or building</p>	<p>In all cases;</p> <p>(a) the sum of money associated with any such acquisition, disposal or other transaction (including termination) does not exceed £300,000; and</p> <p>(b)) all costs associated with any such transaction can be met from within a budget available for such purposes.</p>
5.96	To undertake all action in relation to any function of the Council concerning neighbourhood planning (including all functions relating to the making and approval of any neighbourhood development plan, neighbourhood	See Table 6

Ref	Functions	Conditions
	<p>development order and/or community right to build order) whether under any Town and Country Planning Legislation or otherwise including power to:</p> <p>(a) make a final decision on whether to designate a neighbourhood plan area and/or make such an area a business area;</p> <p>(b) decide whether to submit any matter to independent examination; and/or</p> <p>(c) decide whether to appoint and the appointment of any examiner,</p> <p>but excluding:</p> <p>(i) a final decision on whether to designate a neighbourhood plan area unless in the Director of Place and Enterprise's opinion:</p> <p>(A) there is insufficient time to have the matter considered by the relevant committee as part of the normal committee cycle;</p> <p>(B) the Council is legally obliged to approve the designation; and/or</p> <p>(C) there has been no objection to the proposal submitted to the Council within any relevant time for the submission of representations which has not been withdrawn;</p> <p>(ii) the final decision on whether to submit any document to a referendum;</p> <p>(iii) the final decision on whether to make a neighbourhood development order /community right to build order and the terms of any planning permission granted pursuant to a neighbourhood development order /community right to build order; and</p>	<p>Any costs associated with the appointment of an examiner can be met from an existing relevant budget and/or the prior approval of the Section 151 Officer is obtained</p>

Ref	Functions	Conditions
	(iv) the final decision on whether to make a neighbourhood development plan.	
Director of Strategy and Governance		
5.97	To be the Council's Data Protection Officer under and for the purposes of the Data Protection Act 2018	See Table 6
5.98	To maintain the Council's Data Protection registration and act as Data Protection Officer.	See Table 6
5.99	To respond to requests for information and apply any necessary exemptions with respect to the Data Protection Act, 2018, Freedom of Information Act 2000, Environmental Information Regulations 2005 and the reuse of Public Sector Information Regulations 2005, and to maintain any relevant registers, registrations or records	See Table 6
5.100	To determine the content and be responsible for any publication scheme (including determining any charges) under freedom of information and/or data protection legislation.	See Table 6
Head of Environmental Heath		
5.101	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Licensing Act 2003 including power to decide whether a representation is a "relevant representation" for the purposes of the Act, but excluding any matter whether by virtue of section 10 Licensing Act 2003 or otherwise that cannot be discharged by an Officer	See Table 6

Ref	Functions	Conditions
5.102	To undertake all action in connection with the submission of any scheme, details and/or other matter pursuant to any licence, notice, permission, consent, approval or other determination issued by or on behalf of the Council pursuant to the Licensing Act 2003 or the Gambling Act 2005.	See Table 6
5.103	To prepare and issue reports on behalf on the Licensing Committee where a matter relates to a licensing function under the Licensing Act 2003 or the Gambling Act 2005 and is necessary to facilitate the exercise of another function of the Council.	See Table 6
5.104.	To undertake all action in connection with any application (including any application to grant, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Gambling Act 2005 including power to decide whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 154 Gambling Act 2005, section 10 Licensing Act 2003 (as it applies to the Gambling Act) or otherwise that cannot be discharged by an Officer	See Table 6
5.105	<p>To issue licences, permits, approvals, consents, notices and registrations (with conditions where appropriate) and refuse, suspend, amend, revoke or transfer the same (unless statutory provisions prohibit such delegation) in respect of the Council’s public health, public safety, housing and environmental functions not otherwise delegated to other officers but including the following functions:</p> <p>(a) Hackney carriages and private hire – vehicles, drivers and operators.</p> <p>(b) Lotteries.</p> <p>(c) Sex Establishments and sexual entertainment venues.</p>	See Table 6

Ref	Functions	Conditions
	(d) Street Trading. (e) Charitable Street Collections. (f) House to house collections. (g) Skin Piercing, tattooing, acupuncture and electrolysis. (h) Animals - Establishments and Control. (i) Scrap Metal Dealers. (j) Sunday Trading. (k) Houses in multiple occupation. (l) Caravan sites	
5.106	To suspend or revoke a Hackney Carriage/Private Hire Drivers Licence with immediate effect in the interests of public safety	The Chairman and Vice-Chairman of the Licensing Committee are to be consulted. See Table 6
Head of Legal Services		
5.107	To act as Monitoring Officer under and for the purposes of section 5 of the Local Government and Housing Act 1989.	

Ref	Functions	Conditions
5.108	To make changes to the Constitution to give effect to decisions of the Council, to secure compliance with the law and to correct or improve layout, spelling or grammar including, but not exclusively changes to ensure individual names, positions and job titles are updated to reflect changes in the composition of the Executive, Committees, and Officers.	All changes, including minor changes, are logged and a version history and change-log is maintained.
5.109	To sign and serve any notice, order or document or act as proper officer under section 234 of the Local Government Act 1972 where no other officer is currently appointed, and any notice in respect of any land owned by or in the process of being acquired by the Council.	See Table 6
5.110	To authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme.	See Table 6
5.111	To authorise the institution, defence or withdrawal or settlement of any claims or legal proceedings, civil or criminal in relation to any function of the Council or to protect any interest of the Council.	See Table 6
5.112	To prosecute or defend or appear in any legal proceedings and authorise any officer so to do.	See Table 6
5.113	To grant postponement of charges and the release of protective registrations in relation to financial charges on land in favour of the Council.	See Table 6
5.114	To: (a) dismiss any councillor conduct complaint that is trivial or concerns conduct that would not be a breach of the relevant council's code of conduct; and/or	See Table 6

Ref	Functions	Conditions
	<p>(b) decide after consultation with an independent person whether a complaint should be referred for investigation or on some other action.</p> <p>(c) refer any complaint concerning a failure to disclose a disclosable pecuniary interest to the police without further reference.</p>	
Head of Planning		
5.115.	<p>To exercise all powers or duties conferred or imposed upon the Council, under any enactment as Local Planning Authority including those functions relating to town and country planning and development control as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, excluding applications for: Planning Permission (including applications for outline or full planning permission; made under section 73 or section 73A of the Town and Country Planning Act 1990; permission in principle and/or technical detail consent; reserved matters approval etc) Listed Building Consents; Advertisement Consents; TPO final confirmations (excluding emergency TPOs); and Works to TPO trees, which:</p> <p>(a) relate to the Council's own land; or</p> <p>(b) include proposals under which the Council may acquire an interest in or over all or any part of the land or buildings proposed to be developed; or</p> <p>(c) the applicant or agent is a Councillor (or their immediate family) or an Officer (or their immediate family); or</p> <p>(d) relate to land owned by a Councillor (or their immediate family) or an Officer (or their immediate family) or in which a Councillor (or their immediate</p>	See Table 6

Ref	Functions	Conditions
	<p>family) or an Officer (or their immediate family) has a legal interest in the land registered at HM Land Registry; or</p> <p>(e) the Head of Planning reasonably considers that the views of Members are considered desirable or essential due to all of the circumstances of an application including the scale and nature of the development proposed; the degree of compliance with the Joint Local Plan or national planning policy; any technical issues raised; or the number of representations received etc; or</p> <p>(e) has been called in by a Councillor in accordance with Appendix C.</p>	
5.116.	<p>To undertake all action in respect of any application under any Town and Country Planning Legislation relating to any of the following:</p> <p>(a) any certificate of lawfulness including any application for a certificate of lawfulness or development (CLUEDs) and/or a certificate of proposed use or development (CLOPUDs);</p> <p>(b) any prior notification, prior approval and/or any other determination relating to any permitted development provision (including any local development order and/or neighbourhood development order) including:</p> <p>(i) whether any such notification/approval/determination is required; and</p> <p>(ii) determining whether any exception, condition, limitation and/or other restriction has been met in connection with any prescribed permitted development;</p> <p>(c) any non-material amendment;</p>	<p>See Table 6</p> <p>Notice of the application for a certificate of lawfulness to be given to Ward Members.</p>

Ref	Functions	Conditions
	<p>(d) for the discharge of any condition/obligation and/or confirmation of compliance with any condition/obligation;</p> <p>(e) for approval of any scheme, design, code or other documentation submitted for approval by the Council including any application for a variation to any such approved documentation;</p> <p>(f) any advertisement including any banner may be visible from any highway; and/or</p> <p>(g) to undertake any work to any tree in Conservation Area and/or to which a Tree Preservation Order relates.</p>	
5.117.	<p>To undertake all action relating to any matter arising in respect of any appeal, call-in and/or other inquiry and/or hearing of whatever nature arising under any Town and Country Planning Legislation including:</p> <p>(a) to decide any response required in relation to any procedural issue relating to any such matter including for the avoidance of doubt whether any such matter should be dealt with by means of written representation, hearing or public inquiry;</p> <p>(b) to decide any procedural issue relating to any such matter including the venue for the holding on any hearing and/or appeal; and/or</p> <p>(c) to decide whether or not to defend any reason for refusal</p> <p>(d) to authorise the execution of a section 106 agreement where required in connection with the appeal/inquiry/hearing.</p>	See Table 6

Ref	Functions	Conditions
5.118.	<p>To undertake all action in order to regulate any actual, perceived or potential breach of any of the Town and Country Planning Legislation including:</p> <p>(a) any action to seek to regulate any actual or perceived breach of any notice, order, agreement, obligation and/or other document, condition, restriction and/or other limitation issued or provided for pursuant to such Town and Country Planning Legislation;</p> <p>(b) the undertaking of any site visit;</p> <p>(c) to decide whether to issue any notice including:</p> <p>(i) any requisition for information;</p> <p>(ii) any planning contravention notice;</p> <p>(iii) any enforcement notice;</p> <p>(iv) any breach of condition notice;</p> <p>(v) any notice pursuant to section 215 Town and Country Planning Act 1990;</p> <p>(vi) any temporary stop notice;</p> <p>(vii) any stop notice;</p> <p>(viii) any advertisement discontinuance notice; and/or</p> <p>(ix) any replacement tree notice;</p> <p>(d) to decide whether or not to amend and/or withdraw any notice;</p> <p>(e) to decide whether to seek any injunction and/or pursue any action arising therefrom; and/or</p> <p>(f) to decide whether or not to take and/or to cease action whether because in the Head of Planning’s opinion the breach is trivial, there is insufficient demonstrable harm and/or, it is not expedient to take/continue to take action.</p>	<p>See Table 6</p> <p>The relevant Ward Members are to be informed prior to such notices being issued or served unless the issuing of the notice is urgent, in which case. Ward Members are to be informed as soon as reasonably practicable afterwards.</p>

Ref	Functions	Conditions
5.119.	To exercise the powers of entry under Sections 196A, 196B, 196C, 214B, 214C, 214D, 324 and 325 of the Town and Country Planning Act 1990 and Sections 88, 88A and 88B of the Planning (Listed Building and Conservation Areas) Act 1990 and section 74 of the Anti-Social Behaviour Act 2003 and Regulation 12 of the Hedgerow Regulations 1997 and to authorise all other planning officers whose duties require such powers.	See Table 6
5.120.	To decide whether and how to respond on behalf of the Council to any application pursuant to any of the Town and Country Planning Legislation submitted to any other local authority	If feasible, to consult with any Executive Member with responsibility for development management and the Chairman of the Development Management Committee
5.121.	To exercise all powers and duties conferred upon the Council relating to complaints about High Hedges	See Table 6
5.122	To make and confirm orders authorising the stopping up or diversion of footpaths under the provisions of Section 257 of the Town and Country Planning Act 1990 and Sections 118 and 119 of the Highways Act 1980 where no objections or adverse comments are received from any interested consultee, member of the public, public utility or Ward Member.	See Table 6

Table 6: Conditions

6.1.	General. The Scheme of Delegation does not delegate to a committee, sub-committee or an officer any matter reserved to full Council or any matter that by law cannot be delegated to an officer.
6.2	This scheme does not supersede or negate specific delegations that have previously been granted to officers under specific Council Executive or Committee reports and/or policy where that delegation is not specifically included in this scheme.
6.3	All powers must be exercised in accordance with the approved budget, policy framework, financial procedure rules, contract procedure rules, or any other procedure rules, having due regard to the Council's policies and having taken appropriate advice from other officers or requirements of this Constitution
6.4	An Officer is authorised to exercise such powers as are shown in the Scheme of Delegation including those reasonably applied or incidental to the matters specified in respect of the functions of the Council.
6.5	Where, in the opinion of the officer making a delegated decision, that decision is likely to be contentious or sensitive, then before taking that decision the officer will consult with the relevant Committee Chairman or a more senior officer, as the case may be.
6.6	An Officer may, instead of exercising a delegated power, refer the matter to a more senior officer, the Executive, a committee or the full Council, as appropriate.
6.7	Subject to Appendix D (RIPA) Chief Officers and Senior Officers have the power to authorise all or any of their delegated functions to other Officers either fully or under their general supervision and control. Such authorisation should be recorded in writing and a copy provided to the Monitoring Officer (See Appendix B).
6.8	The Head of Paid Service may exercise any delegations of a Director in the absence or default of that Director.
6.9.	A Chief Officer may exercise any delegations of an officer, for whom that Chief Officer is responsible, in the absence or default of that officer.

<p>6.10</p>	<p>Where a proposed exercise of delegated authority is such that the Leader of the Council should be consulted and the Leader of the Council is absent or otherwise unavailable then the Deputy Leader can be consulted. Similarly, in the absence of the Chairman of a Committee the Vice-Chairman can be consulted. In the absence of an Executive Member the Leader of the Council should be consulted as an alternative.</p>
<p>6.11</p>	<p>Where the effect of a decision is to grant a permission or licence; affect the rights of an individual or award a contract or incur expenditure, which in either case, materially affects the Council's financial position, a written record must be produced as soon as reasonably practicable after the officer has made the decision and must contain the following information:</p> <ul style="list-style-type: none"> (a) the date the decision was taken; (b) a record of the decision taken along with reasons for the decision; (c) details of alternative options, if any, considered and rejected; and (d) the names of any Councillor who has declared a conflict of interest in relation to the decision. <p>If a written record containing the information referred to in paragraphs (a) and (b) is already required to be produced in accordance with a statutory requirement, that written record will meet the requirements of this paragraph.</p> <p>The written record must, as soon as reasonably practicable after the decision is made, be available:</p> <ul style="list-style-type: none"> (a) for inspection at Council Offices during normal working hours; and (b) to view online
<p>6.12</p>	<p>Contracts The Monitoring Officer can:</p> <ul style="list-style-type: none"> (a) Sign and/or seal contracts of any value. (b) Sign inter authority, collaboration, partnering and framework agreements.

6.13	<p>The Chief Executive and Chief Officers can</p> <ul style="list-style-type: none"> (a) sign contracts (but not those under seal) up to but not exceeding £500,000. (b) give approval to terminate contracts early with a value not exceeding £500,000. (c) give approval to extend contracts where the original contract value does not exceed £500,000 and within the original terms and advertised scope of the contract. (d) authorise and sign letters of intent committing the Council to expenditure not in excess of £500,000.
6.14	<p>Senior Officers can:</p> <ul style="list-style-type: none"> (a) sign contracts (but not those under seal) up to but not exceeding £100,000; (b) give approval to terminate contracts early with a value not exceeding £100,000; and (c) give approval to extend contracts where the original contract value does not exceed £100,000 and within the original terms and advertised scope of the contract
6.15	<p>Exemptions from Contract Procedure Rules. Any request for an exemption from the Contract Procedure Rules must be dealt with in accordance with the Contract Procedure Rules.</p>
6.18.	<p>Procurement Tender Evaluation Models. The Officer responsible for a procurement may only authorise procurement tender evaluation models for contracts up with a value not exceeding £100,000. Procurement tender evaluation models above this must be approved by a Chief Officer</p>
6.19	<p>Covert surveillance and use of Covert human intelligence sources. Additional provision is made in Appendix D</p>

Table 7: Proper Officer functions

Proper Officer	Function	Legislation
Head of Paid Service	Parish Trustee (together with the Chairman of the Parish Meeting) for those parishes not having a separate Parish Council and shall be a body corporate by the name 'the Trustees' with the additions of the name of the Parish	Local Government Act 1972 Section 13(3)
	The Officer in whose presence declarations of acceptance of office shall be made and to whom such declarations shall be delivered.	Local Government Act 1972 Section 83(1)-(4):
	The officer to whom a person elected to any office under the Act may deliver written notice of resignation.	Local Government Act 1972 Section 84.
	The officer who may convene a meeting for the election of Chairman of the District Council following a casual vacancy in that office.	Local Government Act 1972 Section 88(2)
	The officer to whom notice in writing of a casual vacancy in the office of Councillor shall be given.	Local Government Act 1972 Section 89(1)(b)
	The officer to identify which documents contain exempt information not open to inspection by Members of the Council	Local Government Act 1972 Section 100F(2)
	The officer who shall exercise any power with respect to a charity exercisable by any officer of a former authority and who shall be deemed to be the	Local Government Act 1972 Section 210(6)

Proper Officer	Function	Legislation
	holder of a corresponding office for the purpose of sub-section (7)	
	The officer who shall sign a summons to attend a Council meeting.	Local Government Act 1972 Schedule 12 (paragraph 4(2)(b))
	The officer who holds the list of politically restricted posts	LG and Housing Act 1989
	Receipt of notices from political groups. Review of allocation of seats.	LG and Housing Act 1989, Sections 15 to 17
	Matters relating to the verification number and the receipt and handling of petitions	The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000
	The Counting Officer	The Local Authorities (Conduct of Referendums) (England) Regulations 2001
	Receiving notice from a member of the address to which a summons to the meeting is to be sent.	Local Government Act 1972 section Schedule 12 (paragraph 4(3)):
Section 151 Officer	The proper officer for the purposes of receiving all money from other officers of the Council	Local Government Act 1972 Section 115(2)
	The officer who shall procure the transfer of securities consequent upon any change in name, area of functions of a local authority.	Local Government Act 1972 Section 146 (paragraphs (a) and (b))
		LG and Finance Act 1988 Section 114
	The officer for the purpose of paying Members' Allowances	Local Government and Housing Act 1989

Proper Officer	Function	Legislation
	The officer who shall report on the robustness of estimates and the adequacy of reserves	Local Government Act 2003 Sections 25 and 27
	The officer who shall maintain arrangements for financial management and internal control.	Accounts and Audit Regulations 2015 Regulation 4
Monitoring Officer	The officer to decide whether part or the whole of reports should be excluded from public inspection before a meeting if they relate only to items during which the meeting is likely not to be open to the public.	Local Government Act 1972 section 100B(2).
	The officer who shall have responsibility for the conduct of legal proceedings on behalf of the Council	Local Government Act 1972 Sections 222 and 223
	The officer who shall have responsibility for the custody of Council documents.	Local Government Act 1972 Section 224
	The officer for the custody of the deposit and retention of documents.	Local Government Act 1972 Section 225
	The officer who shall certify a photographic copy of a document in the custody of the Council, or of a document that has been destroyed while in the custody of the Council, or any part of any such document.	Local Government Act 1972 Section 229(5)
	The officer who shall be authorised to sign on behalf of the District Council any notice, order or other document.	Local Government Act 1972 Section 234(1)

Proper Officer	Function	Legislation
	The officer responsible for sending copies of byelaws to County, Town and Parish Councils.	Local Government Act 1972 Section 236(9) and (10)
	The officer who shall certify a printed copy of the byelaws made by the Council.	Local Government Act 1972 Section 238
	The officer who shall certify copies of orders, reports and minutes.	LG (Miscellaneous Provisions) Act 1976, Section 41
Director of Community Service and Delivery	The officer who is the local registrar and who shall register any matters specified by Land Registration Act 2002 and Local Land Charges Act 1975 affecting land within the District	Land Registration Act 2002 and Local Land Charges Act 1975
Director of Strategy and Governance	The officer to whom a member of the Council shall give notice in writing desiring summonses to attend meetings of the Council to be sent to an address specified in the notice other than his place of residence.	Local Government Act 1972 Schedule 12 Part 1, Para 4(3)
	The officer who will receive petitions and requests for reviews for handling of the petitions under the Petitions Scheme, verify number and direct to the relevant Council, Committee or Officer for a response.	Local Democracy, Economic Development and Construction Act 2009
	To supply to the press additional material supplied to members of the Council in connection with the item to be discussed.	Local Government Act 1972 Section 100B(7)(c):

Proper Officer	Function	Legislation
	To prepare a written summary of proceedings taken by a Committee in private.	Local Government Act 1972 Section 100C(2):
	To compile a list of background papers to a report to a Committee	Local Government Act 1972 Section 100D(1)
	Identifying background papers of reports.	Local Government Act 1972 Section 100D(5)(a):
	The officer to receive notice of Local Government and Social Care Ombudsman's report	Local Government Act 1974 Section 30(5):
	The officer for notification to deal with objections by the Executive to appointments or dismissals of Chief and Deputy Chief Officers	Local Authorities (Standing Orders) (England) Regulations 2001
	Receipt on deposit of lists of buildings of special architectural or historical interest and Building Preservation Notices	Town and Country Planning Act 1971 Sections 54 and 58.
Head of Democratic Services	The officer to whom members shall give notice of address desiring Council summonses to be sent where not place of residence	Local Government Act 1972 Schedule 12 Paragraph.4(3).
Head of Planning	Duties in connection with Ordnance Survey.	Local Government Act 1972 Section 191
	The officer who shall receive on deposit lists of buildings of special architectural or historic interest.	Planning (Listed Buildings and Conservation Areas) Act 1990 Section 2
Head of Devon Building Control Partnership	The officer to exercise the Council's powers in respect of dangerous buildings	Building Act 1984 section 78

Proper Officer	Function	Legislation
	The officer to authenticate documents within his province	Building Act section 93
Head of Environmental Health	The officer who shall certify to the local authority that any premises, articles or clothing are filthy or verminous and who shall authorise a registered medical practitioner, or a woman duly authorised by the medical officer of health to carry out the cleaning of females.	Public Health Act 1936 Sections 83, 84 and 85
	The officer authorised for all purposes under the Public Health (Control of Disease) Act 1984	Public Health (Control of Disease) Act 1984
	The officer for action to be taken regarding infectious diseases to be specially reported and making of weekly and quarterly returns.	Public Health (Infectious Disease) Regulations 1988
	The officer to issue temporary prohibition orders on behalf of local authority when evidence that infectious or other disease is attributable to molluscs or shellfish.	The Food Safety (Live Molluscs and other Shellfish) Regulations 1992
	The officer to appoint Consultants in Communicable Disease Control (CCDC) for the receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	The Health Protection (Notification) Regulations 2010 – Regulations 2, 3, and 6
	The officer to discharge the Council’s functions for dealing with stray dogs	Environmental Protection Act 1990 Sections 149 – 151

Proper Officer	Function	Legislation
	Entertainments, licensing control of sex shops and public health	Local Government (Miscellaneous Provisions) Act 1982
	The officer to issue licenses and carry out administrative duties	Licensing Act 2003
	The officer to issue licenses and carry out administrative duties	Gambling Act 2005
	The officer to discharge the Council's functions anti-social behaviour and community protection	Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014

APPENDIX A – List of legislation

The list below of legislation is not to be taken as exhaustive and shall be taken to include any amended, consequential, ancillary, subsidiary, consolidating Act, Statutory Instrument, Regulation or Order

Animals Act 1976

Animal Boarding Establishments Act 1963

Animal Health Act 1981

Approved Inspector Regulations 1995

Anti-Social Behaviour Act 2003

Betting, Gaming and Lotteries Act 1963

Breeding of Dogs Act 1973

Building Act 1984

Building (Local Authority Charges) Regulations 1998

Building Regulations 2000

Caravan Sites and Control of Development Act 1960

Carriage of Dangerous Goods by Road Act 1996

Carriage of Goods by Road Act 1965

Carriage by Air and Road Act 1979

Carriers Act 1830

Child Support, Pensions and Social Security Act 2000

Cinemas Act 1985

Civil Contingencies Act 2004

Civil Defence Act 1948

Civic Amenities Act 1967

Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005

Construction and Use Regulations 1986

Control of Asbestos at Work Regulations 1987

Control of Pesticides Regulations 1986

Control of Pollution Act 1974

Coronavirus Act 2020

Crime and Disorder Act 1998
Criminal Law Act 1976
Criminal Law Act 1977
Criminal Attempt Act 1981
Criminal Justice and Immigration Act 2008
Criminal Justice and Police Act 2001
Criminal Justice and Public Order Act 1994
Crop Residues (Burning) Regulations 1983
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Data Protection Act 1984
Dogs (Fouling of Land) Act 1996
Egg Products Regulations 1993
Employment Act 1973
Environment Act 1995
Environmental Protection Act 1990
European Communities Act 1972
European Parliamentary Elections Act 1978.
Factories Act 1961
Food Premises (Registration) Regulations 1991
Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992.
Food Act 1984
Food Act 1990
Food Safety Act 1990
Food and Environmental Protection Act 1985
Freedom of Information Act 2000
Fresh Meat (Health and I) Regulations 1992
Fresh Meat, Poultry Meat (H,I&E) Regulations 1990
Game Act 1831
Gambling Act 2005

Gaming Act 1968
Gaming Act 2003
Goods Vehicles (Licensing of Operators) Act 1995
Guard Dogs Act 1975
Health Act 2006
Health and Safety at Work etc Act 1974
Health and Safety at Work Act (Enforcing Authority) Regulations 1989
Health and Safety at Work Act 1990
Health and Social Care Act 200856
Health Protection (Local Authority Powers) Regulations 201057
Health Protection (Part 2A Orders) Regulations 201058
Health Protection (Notification) Regulations 201059
Highways Act 1980
Highways Amendment Act 1986
Home Energy Efficiency Act 1995
Homelessness Act 2002
House to House Collections Act 1939
Housing Act 1985
Housing Act 1989
Housing Act 1996
Housing Act 2004
Housing Benefit (General Regulations) 1987
Housing Grants, Construction and Regeneration Act 1996
Housing (Homeless Persons) Act 1977
Hypnotism Act 1952
Insolvency Act 1986
Land Compensation Act 1973
Land Drainage Act 1976
Land Drainage Act 1991
Late Night Refreshment Houses Act 1969

Licensing Act 1964
Licensing Act 2003
Local Authorities (Executive Arrangements) (Access to Information)
Regulations (England) 2000
Local Government (Access to Information) Act 1985
Local Authorities (Members' Allowances) (England) (Amendment) Regulations
2003
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Local Government and Housing Act 1989
Local Government and Public Involvement in Health Act 2007
Local Government Act 1972
Local Government Act 2000
Local Government Finance Act 1988
Local Government Finance Act 1992
Localism Act 2011
Lotteries and Amusements Act 1976
Milk and Dairies (General) Regulations 1959
Milk (Special Designation) Regulations 1989
Mobile Homes Act 1975
Mobile Homes Act 1983
National Assistance Act 1948
National Assistance (Amendment) Act 1951
Noise and Statutory Nuisance Act 1993
Noise Act 1996
Office, Shops and Railways Premises Act 1963
Party Wall (etc) Act 1996
Pesticides Act 1998
Pet Animals Act 1951
Planning and Compulsory Purchase Act 2004

Planning (Listed Buildings and Conservation Areas) Act 1990
Planning (Hazardous Substance) Act 1990
Police Act 1997
Police, Factories etc (Miscellaneous Provisions) Act 1916
Pollution, Prevention and Control Act 1999
Poultry Meat (Hygiene) Regulations 1976
Private Security Industry Act 2001
Prevention of Damage by Pests Act 1949
Protection from Eviction Act 1977
Public Health Act 1925
Public Health Act 1936
Public Health Act 1961
Public Health (Ships) Regulations 1979
Public Health (Control of Disease) Act 1984
Public Health Act 1907
Refuse Disposal (Amenity) Act 1978
Rent Agriculture Act 1976
Regulation of Investigatory Powers Act 2000
Representation of the People Act 1983
Representation of the People Act 2001
Riding Establishments Act 1964
Riding Establishments Act 1970
Road Safety Act 2006
Road Traffic Act 1974
Road Traffic (Drivers' Ages and Hours of Work) Act 1976
Road Traffic Act 1988
Road Traffic Act 1991
Road Traffic Amendment Act 1967
Road Traffic Regulation Act 1984
Road Traffic Reduction Act 1997

Road Traffic (New Driver) Act 1995
Scrap Metal Dealers Act 1964
Shops Act 1950
Slaughter of Poultry Act 1967
Social Security Act 1986
Social Security Administration Act 1992
Social Security Administration (Fraud) Act 1997
Special Waste Regulations 1996
Sunbeds (Regulation) Act 201062
Sunday Entertainments Act 1932
Sunday Trading Act 1994
Theatres Act 1968
Town and Country Planning Act 1990
Town and Country Planning (Listed Building and Conservation Areas) Act 1990
Town and Country Planning (General Development Procedure Order) 1995
Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999
Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000
Town and Country Planning (Inquiries Procedure) (England) Rules 2000
Town Improvement Clauses Act 1875
Town Police Clauses Act 1847
Transport Act 1968
Transport Act 1976
Transport Act 1980
Transport Act 1981
Transport Act 1982
Vehicles (Crime) Act 2001
Vehicle Excise Registration Act 1994

Water Industry Act 1991

Wireless Telegraphs Act 1998

Zoo Licensing Act 1981

APPENDIX B – Record of Authorisation



RECORD OF AUTHORISATION

(To be copied to Monitoring Officer)

1. Authority/Power to be authorised (including paragraph reference) from Scheme of Delegation

.....

2. Officer (title and name) authorising exercise of the power.

.....

3. Officer (title and name) to whom power is authorised

.....

4. Details of any limits/condition imposed upon onward authorisation

.....

Signature.....

Date.....

APPENDIX C: Planning Delegation Procedure

1. Planning Applications

1.1 In the case of Planning Applications, Listed Building Consents, Advertisement Consent Applications and TPO Confirmations (excluding emergency TPOs) and Works to TPO trees, where any written representations are received, including those from a Parish or Town Council, which are contrary to the Head of Planning's recommendations and where the representations are considered to raise material planning issues, the Head of Planning shall have delegated authority to decide the matter in accordance with the Head of Planning's recommendation only where and subject to paragraph 1.2:

(a) agreement to issuing a delegated decision has been requested in writing from the Ward Member(s), and

(b) no written request (supported by material planning reasons) to call the application to Development Management Committee has been received from the Ward Member(s) within the notification period. The notification period is defined as **five working days**. The notification period commences when the Ward Member has been informed of the request that a delegated decision be made.

1.2 Where the Head of Planning's recommendation is to grant planning permission subject to the completion of a section 106 agreement on the heads of terms set out in the report accompanying the request to issue a delegated decision and either:

(a) there is a material difference between the heads of terms and the final section 106 agreement; or

(b) it has not been possible to complete the section 106 agreement on those heads of terms within three months of the date on which the Ward Member agreed to the decision being dealt with under delegated powers or in the event that the Ward Member did not reply to the request to agree to the exercise delegated powers by the Head of Planning, the date by which the Ward Member was asked to reply,

the Head of Planning shall re-consult the Ward Member in accordance with paragraph 1.1. It would be expected that the Ward Member would only depart from their previous position where the change was material and of sufficient weight so as to be capable of tipping the planning balance, or in the case of the non-completion of the section 106 agreement where the applicant has not engaged fully and as a result there is no realistic prospect of agreement being reached in the near future.

1.3 Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then they should nominate an alternative member to carry out this role and notify Member Services and the Head of Planning in writing.

2 Call-in to Development Management Committee by Members

2.1 Any Member can call-in any Planning Applications, Listed Building Consents, Advertisement Consents, TPO final confirmations (excluding emergency TPOs), and Works to TPO trees to Development Management Committee, by notifying the Head of Planning with material planning reasons, prior to the expiry of the 28 day public consultation period. Non-Ward Members will only call in an application after confirming that they have consulted with Ward Member(s).

2.2 Ward Members can call-in any Planning Applications, Listed Building Consents, Advertisement Consents, TPO final confirmations (excluding emergency TPOs), and Works to TPO trees in their ward to Development Management Committee by notifying the Head of Planning with material planning reasons at any time prior to the expiry of the member consultation period referred to on paragraph 1.1(b) above.

2.3 In the absence of a Member call-in request within the permitted time frames, the Head of Planning shall decide the matter.

2.4 Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then they should nominate an alternative member to carry out this role and notify Member Services accordingly in writing

3 Action on decisions of the Development Management Committee

3.1 Where the Committee **approves** an application, the Head of Planning will issue the Approval Notice including such conditions as are reasonably required to give effect to the Committee's decision.

3.2 Where the Development Management Committee **refuses** an application which the Head of Planning recommended should be approved, the Development Management Committee shall give the reasons for the decision, but the Head of Planning shall decide the precise wording of the reasons for refusal.

Appendix D: Regulation of Investigatory Powers Act 2000 (RIPA)

1. The Council maintains a [RIPA policy](#) that includes identification of Officers employed within the Council appointed to roles identified with that policy. Officers appointed to such roles have power to undertake all action ascribed to those roles in any relevant legislation and any policy adopted by the Council in relation to RIPA.
2. Any Officer employed by the Council or any partner of Council who is appointed to undertake the role of RIPA Officer on behalf of the Council shall have power to undertake all action to update the RIPA policy at any time to reflect changes to Officers appointed to roles within the RIPA policy.
3. Notwithstanding any other provision in this Officer Scheme an Officer who is identified in any relevant RIPA policy to authorise surveillance cannot nominate any other Officer to exercise the power on their behalf.
4. In the absence of any Officer being identified in a RIPA policy to authorise surveillance, the following Officers shall be able to exercise such a power to the extent identified.

Post	Purpose of Authorisation
Chief Executive	All purposes (including where there is a likelihood of acquiring confidential information)
Monitoring Officer	All purposes (including but only in the absence of the Chief Executive where there is a likelihood of acquiring confidential information)
Director of Customer Service and Delivery	All purposes for Environment Health and Development Management (but excluding where there is a likelihood of acquiring confidential information)



CHAPTER 3 – MEETING PROCEDURE RULES

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MEETING PROCEDURE RULES

THE FULL COUNCIL

Introduction to the Full Council

The Full Council is responsible for the adoption and approval of the strategies and plans comprising [the Policy Framework](#) or [the Budgetary Framework](#). In addition, there are some other [matters that have been reserved to the Full Council](#) for a formal decision. The full scope of the Full Council's powers and responsibilities are set out in [the Scheme of Delegation](#).

The Full Council makes its decisions at meetings of the Council. There are three types of Council meeting:

- (i) the annual meeting;
- (ii) ordinary meetings; and
- (iii) special meetings.

Full Council will normally have 5 ordinary meetings a year in addition to the annual meeting. All of the meetings of the Full Council will be conducted under [the Council Procedure Rules](#).

NOTE: Meetings of Committees and of the Executive are conducted under [the Committee Procedure Rules](#) and [The Executive Procedure Rules](#) respectively.

Meetings of the Full Council are normally chaired by the Chairman of the Council or, in their absence, the Vice-Chairman of the Council. Both the Chairman of the Council and the Vice-Chairman of the Council are elected by the Council annually. The role and responsibilities of the Chairman of the Council and the Vice-Chairman of the Council are described in their [job profiles](#).

COUNCIL PROCEDURE RULES

1. ANNUAL MEETING OF FULL COUNCIL

1.1 Date of Annual Meeting

In a year when there is an ordinary election of Councillors, the Annual Meeting of the Full Council will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in April or May.

1.2 Business

The Annual Meeting of the Full Council will:

- (a) elect a person to preside if both the Chairman and Vice-Chairman are not present;
- (b) elect the Chairman of the Council;
- (c) elect the Vice-chairman of the Council;
- (d) receive any declarations of interest from Councillors;
- (e) approve the minutes of the last meeting as a correct record and to authorise the Chairman to sign them;
- (f) receive any announcements from the Chairman of Council and/or Head of Paid Service;
- (g) if it is the post-election Annual Meeting, elect the Leader who will hold office until the next post-election Annual Meeting, unless the Leader:
 - (i) resigns from office;
 - (ii) becomes incapacitated or dies;
 - (iii) ceases to be a councillor;
 - (iv) is removed from office by resolution of the Council or
 - (v) the Council elects a new Leader.
- (h) note the appointment of the Deputy Leader and any Portfolio Holders made by the Leader;
- (i) appoint at least one Overview and Scrutiny Committee, a Licensing Committee, and such other Committees or Boards as

the Full Council considers appropriate to deal with matters within its control, their size, terms of reference, and powers;

- (j) decide the allocation of seats on Committees to political groups in accordance with the rules on political balance;
- (k) receive nominations from political groups for Councillors to serve on committees or any outside body, and to make appointments to each committee or outside body, except where the Full Council has delegated the appointment or is exercisable only by the Leader;
- (l) appoint the Chairman and Vice-Chairman of relevant committees;
- (m) make any other appointments as may be necessary;
- (n) approve a programme of ordinary meetings of the Full Council and its Committees for the year;
- (o) consider item(s) that, in the opinion of the Chairman of Council, should be considered at the meeting as a matter of urgency; and
- (p) consider any other business set out in the notice convening the meeting.

2. ORDINARY MEETINGS OF FULL COUNCIL

2.1 Date of ordinary meetings

Five ordinary meetings of the Full Council will take place on dates agreed by the Full Council at its Annual Meeting. If the Chairman considers it is appropriate to do so the Chairman may, in consultation with the Head of Paid Service, cancel the meeting or direct that it is held on another date.

2.2 Business

Ordinary meetings of the Full Council will:

- (a) elect a person to preside if both the Chairman of Council and Vice-Chairman are not present;
- (b) receive any declarations of interest from Councillors;
- (c) approve the minutes of the last meeting as a correct record and to authorise the Chairman to sign them;
- (d) receive any announcements from the Chairman or Head of Paid Service;

- (e) receive any report from the Leader and Portfolio Holders and receive any reply from the Leader and Portfolio Holders to Councillors' questions;
- (f) receive and reply to any question from the public;
- (g) receive and reply to any petition from the public;
- (h) receive, consider, and reply to any report or recommendations formally submitted by any Overview and Scrutiny Committee, other Committee, Panel, or Board;
- (i) deal with any business from the last Council meeting;
- (j) deal with any Councillor Questions;
- (k) consider any notices of motion;
- (l) consider any item(s) that in the opinion of the Chairman should be considered at the meeting as a matter of urgency; and
- (m) consider any other business specified in the notice convening the meeting.

3 SPECIAL MEETINGS

3.1 Calling special meetings

The following may request the Head of Paid Service to call a special meeting of the Full Council:

- (a) the Full Council by resolution;
- (b) the Chairman of Council;
- (c) the Head of Paid Service;
- (d) the Monitoring Officer;
- (e) the Section 151 Officer; or
- (f) any five Councillors by signing and giving a request to the Chairman. If the Chairman refuses to call a meeting, or fails to call a meeting with seven days of the request being presented, any five Councillors may then call a meeting.

3.2 Business of special meetings of the Full Council

- (a) Unless the Chairman is of the opinion that an item should be considered as a matter of urgency, Full Council will only consider the business which is specified in the notice of the special meeting.
- (b) Petitions and questions from members of the public will be accepted only if, in the Monitoring Officer's opinion, they relate to the business for which the special meeting has been arranged.

4 TIME AND PLACE OF MEETINGS AND ITEMS ON AN AGENDA

4.1 Time and place of meetings

Meetings of the Full Council will take place on the date and at the time published in the agenda for the meeting.

4.2 Items on an agenda

- (a) Unless the law otherwise requires, items will be included on an agenda:
 - (i) at the request or at the direction of the Chairman;
 - (ii) as required by these Council Procedure Rules, [the Petition Scheme] or any other provision of the Constitution;
 - (iii) as required by resolution of the Full Council and/or by way of a requisition;
 - (iv) at the request of the Head of Paid Service subject to prior consultation with the Chairman;
 - (ii) at the request of the Monitoring Officer or Section 151 Officer subject to prior consultation with the Chairman (unless unavailable or absent);
 - (iii) in accordance with a requirement of the Overview and Scrutiny Committee to consider and reply to a report or recommendation;
 - (iv) to consider any recommendation or referral from a Committee or Sub-Committee of the Full Council;
 - (v) to consider any Officer report identified by any Officer (nominated by the Head of Paid Service for such a purpose) as appropriate to go to Full Council and/or which refers to any matter which the Constitution or law requires to be considered by Full Council; and/or

- (vi) in the case of a special meeting of Full Council to address the reason for the special meeting.
- (b) The Head of Paid Service (or any other person as the Head of Paid Service may nominate) with the agreement of the Chairman shall decide the appropriate meeting of the Full Council to which an item should be considered and the order of all such items.
- (c) Any urgent items and the reasons for urgency must be submitted to the Head of Paid Service and the Monitoring Officer in advance of the meeting.

4.3 **Acting in absence**

If the Chairman is absent or unavailable at any time when these Council Procedure Rules would otherwise require the Chairman to act then, unless the procedure rules say otherwise, the Vice-Chairman, or if both are absent or unavailable such other Councillor as the Head of Paid Service may at their absolute discretion determine (if any), may act.

5 **NOTICE AND AGENDA FOR MEETINGS**

- 5.1 The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the [Access to Information Rules](#).
- 5.2 Normally at least five clear working days before a meeting, the Head of Paid Service will send (or where a Councillor has given an email address, e-mail) a copy of the agenda to every Councillor.
- 5.3 The agenda will be authenticated in such manner as the Head of Paid Service considers appropriate, give the date, time, and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6 **CHAIRING THE MEETING**

The person presiding at a meeting of the Council may exercise any power or duty of the Chairman.

7 **QUORUM**

7.1 **Full Council**

The minimum number of Councillors required to be present or quorum for a meeting of the Full Council is eight.

7.2 **Absence of a quorum**

If during any meeting, the Chairman counts the number of Councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. No further business will be considered. Any remaining business will be considered at a time and date fixed by the Chairman. If the Chairman does not fix a date, any remaining business will be considered at the next ordinary meeting.

8. **DURATION OF THE MEETING AND TIME PERIODS**

8.1 **Time limits**

Once a meeting has been in progress for two hours the Chairman will interrupt the meeting at the conclusion of the item under discussion. The meeting will then adjourn for a period of up to 20 minutes, or such other period as the Chairman may decide is appropriate.

8.2 **Public Participation Time**

At each meeting of the Full Council (except for the Annual Meeting and any special meeting) a period of up to 15 minutes will be allowed for [Public Participation Time](#).

8.3 **Questions and notices of motion by Councillors**

At each meeting of the Full Council (except for the Annual Meeting and any special meeting):

- (a) a period of up to 15 minutes will be allowed for [Councillor Questions](#); and
- (b) a period of up to 45 minutes will be allowed for [Notices of Motion](#).

In either case, the Chairman may increase the period for the asking of questions, or debating notices of motion if, in the Chairman's opinion, the importance of the issue raised merits it and to do so would not have an adverse impact on the efficient running of the meeting.

9. **PUBLIC PARTICIPATION TIME**

9.1 [Appendix A - Questions from members of the public](#) explains how the public can ask questions at meetings of the full Council.

9.2 Any member of the public may submit a petition at Council meetings. However the Council will not normally accept any petition that does not comply with [the Petition Scheme](#). Petitions which are accepted for consideration will be dealt with under [the Petition Scheme](#)

10 REPORTS FROM THE LEADER AND PORTFOLIO HOLDERS

10.1 Receiving reports from the Leader and Portfolio Holders

Every ordinary meeting of Full Council (except for the Annual Meeting) may receive a report, usually in writing with oral updates, but may simply be oral, from:

- (a) the Leader on matters affecting the Council; and
- (b) each Portfolio Holder on matters relating to their portfolios.

10.2 Presentation of report

- (a) The Head of Paid Service will make arrangements for a copy of any written report to be included on the agenda.
- (b) Where the report has been included on the agenda, there shall not be a requirement for the report to be read out by the Leader/Portfolio Holder at the meeting.

10.3 Asking and replying to questions

- (a) Councillors may ask questions on any oral or written report given by the Leader or Portfolio Holder provided that, in the opinion of the Chairman, the questions relate to the report.
- (b) The total number of questions that may be asked of the Leader and Portfolio Holders and the subjects allowed are at the discretion of the Chairman, but each Councillor will normally not be allowed to ask more than one question and one supplemental question on a report.
- (c) The Leader or Portfolio Holder may reply to any question by:
 - (i) giving an oral answer; or
 - (ii) indicating that they will give an answer within seven days of the meeting, with a copy of the answer being circulated to all Councillors.

11 QUESTIONS ON NOTICE BY COUNCILLORS

Any Councillor may ask:

- (i) the Leader;
- (ii) the Chairman;
- (iii) a Portfolio Holder; or

- (iv) the Chairman of any Committee;

questions on notice at a meeting of the Full Council (except at the Annual Meeting or a special meeting) within the area of responsibility of the person being asked. [Appendix B - Questions by Councillors](#) will apply to the asking of any Questions.

12 COUNCILLOR NOTICES OF MOTION FOR CONSIDERATION AT FULL COUNCIL

Any two Councillors may give notice of a motion about a topic or issue related to the responsibilities of the Full Council, or which directly affects the Council, to be debated at a meeting of the Full Council (except at the Annual Meeting or a special meeting). [Appendix C – Notices of Motions](#) will apply to the giving of notice and to the consideration of the motion.

13 ANNUAL BUDGET

A Councillor wishing to move an amendment to any recommendation from the Executive on the annual budget must give written notice to the Head of Paid Service not less than five clear working days before the meeting at which the budget or review of charges are being considered. The notice shall set out details of the proposed amendment. The proposed amendment must ensure a balanced budget.

14 MOTIONS WITHOUT NOTICE

14.1 The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) about the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a working group arising from an item on the agenda for the meeting;
- (f) to receive reports and/or propose motions/amendments relating to recommendations (whether verbal or written) of the Executive, any Joint Committee, Committee, Sub-Committee, or Officer, and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;

- (i) to proceed to the next business;
- (j) that the question be now asked;
- (k) to adjourn a debate;
- (l) to extend or adjourn a meeting;
- (m) to suspend a procedure rule subject to any limitation as provided for in the Constitution;
- (n) to exclude the public and press as provided for in the Access to Information Rules;
- (o) to not hear further a Councillor named by the Chairman or to exclude a Councillor from the meeting under [Council Procedure Rule 15](#);
- (p) by the Chairman of a Committee to identify an alternative motion to that considered by the Committee in reply to a Notice of Motion referred to it under [Council Procedure Rule 14.1\(d\) or Appendix C Paragraph C6\(b\)](#);
- (q) to provide a reply to a question or petition from a member of the public to such extent as the Council Procedure Rules or any Petition Scheme allow; and
- (r) to give the consent of the Council where its consent is required by this Constitution.

14.2 **Agenda items not dealt with**

If a motion to adjourn the meeting is passed, any unresolved agenda items will be adjourned to a date decided by the Head of Paid Service in consultation with the Chairman.

15 **RULES OF DEBATE**

15.1 **No discussion until motion seconded**

Subject to the proposer's rights under Council Procedure Rule 15.3(a), a motion or amendment shall not be discussed unless it has been proposed and seconded.

15.2 **Right to require motion in writing**

Unless notice of the motion has already been given, the Chairman may require it to be written down before it is discussed.

15.3 Proposer's and Seconder's speeches

- (a) The proposer of a motion or an amendment shall have the right to speak immediately after making the proposal. This is separate from the proposer of a motion's right to reply under [Council Procedure Rule 15.9](#).
- (b) The seconder of a motion or amendment shall have the right to speak:
 - (i) immediately after seconding a motion or amendment; or
 - (ii) may opt to reserve their speech until later in the debate.

15.4 Content and length of speeches

- (a) Speeches must be directed to the matter under discussion or to a personal explanation or point of order.
- (b) No speech may exceed three minutes without the consent of the Chairman of Council.

15.5 When a Councillor may speak again

A Councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except;

- (a) to speak once on an amendment moved by another Councillor;
- (b) to move a further amendment if the motion has been amended since they last spoke;
- (c) if their first speech was on an amendment moved by another Councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) to exercise any right of reply;
- (e) on a point of order;
- (f) by way of personal explanation; or
- (g) with the consent of the Chairman.

15.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and add others; or
- (iv) to add words,

so long as the effect of the amendment is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments or, if there are none, put it to the vote.
- (f) Where possible as a courtesy to other Councillors, notice should be given to the Head of Paid Service of any proposals to amend a motion of which notice has been given. Notice of amendments should be given 24 hours before the meeting at which the Notice of Motion is to be debated.

15.7 Alteration of motion

- (a) A Councillor may alter a motion of which the Councillor has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Councillor may alter a motion or amendments which the Councillor has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

15.8 **Withdrawal of motion**

Subject to [Council Procedure Rule 15.1](#), a Councillor may withdraw a motion which the Councillor has moved with the consent of both the meeting and any seconder. No Councillor may speak on the motion after the Proposer has asked permission to withdraw it unless permission is refused.

15.9 **Right to reply**

- (a) The Proposer of a motion has a right to reply at the end of the debate on the motion, immediately before it is voted upon.
- (b) If an amendment is moved, the Proposer of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The Proposer of an amendment has no right of reply to the debate on their amendment.

15.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except any of the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to postpone consideration of the motion;
- (d) that the question be now asked;
- (e) to adjourn the debate;
- (f) to adjourn the meeting;
- (g) to exclude the public and press as provided for in the Access to Information Rules; and
- (i) to not hear further a Councillor named by the Chairman or to exclude a Councillor from the meeting.

15.11 **Closure motions**

- (a) A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:
 - (i) that the question be now asked;

- (ii) to adjourn a debate; or
 - (iii) to adjourn a meeting.
- (b) If a motion that the question be now asked is seconded and the Chairman thinks the item has been sufficiently discussed, the Chairman will put the procedural motion to the vote. If it is passed the Chairman will give the Proposer of the original motion a right of reply before putting the motion to the vote.
- (d) If a motion to adjourn the debate or the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chairman will put the procedural motion to the vote without giving the Proposer of the original motion the right of reply.

15.12 Point of order

A Councillor may raise a point of order at any time. The Chairman will hear the Councillor immediately. A point of order may only relate to an alleged breach of these procedure rules or the law. The Councillor must indicate the rule or law and the way in which they considers it has been broken. The ruling of the Chairman on the matter will be final.

15.13 Personal explanation

A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

NOTE: [Appendix D - Rules of debate Flowchart](#) shows the rules of debate for motions.

16 RECISSION OF PREVIOUS DECISIONS AND MOTIONS

16.1 Subject to Council Procedure Rule 16.2, no motion to rescind a decision made within the past six months, and no motion or amendment in similar terms to one that has been rejected in the past six months, shall be proposed unless the Notice of Motion is supported by at least 11 Councillors. Once the motion or amendment is dealt with, a similar motion or amendment cannot be proposed for a further period of six months.

16.2 Council Procedure Rule 16.1 shall not apply:

- (a) in respect of a decision or motion for which the Head of Paid Service or Monitoring Officer consider there are exceptional circumstances justifying reconsideration;

- (b) in respect of any motion that may be moved without notice including for the avoidance of doubt to receive reports and/or propose motions/amendments relating to recommendations of any Committee, Sub-Committee, or Officer, and any resolutions following from them; or
- (c) to give effect to a revised budgetary decision of Full Council as provided for in the [Budget and Policy Framework Procedure Rules](#).

17 VOTING

17.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question is asked.

17.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There is no restriction on how the Chairman chooses to exercise a casting vote.

17.3 Ways of voting

Unless a recorded vote is demanded, the Chairman will take the vote by show of hands, electronic voting or, if there is no dissent, by the affirmation of the meeting.

17.4 Recording number of votes

The number of votes for and against a proposal shall be recorded if five or more Councillors at the meeting demand it, immediately before or after the vote is taken. The Chairman of Council will announce the numerical result of the vote immediately the result is known.

17.5 Recorded vote

If five or more Councillors present at the meeting demand it, before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

17.6 Recorded votes at budget meetings

Recorded votes shall be taken on all decisions at a budget decision meeting on the budget and on the setting of council tax. The names of

Councillors who cast a vote for or against the decision, or who abstain from voting, shall be recorded in the minutes.

17.7 Right to require individual vote to be recorded

Where immediately after the vote is taken, any Councillor requests their individual vote to be recorded, the minutes will record whether they voted for or against the motion or abstained from voting.

17.8 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

18 MINUTES

18.1 Signing the minutes

Unless Council Procedure Rule 18.2 applies, the Chairman will sign the minutes of the proceedings at the next meeting of Full Council. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

18.2 No requirement to sign minutes of previous meeting at special meeting

Where the next meeting of the full Council is a special meeting, the minutes of the previous meeting will be signed at the next ordinary meeting after that special meeting.

18.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

19 RECORD OF ATTENDANCE

A record of Councillors attending at a meeting of Full Council will be made by the Head of Paid Service or their representative attending at the meeting.

20 EXCLUSION OF PUBLIC

Members of the public and press may only be excluded from a meeting either as provided for in the [Access to Information Procedure Rules](#) or in accordance with [Council Procedure Rule 22](#).

21 COUNCILLORS' CONDUCT

21.1 Chairman wishes to speak

When the Chairman indicates that they wishes to speak, any Councillor speaking at the time must stop. The meeting must be silent.

21.2 Councillor not to be heard further

If a Councillor persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructing business, the Chairman may move that the Councillor be not heard further. If seconded, the motion will be voted on without discussion.

21.3 Councillor to leave the meeting

If, in the opinion of the Chairman, a Councillor continues to behave improperly at a meeting, the Chairman may move that either the Councillor should leave the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

21.4 General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they think necessary.

22 DISTURBANCE BY PUBLIC

22.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman may order their removal from the room.

22.2 Clearance of part of room

If there is a general disturbance in any part of the room open to the public, the Chairman may call for that part to be cleared.

23 RECORDING OF MEETINGS

Appendix F will apply to the recording of meeting by members of the public.

24 **APPOINTMENT OF AND DISCIPLINARY ACTION AGAINST OFFICERS**

Where Full Council is to appoint any Officer, or is proposing or considering any disciplinary action against an Officer, then such appointment proposals or consideration shall be carried out in accordance with the Officer Employment and Dismissal Procedure Rules.

25 **INTERPRETATION OF COUNCIL PROCEDURE RULES**

The ruling of the Chairman as to any proceedings of the Full Council, shall not be challenged at any meeting.

26 **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

26.1 **Suspension**

Any of these procedure rules except any rule except [Council Procedure Rules 17.6, 17.7, and 18.2](#), may be suspended by a Notice of Motion or without notice if at least half of the whole number of councillors of the Council are present. Suspension can only be for the duration of the meeting.

26.2 **Amendment to the Council Procedure Rules**

Any motion to add to, vary, or revoke these procedure rules will, when proposed and seconded, stand adjourned without discussion to the next meeting of the Audit Committee unless such addition, variation, or revocation is contained in a report seeking to formally alter the terms of the Constitution.

COMMITTEES, PANELS AND GOVERNANCE BOARDS

Introduction to Committees, Panels and Governance Boards

The Council has set up the Committees, Panels, and Governance Boards described in the [Scheme of Delegation](#).

The members of the Committees and Panels are appointed by the Full Council. The make-up of each Committee or Panel will reflect the balance of political parties on the Council.

If a member of a Committee or Panel is unable to attend a meeting of the Committee, Panel, or Board it may be possible for a substitute member to be appointed under [Appendix E - Arrangements for appointing Substitutes and Co-optees](#) and to attend the meeting in their place.

Each of the Committees and Panels may set up one or more sub-committees to carry out any of the Committee's or Panel's functions. When creating a sub-committee, the Committee or Panel will normally decide the:

- (a) terms of reference;
- (b) arrangements for the holding and frequency of meetings;
- (c) size of membership; and
- (d) quorum,

of each of its Sub-Committees but if not, the Sub-Committee may decide such matters itself provided that the quorum will be not less than three Councillors.

Committees, Sub-Committees, and Panels will meet in accordance with the programme of meetings agreed by the Full Council at its annual meeting. All of the meetings, including those of any sub-committee, will be conducted under [the Committee Procedure Rules](#).

The Overview and Scrutiny Committee may also set up time-limited and single focus advisory groups called [Task and Finish Groups](#) to support policy development and provide Member oversight of key projects. Membership of such Task and Finish Groups is drawn from those Councillors who are not members of the Executive.

The Executive may also establish a Task and Finish Group to provide oversight of a key corporate project.

When Task and Finish Groups are set up they will be given terms of reference and reporting deadlines. Given the nature of Task and Finish Groups, meetings need not be conducted under the Committee Procedure Rules.

Governance Boards oversee governance arrangements for partnership activity and with specified decision-making powers. The partnership agreement will set out who the members of the partnership are and their roles. Meetings will be conducted in accordance with any rules set out in the partnership agreement.

COMMITTEE PROCEDURE RULES

1 APPLICATION OF COUNCIL PROCEDURE RULES TO COMMITTEES, PANELS, BOARDS, AND SUB-COMMITTEES

All of the following Council Procedure Rules apply, so far as practicable, to meetings of Committees, Panels, Boards, and Sub-Committees (unless expressly specified otherwise in their terms of reference):

- (a) [Rule 4](#);
- (b) [Rules 5–7.2](#) (excluding Rule 7.1);
- (c) [15-25](#) (excluding [Rule 15.5](#) (speaking only once); and in [Rule 17.5](#) (recorded vote) a recorded vote may be requested by three members of a Committee).

together with the following additional procedure rules.

References to “the Chairman” shall be deemed to be references to the Chairman of the relevant Committee, Panel, Board, or Sub-Committee.

2 ABSENCE OF CHAIRMAN AND VICE-CHAIRMAN

In the absence of a Chairman and Vice-Chairman at a Committee or Sub-Committee the remaining Councillors present may move and elect a member of that body to preside at that meeting.

3 SPECIAL MEETINGS OF COMMITTEES, PANELS, AND SUB-COMMITTEES

- (a) A special meeting of a Committee, Panel, or Sub-Committee may be called:
 - (i) by the Chairman of Council;
 - (ii) by the Chairman of that Committee, Panel, or Sub-Committee;
 - (iii) at the request of a quarter of the members of the Committee Panel, or Sub-Committee, delivered in writing to the Head of Paid Service, but in no case shall less than five Councillors request a special meeting;
 - (iv) by the Head of Paid Service; and/or
 - (v) by the Monitoring Officer or Section 151 Officer where either are of the opinion that a meeting needs to be called to consider a matter that requires a decision.

- (b) The agenda of the special meeting shall set out the business to be considered and, subject to any matters of urgency approved by the Chairman, no business other than that set out in the agenda shall be considered at that meeting.

4. **ATTENDANCE OF COUNCILLORS AT A COMMITTEE/SUB-COMMITTEE**

- (a) Subject as provided for below a Councillor not appointed to a Committee, Panel, or Sub-Committee may only speak at the invitation of the Chairman of that Committee, Panel, or Sub-Committee.
- (b) Any Councillor not appointed to a Committee, Panel, or Sub-Committee attending a meeting of that Committee, Panel, or Sub-Committee shall sit separately from the main body of the Committee, Panel, or Sub-Committee.
- (c) Where the Chairman is satisfied that it would not disrupt the conduct of the meeting and the meeting technology can facilitate it, any Councillor not appointed to a Committee, Panel, or Sub-Committee may be present remotely for the purposes of listening to the discussion about an item on the agenda and at the invitation of the Chairman, speaking on that item. A Councillor present remotely is still bound by the procedure rules relating to their conduct and in particular may be excluded from the meeting by having their remote connection terminated. [Council Procedure Rule 21.3](#) (Councillor to leave the meeting) shall be read accordingly.

5. **PUBLIC PARTICIPATION TIME**

[Appendix A - Questions from members of the public](#) explains how the public can ask questions at meetings of Committees and Sub-Committees of the full Council.

6. **ORDER OF BUSINESS OF A COMMITTEE/SUB-COMMITTEE**

- (a) Subject to any other provisions in the Constitution or as otherwise decided by the Chairman of a relevant Committee, Panel, Board, or Sub-Committee the order of business will normally be to:
 - (i) elect a person to preside if the Chairman and Vice-Chairman are not present;
 - (ii) receive any declarations of interest from Councillors;
 - (iii) approve the minutes of the last meeting;

- (iv) receive any questions, petitions, or motions referred to the Committee/Sub-Committee in accordance with the provisions of the Council Procedure Rules/Petition Scheme;
- (vi) consider any item of urgency approved by the Chairman for consideration;
- (vii) receive any matter referred to it for consideration by Full Council;
- (viii) receive any report or recommendations from a Committee or Sub-Committee (as the case may be) and reply to matter(s) arising about it;
- (ix) receive and reply to any report or recommendations formally submitted by the Overview and Scrutiny Committee pursuant to its legislative powers in this respect (if any); and
- (xi) consider any other business set out in the agenda of the meeting.

7 REFERRAL OF A QUESTION, PETITION, OR MOTION TO A COMMITTEE OR SUB-COMMITTEE

7.1 General

- (a) Where a matter is referred to a Committee or Sub-Committee under these procedure rules/**Petition Scheme** then that Committee or Sub-Committee shall deal with such matter in accordance with the provisions of these procedure rules/Petition Scheme as if it was being considered by an ordinary meeting of Full Council unless there are express provisions in these rules and Petition Scheme as to how a Committee or Sub-Committee (as the case may be) should deal with such a referral in which event those rules should take precedence.
- (b) For the avoidance of doubt nothing in this Rule shall prevent a Committee or Sub-Committee suspending any rule in accordance with **Council Procedure Rule 26**.

7.2 Attending and speaking about a referred matter

Where a matter to which **Committee Procedure Rule 7.1** applies is referred to a Committee or Sub-Committee of the Council, then if the matter was submitted:

- (a) by a member of the public or an organisation then any such person/representative of the organisation shall be given the same

right to speak as would have been made available as if the matter was being presented to an ordinary meeting of Full Council; or

- (b) by a Councillor, then that Councillor may attend that meeting and shall be given the same right to speak as would have been made available as if the matter was being presented to an ordinary meeting of Full Council, provided that the Councillor shall not be entitled:
 - (i) to move any motion relating to the matter, but may instead ask any member of the Committee or Sub-Committee to move it, in which case any such member may at their absolute discretion choose to move it or not; or
 - (ii) to vote on any motion at that Committee or Sub-Committee,

unless in either case the Councillor is also an appointed member of the Committee or Sub-Committee to which the referral has been made.

8 QUESTIONS BY COUNCILLORS AT COMMITTEES/SUB-COMMITTEES

- 8.1 Any Councillor has the right to ask a question of the Committee Chairman at any ordinary meeting of a Committee or Sub-Committee of the Full Council (excluding the Development Management and Licensing Committees and the Salcombe Harbour Board). [Appendix B - Questions by Councillors](#) will apply to the asking of any Questions.

THE EXECUTIVE

Introduction to the Executive

The Executive is responsible for everything that is not the responsibility of the Full Council, the Development Management Committee; the Licensing Committee and any other committee other committee of the Council under [the Scheme of Delegation](#). It consists of the [Leader](#), who is the Chairman of the Executive and at least two, but not more than nine, other Members appointed by the Leader. The Leader cannot appoint the Chairman and Vice-Chairman of Full Council or any member of the Overview and Scrutiny Committee to the Executive.

The Executive decides annually when it is to meet, but the Leader may call a special meeting of the Executive when the Leader considers it necessary. The Leader may also cancel a meeting of the Executive if there is insufficient business.

The Executive may have Informal Meetings. Informal Meetings are held in private and are for discussion purposes only. For that reason Informal Meetings are not decision-making meetings of the Executive.

Meetings of the Executive will be held in accordance with the [Executive Procedure Rules](#).

EXECUTIVE PROCEDURE RULES

1. APPLICATION OF COUNCIL PROCEDURE RULES TO THE EXECUTIVE

All of the following Council Procedure Rules apply, so far as practicable, to meetings of the Executive (unless they are inconsistent with these Executive Procedure Rules):

- (a) [Rule 4](#);
- (b) [Rules 5–7.2](#) (excluding Rule 7.1);
- (c) [15-25](#) (excluding [Rule 15.5](#) (speaking only once); and in [Rule 17.5](#) (recorded vote) a recorded vote may be requested by three members of the Executive)

together with the following additional procedure rules.

References to “the Chairman” shall be a deemed to be references to the Leader.

1. MEETINGS OF THE EXECUTIVE

1.1. Dates of Meetings

- (a) Each year the Executive will decide the programme of meetings of the Executive. The Leader may direct that a meeting shall be cancelled or held on another date.
- (b) A special meeting of the Executive may be called by the Leader or, if absent, the Deputy Leader, or by the Monitoring Officer if he/she considers it necessary or appropriate.

1.2. **Business**

At each meeting of the Executive the following business shall, subject to the remaining provisions of these Executive Procedure Rules, be conducted:

- (a) consideration of the record of decision and record of the last meeting;
- (b) declarations of interest, if any;
- (c) a statement from the Leader, if any;
- (d) any other matters set out in the agenda that are Key Decisions (except those containing confidential or exempt information);
- (e) any decisions referred to the Executive for reconsideration;
- (f) consideration of any report and/or recommendation from any Overview and Scrutiny Committee;
- (g) Questions from Councillors to the Executive; and
- (h) other matters set out in the agenda including review of the Forward Plan and other ongoing or outstanding matters.

3. **CHAIRING MEETINGS OF THE EXECUTIVE**

If the Leader is present they will preside. In their absence, then the Deputy Leader shall preside. If both the Leader and the Deputy Leader are absent, or where they agree, the Executive shall elect another member of the Executive to preside.

4. **QUORUM**

- 4.1 The quorum for a meeting of the Executive will be no less than half of the total membership (including the Leader or Deputy Leader, if present).
- 4.2 The quorum for a meeting of an Executive Committee will be no less than two members of the Executive.

5. **AGENDA ITEMS**

5.1. **Items requested by members of the Executive**

Any Executive Member may request the Head of Paid Service to place an item of business, which is about a matter for which the Council has a responsibility or which affects the area of the Council, on the agenda of the next available meeting of the Executive.

5.2. **Items requested by other Councillors**

- (a) Any Councillor may ask the Leader to place an item of business about a matter for which the Council has a responsibility or which affects the area of the Council to be placed on the agenda of the next available meeting of the Executive for consideration. The Leader, or in their absence Deputy Leader, has a discretion to limit the number of such items of business at the meeting of the Executive.
- (b) Where the Leader has agreed to the Councillor's request, the Notice of the Meeting shall state the name of the Councillor who requested the item of business to be considered. This Councillor shall be invited to attend the meeting, whether or not it is a meeting in public session.

5.3. **Referrals from the Overview and Scrutiny Committee or Council**

Any item of business resolved by the Overview and Scrutiny Committee or the Council for referral to the Executive shall be placed on the agenda of the next available meeting of the Executive or as soon as practicable after that meeting

5.4. **Items by the Head of Paid Service, the Monitoring Officer, or the Section 151 Officer**

The Head of Paid Service, the Monitoring Officer, or the Section 151 Officer may include one or more items of business for consideration on the agenda of a meeting of the Executive and may require a meeting to be called. If there is no meeting of the Executive in time to deal with the matter in question, then the Head of Paid Service, the Monitoring Officer, or the Section 151 Officer may also require that a meeting be convened at which the matter will be considered.

6. **ATTENDANCE AT FORMAL MEETINGS OF THE EXECUTIVE**

- 6.1. All Councillors shall be entitled to attend formal meetings of the Executive, or its committees, unless the Executive decides otherwise. In the case of Councillors who are not members of the Executive, where the Executive is satisfied that it would not disrupt the conduct of the

meeting and the meeting technology can facilitate it, this includes being present remotely for the purposes of listening to the discussion about an item on the agenda and at the invitation of the Chairman, speaking on that item. A Councillor present remotely is still bound by the procedure rules relating to their conduct and in particular may be excluded from the meeting by having their remote connection terminated. [Council Procedure Rule 21.3](#) (Councillor to leave the meeting) shall be read accordingly.

- 6.2. All members of the Executive will be given notice of all meetings of an Executive Committee and are entitled to attend, whether or not they are members of that committee.
- 6.3. The Head of the Paid Service, the Section 151 Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and any Executive Committee.
- 6.4. The [Access to Information Procedure Rules](#) set out the rights of access of the press and public to formal meetings of the Executive or its committees.
- 6.5. Executive Procedure Rule 6 does not apply to meetings where members of the Executive meet in an informal private session for political discussion about forthcoming issues and for Executive Members to be briefed collectively and to give an appropriate steer. Such informal meetings are not formal decision-making meetings of the Executive.

7. **SPEAKING AT MEETINGS OF THE EXECUTIVE**

- 7.1. The Chairman of the Overview and Scrutiny Committee is entitled, at any formal public meeting of the Executive, to speak to any matter on the agenda for that meeting.
- 7.2. Other Councillors may also speak at such meetings with the agreement of the Leader or person presiding in their absence.
- 7.3. The mover of a [Notice of Motion](#) under [Council Procedure Rule 12](#) which has been referred to the Executive for consideration may attend the meeting of the Executive when the motion is under consideration and to explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and he/she will be sent a copy of the relevant papers

8. **QUESTIONS BY COUNCILLORS AT THE EXECUTIVE**

Any Councillor may ask Questions of the Executive at any ordinary formal meeting of the Executive. [Appendix B - Questions by Councillors](#) will apply to the asking of any Questions.

9. KEY DECISIONS AND THE FORWARD PLAN

A Forward Plan of Key Decisions to be taken by the Executive, an Executive Committee, or an individual member of the Executive, will be prepared in accordance with [the Access to Information Rules](#).

THE OVERVIEW AND SCRUTINY COMMITTEE

Introduction to the Overview and Scrutiny Committee

The Principles of Scrutiny underpin the Council's overview and scrutiny function. This means that scrutiny:

- Provides a critical challenge to Executive policy makers and decision makers;
- Enables the voice and concerns of the public to be heard;
- Is carried out by "independent minded governors" who lead and own the scrutiny role; and
- Drives improvement in public services.

The Overview and Scrutiny Committee is responsible for scrutinising decisions the Executive is planning to take, those it plans to implement, and those that have already been taken/implemented. Recommendations following scrutiny enable improvements to be made to policies and how they are implemented. The Committee is therefore to be seen as a "critical friend" rather than something that opposes the Executive.

The Overview and Scrutiny Committee also plays a valuable role in developing policy. Time limited Task and Finish Groups may be set up for this purpose.

Evidence sessions are a key way in which the Overview and Scrutiny Committee may inform its work. They might happen at formal committee or in less formal 'task and finish' groups.

The [Scheme of Delegation](#) sets out the full responsibilities of the Overview and Scrutiny Committee.

Meetings of the Overview and Scrutiny Committee will be held in accordance with the [Overview and Scrutiny Procedure Rules](#).

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. APPLICATION OF COMMITTEE PROCEDURE RULES TO THE OVERVIEW AND SCRUTINY COMMITTEE

All of the [Committee Procedure Rules](#) together with the following additional procedure rules shall apply to the Overview and Scrutiny Committee.

References to “the Chairman” shall be deemed to be references to the Chairman of the Overview and Scrutiny Committee.

2. ORDER OF BUSINESS

Subject to any other provisions in the Constitution or as otherwise decided by the Chairman of the Overview and Scrutiny Committee the order of business will normally be to:

- (a) Agree the minutes of the last meeting;
- (b) declarations of interest;
- (c) consideration of the [Executive Forward Plan](#);
- (d) the [Work Programme](#);
- (e) consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision;
- (f) responses of the Executive to reports of the Committee; and
- (g) the business otherwise set out on the agenda for the meeting.

3. CHAIRING MEETINGS

3.1. The Chairman and Vice-Chairman of the Overview and Scrutiny Committee are to be appointed by the Council based on ability and expertise without reference to party political affiliation.

3.2. In the absence of the Chairman or Vice-Chairman [Council Procedure Rule 4.3](#) shall apply.

4. CO-OPTees

The Overview and Scrutiny Committee and its sub-committees can include people who are not Councillors. [Appendix E - Arrangements for Substitutes and Co-optees](#) determines how people will be co-opted onto the Overview and Scrutiny Committee.

5. WORK PROGRAMME

The Overview and Scrutiny Committee will be responsible for setting its overall [Work Programme](#).

6. AGENDA ITEMS

6.1. Rights of Councillors to have matters put on the agenda of the Committee

- (a) Any Councillor shall be entitled to give written notice to the Head of Paid Service that they would like an item relevant to the functions of the Overview and Scrutiny Committee, but not being an [excluded matter](#) to be included on the Work Programme. The notice must specify the item and the reasons why the Councillor would like the item included. The reasons should be relevant to the overview and scrutiny function.
- (b) The Head of Paid Service will ensure that request is included on the next available agenda and will inform the Chairman. The Overview and Scrutiny Committee will discuss the reasons for the request and the item will only be included on the Work Programme if the Overview and Scrutiny Committee agrees that the reasons are sufficient to justify the item being included.
- (c) If a request for an item to be included on the Work Programme is agreed, the item will be included on the first reasonably scheduled meeting of the Overview and Scrutiny Committee.

6.2. Requests from Council and the Leader/Executive

Full Council and the Leader/the Executive, may request that any matter is included on the agenda of the Overview and Scrutiny Committee and the Overview and Scrutiny Committee shall include the request in its work programme.

7. REPORTS AND RECOMMENDATIONS

- 7.1. Once it has formed proposals, the Overview and Scrutiny Committee will submit a formal report, including recommendations for consideration by the Leader/Executive (if the proposals relate to an executive function and are consistent with the existing budget and policy framework), or to the Council as appropriate.
- 7.2. The Council or Leader/Executive shall consider and respond to the report and/or recommendations of the Overview and Scrutiny Committee, indicating what (if any) action is proposed within two months of the report being submitted.

- 7.3. Where the Overview and Scrutiny Committee submit a report for consideration by the Executive on a matter where the Leader has delegated decision-making power to a Portfolio Holder, the report will be submitted to them for consideration. The Portfolio Holder must consider the report and respond in writing to the Overview and Scrutiny Committee within two months of receiving it. The Portfolio Holder will also attend a future meeting of the Overview and Scrutiny Committee to present their response if requested to do so.

8. **FAILURE TO CONSIDER REPORT**

In the event that Leader/Executive fails to consider and to respond to the Overview and Scrutiny Committee within two months of the report being submitted, the Chairman of the Overview and Scrutiny Committee shall be entitled to refer the matter to the next meeting of the Full Council.

9. **RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

In addition to their rights as Councillors, members of the Overview and Scrutiny Committee or sub-committee have the right to documents and to notice of meetings as set out in the [Access to Information Procedure Rules](#).

10. **COUNCILLORS AND OFFICERS GIVING ACCOUNT**

- 10.1. The Overview and Scrutiny Committee may scrutinise and review decisions made, or actions taken, in connection with the discharge of any Council functions. As well as reviewing documentation, it may require any officer or Executive Member to attend a meeting to answer questions. This will normally be confined to the Leader, any Portfolio Holder, the Head of Paid Service, and any statutory or chief officer. Attendance by officers below these will require the prior agreement of the Head of Paid Service.
- 10.2. Where the Leader, Portfolio Holder, or officer is required to attend an overview and scrutiny body under this Rule, the Democratic Services Manager shall inform the Executive Member or officer in writing, giving sufficient notice of not less than 10 working days. The notice will state the nature of the matter on which the Executive Member or officer is required to give an account and whether any written evidence needs to be produced for the meeting. Sufficient notice should be given to allow reasonable time to produce the written evidence.
- 10.3. Where a specific request has been made, it is the duty of those persons to attend, if so required, unless they have a reasonable excuse for being unable to attend.

11. **ATTENDANCE BY OTHERS AND EVIDENCE GATHERING**

- 11.1 The Leader/Executive has a standing invitation to attend any meeting of the Overview and Scrutiny Committee.

11.2 The Overview and Scrutiny Committee may appoint advisors and invite people to attend at their meetings to provide information. Attendees at a meeting should be treated with respect and courtesy.

12. CALL-IN

12.1. Call-in should only be used in exceptional circumstances.

12.2. When a decision is made by the Leader/Executive, Portfolio Holder, or an Executive Committee, or is made by an officer with delegated authority or under executive joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. The Chairman of the Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

12.3. The decision notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, subject to the provisions of this Rule on the expiry of five clear working days after the publication of the decision.

12.4. If the Chairman, any three members of the Overview and Scrutiny Committee, or any four other Councillors consider that **a Key Decision** has breached or will breach **the principles for good decision-making** or a decision has been made that was not treated as being a Key Decision, they may give a written call-in notice to the Head of Paid Service. The call-in notice shall identify the decision to be called-in and the grounds for the call-in.

12.5. If the Head of Paid Service is satisfied that there are reasonable grounds for the proposed call-in, they will notify the decision-maker of the call-in within five clear working days. The Head of Paid Service will arrange for a meeting of the Overview and Scrutiny Committee to be held. The meeting will be held as soon as reasonably practicable after receipt of the call-in notice.

12.6. If, having considered the decision, the Overview and Scrutiny Committee is concerned about it, then:

12.6.1. in the case of a decision that was not treated as being a Key Decision, the Committee may require the decision-maker to submit a report to Full Council within such reasonable period as it may specify setting out the particulars of the decision, the reasons for the decision, and if the decision-maker considers that the decision was not a key decision, the reasons for that opinion; or

12.6.2. in the case of a Key Decision, the Committee may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to Full Council.

If referred to the decision-maker they shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.

- 12.7. If, having considered the decision, the Overview and Scrutiny Committee is not concerned about it, then the decision will come into force, and may then be implemented immediately.
- 12.8. If the decision was referred to Full Council and the Council:
- 12.8.1. does not object to a decision which has been made, then no further action is necessary and the decision will come into force and may then be implemented immediately.
- 12.8.2. objects to the decision, then the decision will be referred back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- 12.9. Where the decision that has been called-in was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider the Council's view as soon as reasonably practicable.
- 12.10. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.

13. **EXCEPTIONS TO CALL-IN**

Call-in will not apply to the following decisions:

- (a) non-executive decisions, e.g. individual planning decisions;
- (b) executive decisions made by Area Committees (if any);
- (c) decisions made on any appeal;
- (d) decisions already called-in once;
- (e) non-key decisions made by officers; and
- (f) urgent decisions (subject to compliance with [Overview and Scrutiny Procedure Rule 14](#)).

14. **URGENT DECISIONS EXCLUDED FROM CALL-IN**

- 14.1. The call-in procedure set out in [Overview and Scrutiny Procedure Rule 13](#) shall not apply where the decision being taken by the Council, Leader/Executive, or officer is urgent. The record of the decision, and notice

by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.

- 14.2. The Chairman of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Chairman of the Council or, in their absence, the Vice-Chairman of Council must agree.
- 14.3. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 14.4. For the purposes of this Rule a decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests.

15. **MONITORING AND REVIEW OF CALL-IN RULES**

The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council by the Democratic Services Manager with proposals for review if necessary.

16. **THE PARTY WHIP**

There is a presumption that a party whip shall not be applied to matters considered by Councillors when engaged in overview and scrutiny.

APPENDIX A – Questions from members of the public

A1. As part of every ordinary meeting of the Full Council (other than the Annual meeting), the Executive or a Committee (other than the Development Management, Licensing, or Audit Committees, or the Salcombe Harbour Board) a period of time will be set aside for any member of the public living or working within the Council's area; and any appointed representative of any organisation operating within the Council's area to ask a question of the:

- (a) Leader or Portfolio Holder; or
- (b) the Committee Chairman.

A2. In the case of a special meeting of the Full Council, a Committee (other than the Development Management Committee), or the Executive questions from any member of the public living or working within the Council's area; and any appointed representative of any organisation operating within the Council's area to the Leader, Portfolio Holder, or the Committee Chairman, will only be permitted if the Monitoring Officer is satisfied they specifically relate to the business for which the special meeting has been arranged.

A3. Time for public questions

- (a) A period of 15 minutes will be set aside at each meeting to receive and reply to any questions from members of the public or appointed representatives.
- (b) The Chairman may increase the period for the asking of questions, or receiving petitions if, in the Chairman's opinion, the importance of the issue raised merits it and to do so would not have an adverse impact on the efficient running of the meeting.

A4. Number and duration of questions

No person or organisation may ask more than one question in total during public participation time. Sub-divided questions will count towards this total.

A5. Notice of questions

A question, which must be limited to 50 words and not be broken down into multiple parts, may only be asked if notice has been given in writing or by email to the Head of Paid Service before 1pm three clear days before the meeting at which it is to be asked. The notice must include:

- (a) the name and address of the person wanting to ask the question;
- (b) the title of the Councillor to whom the person would prefer it to be directed (if any); and
- (c) the text of the question.

A6. Scope of questions

- (a) Questions must be about items appearing on the published agenda for the meeting. The Monitoring Officer in consultation with the Head of Paid Service may reject any question if the Monitoring Officer considers that it:
- (i) is about a matter that is not on the published agenda;
 - (ii) is defamatory, frivolous or offensive;
 - (iii) is substantially the same, or is about a subject which is substantially the same, as a question that has been asked/received at a meeting of the Council in the past six months;
 - (iv) has already been answered or dealt with through other mechanisms or procedures, such as the Council's complaints procedure or the Local Government and Social Care Ombudsman;
 - (v) requires the disclosure of confidential or exempt information;
 - (vi) is about any standards, planning, or licensing matter or similar such matters;
 - (vii) is about any on-going investigation; and/or
 - (viii) is otherwise inappropriate for such a question to be asked.
- (b) If the Monitoring Officer decides that a question cannot be asked at the meeting then the reason why not will be sent to the person seeking to raise it.

A7. Identification of who will reply

- (a) The Chairman in consultation with the Head of Paid Service shall decide the most appropriate Councillor to reply to any question where a reply is needed. If this differs from that identified by the person presenting the question then this shall be identified before the question is read.
- (b) The Head of Paid Service will arrange for each question that is to be presented to be given to any Councillor who is to reply as soon as reasonably practicable following its receipt.

A8. Order of questions

Questions will be taken in the order in which notice of them was received except that the Chairman may also decide to group together similar questions.

A9. Asking the question at the meeting

- (a) A copy of every question to be read at Full Council will normally:
 - (i) be circulated to Councillors at the meeting;
 - (ii) be made available to the public attending the meeting; andeither recorded verbatim in the minutes or summarised.
- (b) The Chairman will invite the person presenting the question to ask it.

A10. Discussion and referral of questions

- (a) There will be no discussion on matters raised by questions by the public unless the Chairman decides otherwise.
- (b) Any Councillor may suggest that a question which is within the terms of reference of the Executive or a Committee might be better dealt with by the Executive or the Committee. If the Chairman agrees, the Chairman may direct that the question is referred to the Executive or such Committee as the Chairman considers appropriate and the Head of Paid Service will arrange for the question to be included on the next suitable agenda.

A11. Replying to a question

- (a) A reply to any question shall take such form as the Councillor replying considers appropriate, including:
 - (i) an oral reply;
 - (ii) where the information is in a Council publication or other published work, a reference to that publication;
 - (iii) a referral of the matter to the Executive, a Committee, or Sub-Committee for consideration; or
 - (iv) where a reply cannot be given at the meeting, a written reply to the person asking the question.
- (b) The Councillor need not reply to a question where they consider it to be inappropriate to reply.

A12. Supplementary question

Where a reply has been given to a question/statement no supplementary questions will be permitted

A13. Inability to present a question

- (a) If the person asking the question is unable to attend the meeting, the Chairman may decide that a written reply will be given to the question or that the question will not be dealt with.
- (b) Any question which cannot be dealt with during public participation time, whether because of lack of time or the non-attendance of the Councillor who was to reply, will be dealt with by giving a written reply within a reasonable timescale.
- (c) Where written reply is given to a question the Head of Paid Service will arrange for the question and any reply to be copied to all Councillors.

APPENDIX B – Questions by Councillors

- B1. As part of every ordinary meeting of the Full Council (other than the Annual Meeting), the Executive, or a Committee (other than the Development Management, Licensing, or Audit Committees, or the Salcombe Harbour Board) a period of time will be set aside for any Councillor to ask a question on notice of the:
- (a) Leader or Portfolio Holder; or
 - (b) Committee Chairman (as relevant to the meeting).
- B2. In the case of a special meeting of the Full Council, a Committee, or the Executive no period of time will be set aside for questions on notice by Councillors.
- B3. Time for questions**
- (a) A period of 15 minutes will be set aside at each meeting to receive and reply to any questions from Councillors.
 - (b) The Chairman of the meeting may increase any of the period for the asking of questions if in the Chairman's opinion, the importance of the issue raised merits it and to do so would not have an adverse impact on the efficient running of the meeting.
- B4. Number and duration of Questions**
- There is no limit on the number of Questions on Notice that a Councillor may ask during Councillors' Question time.
- B5. Notice to be given of Questions**
- A Question may only be asked if notice has been given in writing or by email to the Head of Paid Service before 1pm seven clear working days before the meeting at which it is to be asked. Each notice must include:
- (a) the title of the Councillor to whom the Councillor would prefer it to be directed (if any); and
 - (b) the text of the Question.
- B6. Scope of Questions**
- (a) Questions must be limited to 50 words, not be broken down into multiple parts, and must be about matters within the responsibility of the Full Council, the Committee, or the Executive as the case may be.
 - (b) The Monitoring Officer in consultation with the Head of Paid Service may reject any Question if the Monitoring Officer considers that it:

- (i) is defamatory, frivolous or offensive;
 - (iii) is substantially the same, or is about a subject which is substantially the same, as a question that has been asked/received at a meeting of the Council, the Committee, or the Executive in the past six months;
 - (iv) has already been answered or dealt with through other mechanisms or procedures such as the Council's complaints procedure or the Local Government and Social Care Ombudsman;
 - (v) requires the disclosure of confidential or exempt information;
 - (vi) is about matters that the Council does not have any powers or statutory duties;
 - (vii) is about any standards, planning, or licensing matter, or similar such matters;
 - (viii) is about any on-going investigation; and/or
 - (ix) is otherwise inappropriate for such a Question to be asked.
- (c) If the Monitoring Officer decides that a Question cannot be asked at the meeting then the reason why not will be sent to the Councillor seeking to raise it.

B7. Identification of who will reply

- (a) The Leader or Chairman (as appropriate) in consultation with the Head of Paid Service shall decide the most appropriate Councillor to reply to any Question where a reply is needed. If this differs from that identified by the person presenting the Question then this shall be identified before the question is read.
- (b) The Head of Paid Service will arrange for each Question to be given to any Councillor who is to reply as soon as reasonably practicable following its receipt.

B8. Order of questions

Questions will be printed on the agenda and taken in the order in which notice of them was received. Where a Councillor has however given notice of more than one Question, the second or further Question will be taken after all those Councillors who have given notice of a Question have had the opportunity of asking their first Question. The Chairman may however decide to group together similar questions.

B9. Asking and Replying to the Question at the meeting

- (a) A copy of every Question together with the answer (unless an oral answer is to be given) will normally:
 - (i) be circulated to all Councillors before 10am on the day of the meeting;
 - (ii) be made available to the public attending the meeting; andeither recorded verbatim in the minutes or summarised.
- (b) Questions and the answers that have been circulated before the meeting will be taken as read.

B10. Supplementary question

The Councillor asking the Question shall be entitled to ask one supplementary question. The supplementary question must relate to the answer given to the original Question.

B11. Discussion and referral of Questions

- (a) Subject to paragraph B10, there will be no discussion on matters raised by Questions by Councillors unless the Chairman decides otherwise.
- (b) Any Councillor may suggest that a Question which is within the terms of reference of the Executive or a Committee might be better dealt with by the Executive or the Committee. If the Chairman agrees, the Chairman may direct that the question is referred to the Executive or such Committee as the Chairman considers appropriate and the Head of Paid Service will arrange for the question to be included on the next suitable agenda.

B12. Inability to reply to a Question

- (a) Any Question which was to be answered orally cannot be dealt with during Councillors Questions, whether because of lack of time or the non-attendance of the Councillor who was to reply, will be dealt with by giving a written reply within a reasonable timescale.
- (b) Where written reply is given to a Question the Head of Paid Service will arrange for the question and any reply to be copied to all Councillors.

APPENDIX C –Notices of Motion

C1. As part of every ordinary meeting of the Full Council (other than the Annual Meeting) a period of time will be set aside for Councillors to debate Notices of Motion.

C2. In the case of a special meeting of the Full Council, no period of time will be set aside for Councillors to debate Notices of Motion.

C3. Time for Notices of Motion

- (a) A period of 45 minutes will be set aside at each meeting to debate notices of motion.
- (b) The Chairman of the meeting may increase any of the period for debating notices of motion if in the Chairman's opinion, the importance of the issue raised merits it and to do so would not have an adverse impact on the efficient running of the meeting.

C4. Number of Notices of Motion

There is no limit on the number of Notices of Motion that a Councillor may propose for debating during the time set aside for Notices of Motion.

C5. Notice of Motion

- (a) A Notice of Motion is a proposal of which written notice has been given by any two Councillors to the Head of Paid Service before 1pm seven clear working days before the meeting and which in the opinion of the Monitoring Officer:
 - (i) is about a topic or issue related to the responsibilities of the Full Council or which directly affects the Council;
 - (ii) is clearly identifiable as a Notice of Motion;
 - (iii) identifies which of the two Councillors is to be the Proposer and which is to be the Seconder; and
 - (iv) is signed by the Councillors submitting it (unless submitted by e-mail) and the date it was submitted to the Head of Paid Service; but
 - (v) does not relate to the personal affairs or conduct of any individual Councillor or Officer; nor
 - (vi) contain defamatory, inappropriate or inflammatory language.

- (b) A Notice of Motion may be debated despite written notice not having been given under Paragraph C5(a) if in the opinion of the Monitoring Officer the Notice of Motion is about an urgent matter and the Notice of Motion was put in writing and given to the Head of Paid Service as soon as reasonably practicable before the meeting.

C6. Where Notice of Motion is to be considered and order in which to be considered

- (a) Unless Paragraph C6(b) applies, a Notice of Motion will normally be considered at the next ordinary meeting of Full Council. The Notice of Motion may be considered at a later ordinary meeting if the Councillors who submitted it prefer and the Chairman of Council considers this appropriate.
- (b) Where the Head of Paid Service considers that a Notice of Motion is about a matter within the terms of reference of the Executive or a Committee then, subject to prior discussion with the Chairman of Council, the Head of Paid Service may arrange for the Notice of Motion not to be included on an agenda for the Full Council, but included on the next suitable agenda of the Executive or the Committee.
- (c) Subject to Paragraph C6(d), Notices of Motion will be listed on the relevant agenda in the order they have been received unless the Chairman considers a different order is appropriate.
- (d) Where a Councillor has submitted more than one Notice of Motion, the second and any subsequent Notice of Motion will be listed after all those Councillors who have submitted a Notice of Motion have had their first Notice of Motion listed.

C7. Presenting a Notice of Motion

The Councillor identified in the Notice of Motion as the Proposer will read out Notice of Motion and propose it. In the absence of the Proposer or if the Proposer declines to read it then the Notice of Motion shall be dealt with as the Chairman considers appropriate.

C8. Consideration of a Notice of Motion

- (a) If a Notice of Motion is not:
 - (i) moved either by the Proposer of it or where the Chairman considers it appropriate, by one of the other signatories on the Proposer's behalf; and
 - (ii) seconded,

then unless postponed by consent of the Chairman, it shall be treated as withdrawn and may not be moved without a new notice. This will also apply to Notices of Motion that are unable to be moved due to the expiration of the time period allowed under paragraph C3(a) or any extension of that period under paragraph C3(b). Accordingly, there will no rolling-over of Notices of Motion from one meeting to the next.

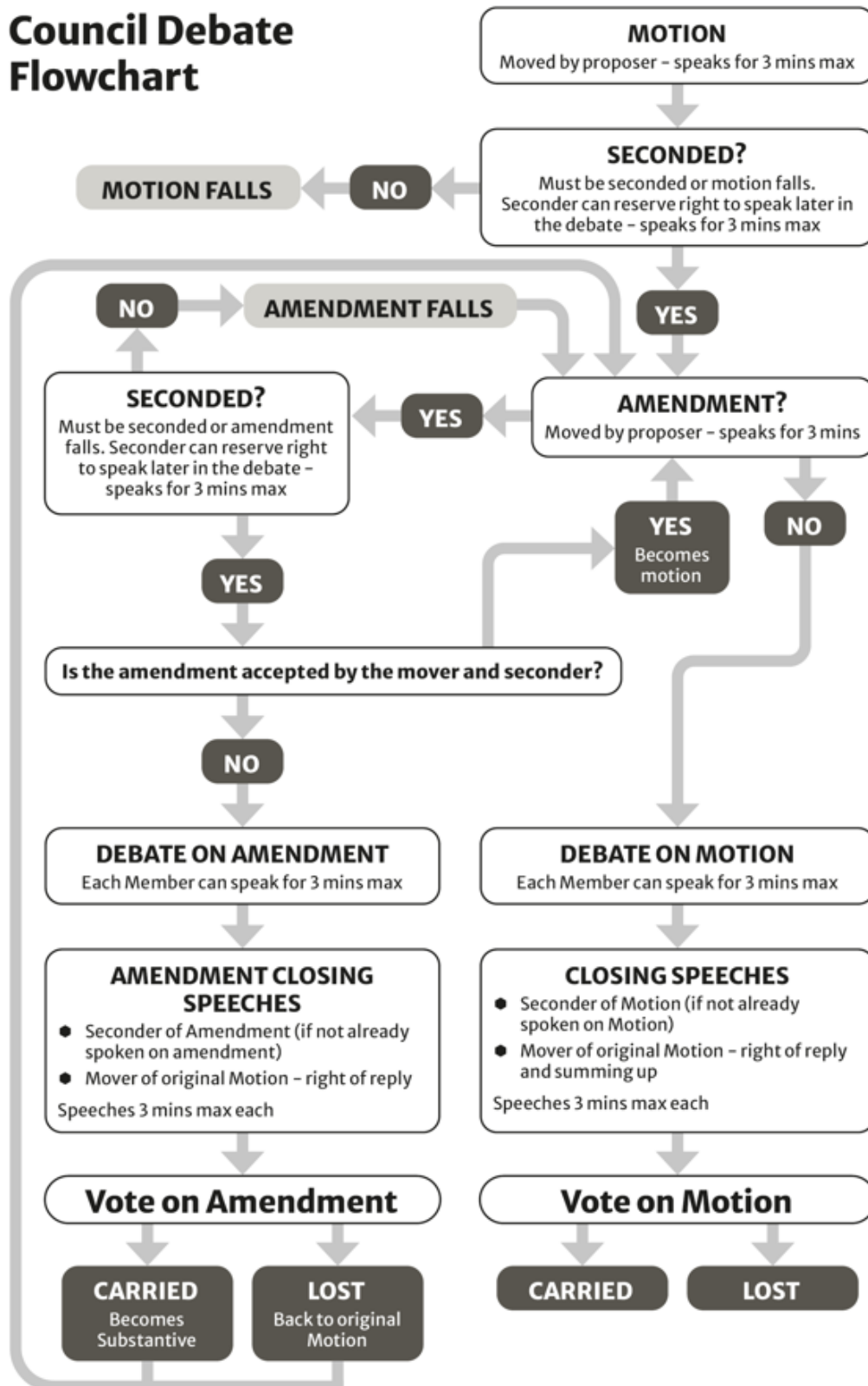
- (b) A Notice of Motion shall not be debated unless it is both moved and seconded. If it is both moved and seconded then the normal rules of debate as set out below shall apply.

C9. Notice of Motion referred to a Committee

- (a) If a Notice of Motion has been referred to the Executive or a Committee, the Executive or the Committee shall report on it to the next suitable meeting of Full Council. The report shall be presented by the Leader or the Committee's Chairman during that part of the Full Council meeting set aside to consider Notices of Motions.
- (b) When the report has been presented, the Notice of Motion shall be read to the meeting. If the Notice of Motion is not proposed and seconded it shall fall and shall not be considered further without the submission of a new Notice of Motion.
- (c) If the Executive or Committee decided that a different motion to the Notice of Motion should be considered by Full Council then:
 - (i) if the Notice of Motion is proposed and seconded, the Leader or Committee Chairman shall propose the alternative motion as an amendment. If that is proposed and seconded it shall be debated and voted upon under the rules of debate (see [Council Procedure Rule 16](#) or [Appendix D](#)); or
 - (ii) if the Notice of Motion is not proposed and seconded then the Leader or Committee Chairman shall move the alternative motion identified by the Committee. Such a motion may be moved without notice. If seconded it shall be debated and voted upon under the rules of debate (see [Council Procedure Rule 16](#) or [Appendix D](#)).
- (d) Any amendment to either motion if it has been moved and seconded shall be debated and voted upon under the rules of debate (see [Council Procedure Rule 16](#) or [Appendix D](#)).

APPENDIX D – Flowchart for the Rules of Debate

Council Debate Flowchart



APPENDIX E - Arrangements for the appointment of substitutes and co-opted persons to Committees, Panels, and Boards

E1. Substitutes

- (a) Unless there is express provision to the contrary every Committee, Panel, Board, and Sub-Committee shall have the right to have substitutes appointed to it for the purposes of any meeting.
- (b) In relation to Councillors, arrangements for any substitute shall normally be made:
 - (i) by the group leader of the Councillor for whom the substitution is being sought; or
 - (ii) if the group leader is unavailable/absent, or it is not practical for the group leader to do so, then by any person appointed as a deputy for that group leader,

by giving notice to the Democratic Services Manager as soon as practicable and no later than 4pm on the working day before the meeting. In the event of advance notification not being provided/received then the substitute shall not be treated as a member of the Committee, Board, Panel, or Sub-Committee for the purposes of being able to speak or vote.
- (c) A substitute for a Councillor may only be from the same political group as the Councillor for whom the substitution is being made.
- (d) A Councillor may not be appointed as a substitute to the Development Management Committee or to the Licensing Committee unless they have undertaken appropriate training.
- (e) In the case of any appointment of a person to a Committee, Panel, or Board who is not a Councillor then there shall be no power to appoint a substitute unless expressly provided for below or the law otherwise requires. Where a substitute for a non-Councillor is permitted, the substitute shall be notified to the Democratic Services Manager as soon as practicable in advance of the meeting of the Committee, Panel, or Board and in any event no later than 4pm on the working day before the meeting.

E2. Co-opted persons

Where any Committee, Panel, Board, or Sub-Committee described in the [Scheme of Delegation](#) has persons who are not Councillors forming part of it, then unless the provisions identify otherwise, or the law otherwise requires, Committee, Panel, Board, or Sub-Committee may appoint its non-members.

APPENDIX F – Use of mobile phones, social media, filming and recording at meetings

F1. Introduction

- (a) It is important that Councillors who are members of the meeting can concentrate fully on proceedings and these Councillors must not be distracted by any filming and recording. Accordingly, this protocol provides guidance to members of the public, press and Councillors on the use of mobile phones, social media and on filming and recording at all formal meetings of the Council (including the Executive, Committees and Sub-Committees).
- (b) Social media refers to the use of web-based technologies to share information and to interact with online communities, e.g. blogs, Twitter, Facebook.

F2. General

- (a) While no prior permission is required, as a courtesy, anyone proposing to film, record or take photographs during a meeting is requested to tell the Democratic Services Team before the start of the meeting and to provide their name and contact details.
- (b) The Council expects those recording the proceedings:
 - (i) Not to edit the film/recording photographs in a way that could lead to misinterpretation or misrepresentation of the proceedings. This includes refraining from editing an image or views expressed in a way that may ridicule or show a lack of respect towards those being photographed/recorded or filmed;
 - (ii) To comply with any request of a member of the public not to be filmed, recorded or photographed;
 - (iii) Not to provide an oral commentary during the meeting as this could be disruptive; and
 - (iv) Not to use flash photography.
- (c) If any person wanting to film, record or photograph a meeting, intends to bring large equipment or has any special requirements, they should contact the Democratic Services Team in advance of the meeting, where possible, for any necessary arrangements or adjustments to be made.

F3. Filming, Photographing and Recording of Meetings

- (a) The filming, photographing or recording of Council meetings or other meetings that are open to the public, and use of social media at those meetings, is allowed, providing it does not disrupt or disturb the conduct of the meeting. The Chairman's decision on whether or not the meeting

is being disrupted or disturbed is final. If the Chairman decides that the meeting is being disrupted or disturbed, the Chairman can require the filming, photographing recording or use of social media to stop.

- (b) All those filming a meeting are requested to only focus on recording councillors, officers and the public who are directly involved in the conduct of the meeting.
- (c) If a meeting passes a motion to exclude the press and public then, in conjunction with this, all rights to film, video photograph or record the meeting are removed.
- (d) The Council does not accept liability for any equipment that may be lost, stolen or damaged at any of its meetings that are open to the public.

F4. Filming Members of the Public

- (a) At the beginning of the meeting, the Chairman will announce that the meeting will be filmed, recorded or photographed and will ask if anyone objects to this.
- (b) In the case of members of the public speaking at meetings (at the Development Management Committee, for example) the Chairman will ask each individual to give their express permission to being filmed and they are not to be filmed if they object.

F5. Use of Mobile Devices and Social Media

- (a) To minimise disruption to others attending the meeting, all those attending the meeting including Councillors must ensure that their phone or other mobile device is switched off or set to silent mode during the meeting.
- (b) The use of social media in formal meetings is permitted for members of the public, press and Councillors, so long as this does not cause any disruption or disturbance. The Chairman's decision is final.
- (c) No Councillor in attendance, whether a decision-maker or observer, is permitted to use social media or mobile devices during a private session (when the press and the public are excluded), or to disclose in any way the content of the items under discussion.
- (d) The Councillors' Code of Conduct will apply when using social media. Inappropriate comments made during a meeting could open Councillors to potential complaints or investigation under the Code of Conduct.

F6. Legal Responsibility

Recording and reporting the Council's meetings is subject to the law and it is the responsibility of those doing the recording and reporting to ensure

compliance. This will include the Human Rights Act 1998, the Data Protection Act 2018 and the laws of libel and defamation.

**MINUTES OF A MEETING OF THE AUDIT COMMITTEE
HELD IN THE REPTON ROOM, FOLLATON HOUSE, PLYMOUTH ROAD,
TOTNES ON THURSDAY, 10th MARCH 2022**

Members in attendance * Denotes attendance ∅ Denotes apology for absence			
*	Cllr L Austen (Chairman)	*	Cllr R Rowe
*	Cllr J Brazil	*	Cllr B Spencer (Vice-Chairman)
*	Cllr J McKay (via Teams in a non-voting capacity)	*	Cllr B Taylor
*	Cllr J T Pennington		

Member(s) also in attendance:
Cllrs N Hopwood (via Teams); J McKay (via Teams); and J Pearce

Item No	Minute Ref No below refers	Officers and Visitors in attendance
All Items		Director of Place and Enterprise (via Teams); Section 151 Officer; Head of Finance; Democratic Services Manager (via Teams); Head of Strategy & Projects (via Teams); Audit Manager; Audit Specialist (via Teams); External Auditor; External Auditor (via Teams); Democratic Services Specialist; IT Specialist.
5.	A.31/21	Chief Executive (via Teams);

A.29/21 MINUTES

The minutes of the Audit Committee meeting held on 9 December 2021 were confirmed as a true and correct record.

A.30/21 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 none were made.

A.31/21 PENSIONS PRESENTATION BY DEVON COUNTY COUNCIL

A presentation was given to the Committee and Members on the current situation of the Council's Pension Fund. The presentation was given by Mark Gayler, Investment Manager at Devon County Council (DCC).

The presentation included updates in investments in petroleum companies, which had been reduced in recent years in line with Councils declaring a Climate Change Emergency. Members were also

appraised of investments in the Russian stock market, following the recent invasion of Ukraine.

The recently released Levelling-Up White Paper, from Central Government, had suggested that local government pension schemes were to set out plans to invest 5% of their funds in local investments. This had subsequently been clarified to explain that 'local' in this context referred to investments within the United Kingdom.

As the District Council's representative on the Investment and Pension Fund Committee, the Leader stated that it was her belief that the pension scheme was very well run under difficult circumstances. The Chairman thanked Mr Gayler for his informative presentation.

A.32/21

GRANT THORNTON AUDIT PROGRESS REPORT AND SECTOR UPDATE

Consideration was given to a report that updated Members on progress made by the Council's external auditors, Grant Thornton, including that the Housing Benefit Subsidy Claim had been submitted to the Department of Work and Pensions before the deadline in February 2022.

The Auditors Report on the Audited Accounts was due to be completed by the end of November 2022.

Following a question from a Member of the Committee, it was agreed that the external auditors would run a training session for all Members on scrutinising the draft accounts. This event would be held remotely and scheduled to occur before the Draft accounts were presented to the Audit Committee.

Further to a query regarding Grant Thornton's own actions towards Climate Change and Biodiversity, it was confirmed that more meetings and preparatory work were held remotely which cut down on emissions and enabled better use of working time. The External Auditor committed to sending round a fuller list of Grant Thornton's Key Actions on the issue.

The Chairman thanked the Grant Thornton Auditors for attending the meeting.

It was then:

RESOLVED

That the progress made against the 2021/22 external audit report, and any key issues arising, be noted and approved.

A.33/21

2022/23 INTERNAL AUDIT PLAN

The Committee was apprised of the proposed Internal Audit Plan for 2022/23. Although it was anticipated that the Covid Pandemic could still impact on the available workdays, the plan had been developed based on the standard 430 work days.

Following questions from Members of the Committee, it was confirmed that:

- It remained a statutory requirement for the Local Enterprise Action Fund and Local Action Group Grants to be subject to audit as part of the process of delivery
- The Salcombe Harbour Authority and Dartmouth Lower Ferry were audited annually but each year focussed on a different area of their operation to give the Council assurance on satellite areas.

It was then:

RESOLVED

- 1) That the report be approved; and
- 2) That the proposed Internal Audit Plan for 2022/23, as at Appendix A of the attendant report, be approved.

A.34/21

UPDATE ON PROGRESS ON THE 2021/22 INTERNAL AUDIT PLAN

Consideration was given to a report that updated Members on progress made against the Internal Audit Plan. It was highlighted that internal audits had been impacted by the Covid pandemic, with one team member continuing to work on the administration of grants related to mitigating the impact of Covid. Eleven other audits were outstanding but in progress with draft reports ready for officer comment. There were a small number of audits still to commence. A review of the audit plan had been undertaken to discuss which audits could go ahead or be postponed.

Further to a question from Members, it was confirmed that there was limited assurance given to the report on performance management and, for this reason, it had been re-added to this year's plan. However, the internal auditor was confident that progress was being made. The Leader confirmed that a report was due to go before the Executive in the next two months.

The officer agreed to add in timescales in future reports.

It was then:

RESOLVED

That the progress made against the 2021/22 internal audit plan, and any key issues arising, be noted and approved.

A.35/21 **2022/23 CAPITAL STRATEGY, 2022/23 TREASURY MANAGEMENT STRATEGY, and 2022/23 INVESTMENT STRATEGY**

Members of the Committee reviewed the report that outlined the proposed Capital Strategy, Treasury Management Strategy, and the Investment Strategy for the 2022/23 financial year.

During discussions the following points were made:

- The Investment Strategy had been approved by Full Council with the Senior Leadership Team's role outlined as identifying potential investment opportunities and bringing these to Members' attention for their review. It was also open for Members to bring any potential opportunities to the Executive.
- The Lybridge Regeneration project was going through RIBA stages and it was hoped that it would be brought before the Council's Development Management Committee in June 2022. The Section 151 Officer confirmed that a further report on Lybridge Regeneration will be presented to Full Council, prior to planning and prior to the project moving to the delivery phase.
- Following discussion it was **PROPOSED, SECONDED**, and once put to the vote, **AGREED** that the Committee should receive treasury management training, as part of the induction process, following the elections in May 2023.

It was then:

RECOMMENDED:

1. That the Audit Committee **SCRUTINISED** and **RECOMMENDED** to Council the approval of the 2022/23:
 - i) Capital Strategy (as attached at Appendix A of the attendant report)
 - ii) Treasury Management Strategy (as attached at Appendix B of the attendant report)
 - iii) Investment Strategy (as attached at Appendix C of the attendant report)
 - iv) That delegated authority be given to the Section 151 Officer, in consultation with the Leader of the Council and the Executive Member for Finance, to make any minor amendments to these Strategies if required throughout the 2022/23 Financial Year.
2. That, as part of the 2023 Member Induction Programme, the Committee request that a Treasury Management Training session be included.

A.36/21 BUDGET BOOK 2022/23

Consideration was given to a report that set out the Council's Revenue Budget for the year which had been detailed into the four Directorates of Customer Service and Delivery; Place and Enterprise; Governance and Assurance; and Strategic Finance.

During discussion, it was requested that a pdf version of the Budget Book should be sent to Members.

It was then:

RESOLVED

That the Audit Committee note the content of the Budget Book for 2022/23.

A.37/21 SHARED SERVICES METHODOLOGY 2021/22

The Deputy Leader outlined the report that explained the methodology for apportionment of costs between South Hams District and West Devon Borough Councils. The majority of the costs related to staffing costs. It was noted that the change in the apportionment relating to the contact centre was due to an increase in calls relating to South Hams District Council.

It was then:

RESOLVED

That the Audit Committee **NOTE** the methodology of the shared services apportionment of costs between South Hams District Council and West Devon Borough Council for 2021/22, as per Appendix A of the attendant report.

A.38/21 SUNDRY DEBT

Consideration was given to a report that provided Members with an update of the position of Sundry Debt and Housing Benefits Overpayments up to 31st January 2022. Debt recovery had been paused during the early months of the Covid pandemic but it was confirmed that all debt recovery was now progressing as usual.

The Chairman stated that the current situation was very good.

It was then:

RESOLVED

That the position in relation to Sundry Debt be noted.

A.39/21 **REVIEW OF CONFIDENTIAL REPORTING POLICY**

Members considered a review of the Confidential Reporting Policy, also known as the Whistle-Blowing Policy. It was highlighted that this important policy should be regularly reviewed to ensure it remained fit for purpose. It had been a specific recommendation from Grant Thornton's audit of 2020/21 that this policy be reviewed before the year end.

Following a question from a Member, it was confirmed that staff had not had any input to this policy, therefore it was **PROPOSED**, and **SECONDED** that staff should be consulted before the policy was brought to Council meeting on 19th May. It was noted that there were a series of in-person staff meetings to be held over the coming weeks and that staff could be consulted then. When put to the vote, this addition to the recommendations was **AGREED**.

It was then:

RECOMMENDED

That the Audit Committee **RECOMMEND** to Annual Council that the Council adopt the reviewed Confidential Reporting Policy and related Frequently Asked Questions, as attached at Appendices 1 and 2 of the attendant report, subject to, before the Annual Council meeting in May, all staff being consulted during the next round of Staff Briefings.

A.28/21 **AUDIT COMMITTEE MEETING – Change of Date**

The Committee noted that, since the Calendar of Meetings for 2022/23 had been approved by the Council, it was necessary that, due to officer availability, the Committee meeting scheduled for the 1st September 2022 be moved to 8th September 2022.

(Meeting commenced at 11:00am and concluded at 2:00pm; with lunch break at 12:45 to 1:15pm)

Chairman

MINUTES of the MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE held in COUNCIL CHAMBERS, FOLLATON HOUSE, TOTNES, on WEDNESDAY, 16 MARCH 2022

Members in attendance			
* Denotes attendance			
∅ Denotes apologies			
*	Cllr V Abbott	*	Cllr M Long
*	Cllr J Brazil (Chairman)	*	Cllr G Pannell
*	Cllr D Brown	∅	Cllr K Pringle
*	Cllr R J Foss (Deputy Chair)	*	Cllr H Reeve
*	Cllr J M Hodgson	*	Cllr R Rowe
∅	Cllr K Kemp	*	Cllr B Taylor

Other Members also in attendance and participating:

Cllr D O’Callaghan – via Teams (item 6(c)); Cllr J Pearce – via Teams (item 6(d))

Officers in attendance and participating:

Item No:	Application No:	Officers:
All agenda items		Senior Specialists and Specialists – Development Management; Monitoring Officer; IT Specialists; and Democratic Services Specialist;
Item 6 (c)		Specialist – Place Making and Senior Specialist – Estates

DM.58/21 MINUTES

The minutes of the meeting of the Committee held on 16th February 2022 were confirmed as a correct record by the Committee, save to alter the record of voting on agenda item 6(c): Cllr Kemp was missed from the list of those Councillors who voted yes, and Cllr Pannell was erroneous listed as both voting yes and abstaining: in actuality, Cllr Pannell had abstained from the vote on this application.

DM.59/21 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered and the following were made:

Cllr B Taylor declared an Other Registerable Interest in applications 0591/21/FUL; 2876/21/FUL; 4024/21/FUL (Minutes DM.60/21 (a), (c), and (d) below refer), as he was a Member of the South Devon AONB Partnership Committee. The Member remained in the meeting and took part in the debate and vote thereon;

DM.60/21 PUBLIC PARTICIPATION

The Chairman noted the list of members of the public, Town and Parish Council representatives, and Ward Members who had registered their wish to speak at the meeting.

DM.61/21 **PLANNING APPLICATIONS**

The Committee considered the details of the planning applications prepared by the Planning Case Officers as presented in the agenda papers, and considered also the comments of Town and Parish Councils, together with other representations received, which were listed within the presented agenda reports, and **RESOLVED** that:

**6a) 0591/21/FUL Pool Farm, Frogmore
Parish: Frogmore & Sherford Parish Council**

Development: Erection of a single storey rural worker's dwelling

Case Officer Update: Following a question at the site visit, the Case Officer clarified that the permitted path, which crossed the field to the pontoon, was not a right of way but was a permitted path granted by the landowner, who had it within their power to move the footpath should they so wish. It was confirmed that the site was within the Undeveloped Coast area, the South Hams AONB (Area of Outstanding Natural Beauty), and an SSSI (Site of Special Scientific Interest). The Case Officer outlined that it was also deemed a countryside location with no agricultural, forestry, nor occupational need; exceptions to Planning Policy TV26 were allowed on the edge of a settlement, but there needed to be affordable dwellings, which this one was not.

The Case Officer updated the Committee on the material planning history on the site: previous approval had been granted for one of the barns to have change of use to boat storage, then approval was given for an occupational dwelling linked to the boat store. Footings for this dwelling had been put in which meant the approval was extant. At the site visit, questions had been asked about the chalet and mobile home on site, and the Case Officer confirmed that a certificate of lawfulness had been received by the Council in 2013, and confirmed that planning permission was not required. The Case Officer outlined the other recommended reason for refusal in that it was a highly sensitive landscape and part of a green finger of land within the undeveloped part of estuary coastline and was an important contribution to the river landscape, therefore the dwelling and domestication would have a negative impact on the

AONB landscape which would not enhance, conserve, nor protect as was required by Policies DEV24 and DEV25 of the Joint Local Plan.

The Ward Member stated that the proposed dwelling was heavily supported locally and, whilst he concurred with the case officer regarding the location, the family were four generations in the village and could no longer afford to buy to remain. The Ward Member also clarified that the only location for the building was on the green area as the area where the current mobile home was had been forbidden to them. It was stated that the previous extant planning approval could not be built out as the applicant was unable to get a mortgage on the plot, due to conditions placed on the previous application.

During the debate many Members stated that this was a very finely balanced decision as they had a duty to protect the integrity of the AONB but equally had sympathy with the family's personal situation.

Speakers included: Supporter – Mrs T Oakley; Parish Council – Cllr P Hadley; Ward Member – Cllr R Foss

Recommendation: Refusal

Committee decision: Conditional Approval delegated to the Head of Development Management (DM), in consultation with the Chairman of the DM Committee, and the Proposer and Secunder.

Conditions

Outline conditions to include landscape as outline in landscape report, in-perpetuity dwelling as part of agricultural and/or boatyard, external lighting, drainage, time, etc, to remove PD rights (harm caused if not, and proposal acceptable in planning terms) – full conditions delegated to Head of Planning, Proposer, Secunder, and Chairman. To ensure Dev 32 to be met with. Dwelling to have local connection.

**6b) 3048/21/FUL Montgo, Maudlin Road, Totnes, TQ9 5TG
Town: Totnes Town Council**

Development: Provision of single dwelling house (resubmission of 1668/20/FUL).

It was noted that this application was deferred to a later Committee meeting.

**6c) 2876/21/FUL Development Site, Tumbly Hill, Kingsbridge
Town: Kingsbridge Town Council**

Development: Construction of three townhouses

Case Officer Update: Following questions at the site visit, the Case Officer clarified the outline of the application and explained the key issues. The Assets Officer gave an update on the land swap which was being proposed and clarified issues around the proposed build, including the loss of four parking spaces during construction, and that delivery lorries would be limited in size and hours, and would require bank men, which were all conditioned on the previously approved application. The Tree Officer updated the Committee on the situation of the surrounding trees and was requested to add a Tree Preservation Order to the large, unprotected Beech tree in the car park which was on a foreshore map dating to 1888.

Speakers included: Supporter – Mr Dan Lethbridge; Town Council: Presentation read; Ward Member – Cllr D O’Callaghan;

The Ward Member stated her agreement with Kingsbridge Town Council. Concerns regarding the temporary diversion of the footpath and avoiding construction access during the Kingsbridge Fair Week were noted.

Recommendation: Conditional Approval

Committee decision: Conditional Approval

Conditions

Most of the recommended conditions to remain as per the published report. However, some revisions were sought by Members regarding landscaping and the construction management plan. This has been granted delegated authority.

**6d) 4024/21/FUL Sunny Ridge, Herbert Road, Salcombe
Town: Salcombe Town Council**

Development: Replacement Dwelling.

Case Officer Update: The Case Officer updated that Salcombe Town Council felt the new application was unacceptable in terms of bulk and massing, particularly for Strathmore (the neighbouring property). It was outlined that the applicant had removed some of the glazing to the rear in the revised plans. Following questions raised at the site visit, the Case Officer outlined the distances and heights of terrace and balcony. The criteria for Policy DEV 32 was outlined and an energy statement submitted which explained the methodology, using best of sun path, heat pump, solar, heat recovery, fabric and air tight measures.

Speakers included: Supporter – Mr P Lawrence; Town Council – Cllr M Fice; Ward Members – Cllrs Pearce and Long;

The Ward Members felt the design was too overbearing. Currently the ridge height was noted as a point but would now be a continuous line across the whole plot. Both Ward Members felt there would be undue impact from moving the living spaces to the upper floor, although it was noted that there were kitchen facilities on both floors so if approval was to be given, both local Ward Members asked for a condition to be included that made the dwelling a single dwelling in perpetuity.

During the debate, Members commented that the size and massing would have a detrimental impact on the street scene. A Member commented that the lack of objection from the most affected neighbours somewhat undermined the objections received from the Council. Again Members were of the opinion that this decision was finely balanced.

Recommendation: Conditional Approval

Committee decision: Refusal

Following the application being refused, the Members agreed the reasons for refusal as being:–

1. By way of the increase in the massing, scale and built form of the proposed dwelling house, the proposal is not considered to be commensurate in size to the site. The increase in scale and massing of the proposed dwelling results in a disproportionate dwelling, which does not correspond well to the local vernacular, street scene, nor important characteristics of the setting of the dwelling, including the open spaces between residential properties, and the suburban character of Herbert Road. The proposal is not considered to comply with Policy Dev 20 and Dev 23 of the Plymouth and South Devon Joint Local Plan.
2. When considered in the context of the reverse living layout, the proposal is likely to result in an intensification of use of the first floor, with an associated increase in overlooking of neighbouring gardens, increased noise and disturbance at height, and is also likely to have an overbearing impact on neighbouring occupants when viewed from ground level within neighbouring gardens. In addition, the increase in the terraced area and the resultant increase in height of floor level of the terrace area, to the rear of the property, will allow for an increase in overlooking of neighbouring properties, contrary to the provisions of Dev 1 and Dev 2.

DM.62/21 **PLANNING APPEALS UPDATE**

Members noted the list of appeals as outlined in the presented agenda report. Design and particularly weather-boarding require policies within joint local plan to

be developed to cover these.

DM.63/21 PLANNING PERFORMANCE INDICATORS

Due to the absence of the Head of Planning it was proposed, seconded, and when put to the vote, agreed to defer this agenda item until the next meeting.

DM.64/21 UPDATE ON UNDETERMINED MAJOR APPLICATIONS

The list of undetermined major applications was noted. The Ward Member requested that the undetermined major from Dartington Parish Council be now closed. Members reiterated their wish to arrange a tour of various previous decisions to see what has been built out: the Clerk to email out for suggestions from all Members and then to put together a sequence, in consultation with the Chair and Head of Planning.

(Meeting commenced at 10:00 am and concluded at 3:50 pm, with a 10 minute break at 11:20 am and lunch at 12:45 pm.)

Chairman

Voting Analysis for Planning Applications – DM Committee 16th March 2022

<i>Application No:</i>	<i>Site Address</i>	<i>Vote</i>	<i>Councillors who Voted Yes</i>	<i>Councillors who Voted No</i>	<i>Councillors who Voted Abstain</i>	<i>Absent</i>
0591/21/FUL	Pool Farm, Frogmore, TQ7 2NU	Approval	Cllrs Abbott, Brazil, Brown, Foss, Hodgson, Long, Reeve, Rowe, Taylor (9)	Cllr Pannell (1)		Cllrs Kemp, Pringle (2)
3048/21/FUL	Montgo, Maudlin Road, Totnes, TQ9 5TG	DEFERRED				
2876/21/FUL	Development Site, Tumbly Hill, Kingsbridge	Approval	Cllrs Abbott, Brazil, Brown, Foss, Hodgson, Long, Pannell, Reeve, Rowe, Taylor (10)			Cllrs Kemp, Pringle (2)
4024/21/FUL	Sunny Ridge, Herbert Road, Salcombe, TQ8 8HN	Refusal	Cllrs Brazil, Brown, Foss, Hodgson, Long, Pannell, Reeve, Rowe, Taylor (9)	Cllr Abbott (1)		Cllrs Kemp, Pringle (2)

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**MINUTES of the MEETING of the
OVERVIEW & SCRUTINY COMMITTEE,
Held in the Council Chamber, Follaton House, Totnes, on
THURSDAY, 17 MARCH 2022**

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

Other Members also in attendance:
Cllr J Brazil – in person Cllrs K Baldry; H Bastone; M Chown; J Hawkins; N Hopwood; J Pearce; K Pringle; and H Reeve – remote attendance via Teams Meeting.

Item No	Minute Ref No below refers	Officers in attendance and participating
All		Deputy Chief Executive, Director of Place & Enterprise; Democratic Services Manager; Head of Strategy & Projects; IT Officer; and Democratic Services Officers
Item 7	O&S.61/21	Specialist – Leisure
Item 8	O&S.62/21	Head of Environmental Health (EH) & Licensing; Senior Specialist EH
Item 9a	O&S.63/21	Head of Housing

O&S.58/21 MINUTES

The minutes of the meeting of the Overview and Scrutiny Committee (O&S) held on 20 January 2022 were confirmed as a correct record.

O&S.59/21 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 declared.

O&S.60/21 PUBLIC FORUM

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

O&S.61/21 LEISURE CONTRACT – FUSION ANNUAL REPORT 2021

The lead Executive Member for Community Wellbeing explained that the representative from Fusion was unable to attend this Committee Meeting as he was unwell and that the presentation from Fusion would be moved to the next Overview & Scrutiny Committee meeting on 21 April, 2022. The Member did introduce a report to the Committee that updated on Fusion's annual report for 2021.

It was clarified that while the Council had one operator across all four leisure centres within the District, the contract was different for Totnes Leisure Centre as Tadpool hired the building and contracted direct with Fusion.

It was noted that usage of the leisure centres had continued to rise month on month, and was approaching pre Covid pandemic attendance.

Following a discussion regarding overview of the Fusion financial information, it was **PROPOSED**, **SECONDED** and **CARRIED** at the subsequent vote that:

RESOLVED

The Overview and Scrutiny Committee receive financial figures and a full report every six months, with a three monthly update being received from the Lead Executive Member for Leisure, to include all relevant financial matters.

The Chairman then clarified that Fusion were not seeking further financial support from the Council, but were asking to extend the payment terms for management fees which were due to the Council. The Officer confirmed that Fusion were not looking to alter the amount of the fees, nor the payment schedule timescale, but were looking to reduce earlier payments and increase later payments.

The Members of the Committee requested that they receive the complete list of Key Performance Indicators (KPIs) that were set out in Fusion's contract, and to receive this list before the Full Council meeting on 31 March 2022 when a related item would be on the agenda.

It was confirmed that a report on solar panels on Leisure Centre roofs would be presented to the Executive in the near future. Following questions from Members, it was confirmed that projects to reduce carbon emissions were being investigated, particularly as proposals required design and feasibility studies before there was any possibility of accessing government grants. It was confirmed that, as Fusion held the leases for leisure centres, it was Fusion's choice over who provided the solar panels. Following discussions regarding the potential of the Totnes Renewable Energy Society (TRESOC) being used in Totnes, it was confirmed that this topic would be a high priority when Fusion representatives appeared at the next Overview and Scrutiny Committee,

21 April 2022. A Member then asked about the recent price increases at the leisure centres and it was confirmed that these were accompanied by an increase in those able to apply for concessions.

It was then clarified that the four main areas for Fusion to respond to when they appeared at the next meeting were listed as: activities in surrounding rural areas; KPIs; carbon reduction/solar energy projects; and pricing.

Hearing of the report was then adjourned until the next Committee meeting.

It was then:

RECOMMENDED

That the Executive be **RECOMMENDED** to establish a Working Group to progress the much needed improvement works at Totnes Leisure Centre. The Working Group to consist of the Executive Lead for Leisure, the three local Ward Members, a representative of Tadpool, a representative of Fusion, and relevant lead officers. The first meeting to be held within four weeks of the Executive decision.

O&S.62/21 BETTER LIVES FOR ALL THEMATIC UPDATE: COMMUNITY WELLBEING

Following the Council's adoption of the Better Lives for All Strategy in September 2021, the Committee was provided with an update on the Community Wellbeing strand of the Better Lives for All Strategy.

Each project, outlined in Appendix A of the attendant report, was then reviewed in turn:

CW1.1: This item was rated as 'amber', ie off track but plan in place. The officer outlined that the rating was due to the project's initial stage having been very successful as they had sought to engage with a number of potential partners, these included, but was not limited to, Devon County Council, NHS, voluntary sector, and the Police. Other statutory partners had shown a very positive wish to be involved and to ensure a joined up approach to issues of rural poverty. Therefore initial conversations were on-going, hence resulting in the amber rating. It was noted the importance of listening to communities and identifying what support the communities themselves identified.

Following discussions, it was requested that Ward Members were involved at the earliest opportunity. It was noted that this was an ambitious and daunting project, and that the Council would not be able to resolve all issues, but a framework would ultimately be put in place to encourage community/partnership working. This would be run as a pilot project initially.

It was then:

RESOLVED

That the Overview and Scrutiny Committee **WELCOMED** this initiative but **NOTED** it was ambitious and the importance of local Ward Members being involved at the earliest opportunity was recognised.

CW1.2: Following the update on this action, the Executive Lead Member updated that Dartmouth Town Council was exploring the possibility of building key worker properties on the site of the old hospital to ensure that the new Health Hub had sufficient staffing resources.

It was then:

RESOLVED

That the Overview and Scrutiny Committee **NOTED** this action.

CW1.3: It was confirmed that Members would like to receive qualitative histories of Disabled Facilities Grants at this juncture of future reports. The budget allocation from Devon County Council for 2021/22 was £1,196,498.

It was then:

RESOLVED

That the Overview and Scrutiny Committee **NOTED** this action and thanked the officers for achieving a good performance alongside the astute negotiations, and that the Committee would welcome examples of good practice to be included in subsequent updates.

CW1.4: This item had been covered above (minute O&S.61/21 refers).

CW1.5: Officers wished to clarify what information Members of the Committee would like to receive in future updates. It was reiterated that monies available through Section 106 agreements was reported regularly to the Executive and local Ward Members were reminded to review this to see what monies were available to be used, and consult with the local Parish/Town Council to see where the monies could be best spent. It was reiterated that South Hams District Council were the administrators of the money but Parish and Town Councils were able to pull down the S106 monies.

It was proposed that, in respect of CW1.5, there be a report to the next meeting of the Overview & Scrutiny Committee on the proposed measures to be taken to bring about a considerable reduction in the Section 106 monies totalling £3,016,285 in respect of the open space, sport, and recreation report, dated 31 December 2021.

This was **PROPOSED** and **SECONDED**, but declared **LOST** when put to the vote, however, it was agreed to consider this as a potential agenda item for the next meeting. The Chair and the Vice Chair would agree the agenda for the next meeting, to be held on 21 April 2022, as there were already many significant items on the proposed agenda.

CW1.6: The officer asked for clarification on what should be reported against this item in subsequent reports. It was noted that there were many good initiatives which could be reported on, including good news stories where initiatives are working well. Ward Members were to be included as early as possible.

It was confirmed that funding had been identified for this year, but it was within the power of Members whether subsequent funding was identified.

It was then:

RESOLVED

That the Overview and Scrutiny Committee **WELCOMED** the progress that had been made and requested examples of the benefits of the scheme, and that there be Ward Member involvement.

One Member highlighted that he felt 'Better Lives for All' did not apply consistently across the whole area as smaller communities were often overlooked. He cited an example of applications for the 'My Place' campaign, which used funding from the European Regional Development Fund. The supporting documentation for funding applications stated that Towns and Parish Councils should be contacted to see if they wished to apply, but it had only been the main towns in the area which had been approached. The Member felt that the smaller areas were systemically penalised

It was then:

RECOMMENDED

That the Executive be **RECOMMENDED** to **NOTE** that 'Better Lives for All' was not applying to the smaller communities in the South Hams and that it should ensure that these communities were better represented by the actions in the strategy.

O&S.63/21 TASK AND FINISH GROUP UPDATES

a) Housing

Following the completion of the work of the Housing Task and Finish Group (T&FG), the Chairman of the Housing T&FG updated the Committee on the parameters that had shaped the Group's work and

then outlined the recommendations that were brought forward from the T&FG.

It was then:

RECOMMENDED

That the Executive be **RECOMMENDED** that:

1. Officers explore the formation of a Strategic Partnership with a Housing Association (or Housing Associations) and other partners to deliver affordable rented housing through schemes similar to those mentioned at discussion point 1 of the attendant report “Affordable Rural Housing – Final Recommendations”, with such partnership(s) to include the location of suitable sites within the district; and
2. Officers explore the setting up of a Community Land Trust modelled on the Cornwall Community Land Trust; including the possibility of working with other Devon local authorities in its formation; and
3. The list of exemplar schemes be submitted to officers and that these be used to identify best practice for sites in the South Hams.

O&S.64/21 COMMITTEE WORK PROGRAMME

It was noted that:

- The Adjourned fusion report would be presented to the next Committee meeting;
- S106 monies review would be given further consideration;
- Connecting Devon and Somerset, together with Airband, and Broadband officer should be invited to attend the next Committee meeting
- The Committee Chairman and Vice Chairman to work with officers to review the 22 April 2022 meeting agenda so that it could fit with the time available.
- A strongly worded letter to be sent to the Ambulance Service to ask why there had been no response to the invitation to come before a democratically elected body to explain why South Hams had one of the worst response times in the area.

(Meeting started at 2:00 pm and concluded at 4:32pm)

Chairman

**MINUTES OF A MEETING OF
THE EXECUTIVE
HELD IN THE COUNCIL CHAMBER ON THURSDAY, 31 MARCH 2022**

Members in attendance:			
* Denotes attendance			
∅ Denotes apologies for absence			
*	Cllr K J Baldry	*	Cllr T R Holway
*	Cllr H D Bastone (Vice Chairman)	*	Cllr N A Hopwood
*	Cllr J D Hawkins	*	Cllr J A Pearce (Chairman)

Non-Executive Members also present either in person or remotely for all or part of the meeting:
Cllrs Austen, Birch, Foss and Spencer

Officers in attendance and participating:		
All items		Chief Executive; Section 151 Officer; Director of Place and Enterprise; Monitoring Officer; and Democratic Services Manager

E.96/21 DECLARATIONS OF INTEREST

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

E.97/21 PLYMOUTH AND SOUTH DEVON FREEPORT UPDATE

The Deputy Leader introduced a report providing an update on the Plymouth and South Devon Freeport Business Case and information on the associated financial modelling.

In discussion, reference was made to:

- (a) the need for this Special Executive Meeting. When questioned, it was noted that this Special Executive meeting had been convened to enable for the Executive to consider this matter in advance of the Full Council meeting to be held later in the day;
- (b) the lack of reference in the published agenda report to apprenticeships. A Member felt it to be unfortunate that the agenda report had not included a separate section solely on apprenticeships. Whilst the initiative would lead to a number of direct benefits in relation to the provision of skilled labour apprenticeships, the Executive also wished to confirm its support to promote opportunities for apprenticeships through the operation of the Freeport;

- (c) the initiative representing a great opportunity for the Plymouth and South Devon area. Members highlighted the extent of the opportunities and far reaching benefits that would be generated by this initiative and particular reference was made to the reduction in carbon footprint that would result at Langage.

It was then:

RECOMMENDED

That the Executive **RECOMMEND** to Council to:

1. Approve South Hams District Council's full participation in the Plymouth and South Devon Freeport.
2. Approve the formation of a company limited by guarantee and for South Hams District Council (SHDC) to be a founder member alongside Devon County Council (DCC) and Plymouth City Council (PCC) to operate the Freeport
3. Delegate authority to the Director of Place and Enterprise, in consultation with the Leader of the Council, Executive Member for Economy and S151 Officer to:
 - a. submit the Full Business Case (FBC) for the Plymouth and South Devon Freeport
 - b. approve the articles of association and reserved matters for the Freeport company and enter into member agreements between SHDC, PCC and DCC, and other relevant legal agreements
 - c. Enter into the business rates retention sharing agreement with DCC, as set out in 4.22 to 4.24 of the report
 - d. Enter into land owner agreements aligned to Freeport objectives
 - e. Acquire land at Langage to deliver Freeport objectives
4. Approve borrowing up to £5m from the Public Works Loan Board (funded from the retained business rates income generated), at such time as is advised by the S151 Officer, to match fund the Freeport Government seed funding relating to the delivery of the Langage site
5. Utilise funding from the SHDC Business Rates Retention Earmarked Reserve in 2022/23 (£6,000) and 2023/24 (£57,000) to provide upfront funding to the Freeport, which will then be repaid in 2024/25 from the retained business rates income generated from 2024/25 onwards.

(Meeting commenced at 10:00 am and concluded at 10.15 am)

MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD AT FOLLATON HOUSE, TOTNES ON THURSDAY 31 MARCH 2022

MEMBERS

- * Cllr D Brown - Chairman
- * Cllr R Rowe - Vice-Chairman

- | | |
|--------------------|--------------------|
| * Cllr R Foss | * Cllr K Pringle |
| * Cllr J M Hodgson | * Cllr H Reeve |
| * Cllr T R Holway | * Cllr P C Smerdon |
| ∅ Cllr K Kemp | * Cllr B Taylor |
| ∅ Cllr G Pannell | * Cllr D Thomas |

* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

Monitoring Officer; Licensing Manager (via Teams); Licensing Contractor; Licensing Specialist; and Democratic Services Specialist

L.05/16 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 30 June 2021 and the Licensing Sub-Committee meetings held during the period 7 January 2021 to 4 August 2021 were all confirmed as a correct record and approved for signage by the Chair.

L.06/16 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting. There were no declarations made.

L.07/16 **PROPOSED AMENDMENT TO THE SOUTH HAMS HACKNEY CARRIAGE FARE TARIFF**

Consideration was given to a report that informed Members of a request that had been made to review the Hackney Carriage Fare Tariff. The report advised that, in accordance with the Local Government (Miscellaneous Provisions) Act 1976 Section 65, the Council had the power to set the fares charged within its area by Hackney Carriage (taxi) drivers, and that fares were last reviewed in 2016, coming into effect early in 2017. As it had been some time since the last review, together with the current rises in the cost of living, particularly fuel price increases, it was deemed an appropriate time to review the options open to the Council. However, the report also recognised that too large an increase could adversely impact the ability of vulnerable users to be able to afford this essential service.

Five potential options were outlined in the report, and during discussion, reference was made to:-

- (a) The number of electric and hybrid vehicles operating as hackney carriages currently, which was small, with the majority still using diesel.
- (b) Most local authorities in Devon were also in the process of reviewing their charges.
- (c) It was agreed to thank Totnes Taxis for their comprehensive representation and to ensure that representatives from Totnes Taxis were invited to any future meeting relating to charges.
- (d) It was agreed to review the fares again in two years' time, however it was acknowledged that normally it was the Trade who requested a review of taxi fares.

It was then:

RESOLVED:

That the Licensing Committee **RESOLVES** that:

1. Option 2 of the attendant report, that being: a 12.1% rise across the fare table based on the current CPI inflation figure (4.9%), plus the estimated inflationary rise since January 2018 (7.2%) be the preferred Committee option.
2. in the event that the current table of fares were to be modified, the date upon which the modifications to the maximum fares would take effect one month after the end of the fourteen-day minimum statutory consultation period, if no representations are received.
3. the departure, in this instance, from the previously adopted Maximum Chargeable Fare Setting Policy (2016), be approved on the basis that not all of the information required by that policy, for the calculation of the maximum fare, was currently readily available, and instead use the Consumer Price Index inflation rate.

(Meeting commenced at 12:00 noon and concluded at 12:40 pm).

Chairman

**MINUTES OF A MEETING OF
THE EXECUTIVE
HELD IN THE COUNCIL CHAMBER ON THURSDAY, 7 APRIL 2022**

Members in attendance:			
* Denotes attendance			
∅ Denotes apologies for absence			
*	Cllr K J Baldry	*	Cllr T R Holway
*	Cllr H D Bastone (Vice Chairman)	*	Cllr N A Hopwood
*	Cllr J D Hawkins	*	Cllr J A Pearce (Chairman)

Non-Executive Members also present either in person or remotely for all or part of the meeting:
Cllrs, Birch, Brazil, Reeve, Spencer and Taylor

Officers in attendance and participating:		
All items		Senior Leadership Team; Monitoring Officer; and Democratic Services Manager
Item 7	Minute E.102/21	Senior Specialist – Parking
Item 8	Minute E.103/21	Senior Specialists – Place Making and Housing
Item 10	Minute E.104/21	Senior Specialist – Climate Change
Items 11 and 12	Minutes E.106/21 and E.107/21	Head of Strategy & Projects

E.98/21 MINUTES

The minutes of the Executive meeting held on 3 March 2022 and the Special Executive meeting held on 31 March 2022 were both confirmed as a true and correct record.

E.99/21 DECLARATIONS OF INTEREST

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

E.100/21 PUBLIC QUESTION TIME

The Leader informed that no public questions had been received in accordance with the Executive Procedure Rules.

E.101/21 EXECUTIVE FORWARD PLAN

Members were presented with the most recently published version of the Executive Forward Plan that set out items on the agenda for Executive meetings for the next four months and duly noted its contents.

E.102/21 OFF-STREET PARKING ORDER AMENDMENT

A procedural report was considered that sought the implementation of changes within the Council's Off-Street Parking Places Order so as to remain compliant with its enforcement following changes within the associated legislation

In discussion, the reasons contained in the published agenda report for the proposed amendments at the Dartmouth Market Square and the Quayside Leisure Centre, Kingsbridge were reiterated.

It was then:

RESOLVED

1. That the Head of Assets be authorised to publish notice of proposals for the South Hams District Council (Off-Street Parking Places) Order 2022 to consolidate with amendments to the current off-street parking places order; the amendments to be made to be:
 - 1.1 The Dartmouth Market Square, Dartmouth: no parking restriction to no parking between 6.00am and 9.00am Tuesday, Friday and Saturday;
 - 1.2 To introduce no parking restrictions along the access road to Quayside Leisure Centre to the Off Street Parking Order; and
 - 1.3 For relevant parts of the Order to reflect changes to legislation in respect of Parking Enforcement; and
2. That the Head of Assets be requested to prepare a report summarising the representations received in response to the notice of proposals for consideration by the Executive before making a decision as to whether to make the off-street parking places order as proposed or with modifications.

E.103/21 BETTER HOMES BETTER LIVES YEAR 2 UPDATE AND HOMELESSNESS STRATEGY 2022-27

The Executive was presented with a report that reviewed progress made to date against the themes and priorities during the first year of the Housing Strategy and provided the new draft delivery plan for the second year. The report also sought approval for the adoption of the Joint South Hams and West Devon Homelessness Strategy 2022-27 and Joint Homelessness Strategy Action Plan 2022-23.

In discussion, the following points were raised:-

- (a) In recognising the importance of downsizing to free-up additional housing, the need to both develop smaller accommodation and to offer incentives to downsize were noted;
- (b) With regard to the action relating to the establishment of a Community Benefit Society with Registered Provider status, the request was made for swift progress to be made in order to enable for the development and delivery of affordable housing in the South Hams;
- (c) Officers apologised for the incorrect initial publication of the appendices and reference was made to the correct versions having been uploaded as a supplementary paper to the agenda. A Member expressed his personal view that the format of the report (i.e. being divided into two parts: the Housing Strategy Action Plan and the Homelessness Strategy) was unhelpful and he felt that the two items should have been standalone individual agenda items.

It was then:

RESOLVED

For Part 1 – Housing Strategy Year 2 Action Plan:

- 1. That progress made to date on 'Better Homes, Better Lives' be noted; and
- 2. That the Year 2 Action Plan be endorsed; and

For Part 2 – 2022/27 Homelessness Strategy:

- 3. That, with effect from 1 April 2022, the Joint South Hams and West Devon Homelessness Strategy 2022-27 be adopted; and
- 4. That, with effect from 1 April 2022, the Joint Homelessness Strategy Action Plan 2022-23 be adopted.

E.104/21 REVENUE AND BENEFITS SERVICE REVIEW UPDATE

Consideration was given to a report that provided an update on the service review undertaken in 2021 across the Revenues & Benefits Service, and the actions taken since then to implement the recommendations of the Review.

During discussion, reference was made to the current financial pressures that were facing households and a Member questioned whether this had started to place additional pressures on the Benefits team. In reply, officers made the following points:

- Whilst very early in the 2022/23 Financial Year, there had not yet been a noticeable impact on benefits related issues;

- It was intended that a Discretionary Benefits Payment Policy would be developed in the upcoming months that would be presented to a future Executive Meeting for further consideration; and
- A Member Briefing on the work of the Benefits Team was to be convened in the near future; and
- The general advice for all local Ward Members was that, for any constituents suffering from financial hardship who contacted them, to ask those constituents to contact the Council as soon as was practically possible.

It was then:

RESOLVED

- (i) That the achievements of the Revenues & Benefits Team in maintaining core service delivery, whilst also ensuring that businesses and residents were supported throughout the pandemic through the administration of business grants, personal grants such as Track and Trace and administering benefits schemes, be recognised;
- (ii) That the approach taken following the Revenues & Benefits Review and the subsequent Implementation Plan be endorsed;
- (iii) That the progress of the Revenues & Benefits Implementation Plan be noted and a further update in six months' time be requested;
- (iv) That the recruitment of a Head of Service for Revenues and Benefits, to be funded on a self-funding basis be endorsed. That it be noted that the next iteration of the Council's Medium Term Financial Strategy (MTFS) will increase both the annual staffing budget by £45,000 (the Council's share of the staffing cost) and the annual income from council tax by £45,000 (to reflect the anticipated increase in council tax collection rates by at least 0.5%); and
- (v) That it be endorsed that the stretching targets that the new Head of Service will be set, will mean that the Council will continue to improve collection rates across council tax and business rates generating significant further income for the District Council.

E.105/21

CLIMATE CHANGE AND BIODIVERSITY ACTION - COUNCIL NET-ZERO UPDATE

Members considered a report that set out progress and the potential carbon savings (or biodiversity net gain) from significant projects aligned to two of the three aims as stated in its Climate Change and Biodiversity Strategy, these being Aim 1, reducing its carbon footprint to net-zero by 2030 and Aim 3 increasing biodiversity on its own land by 10% by 2025.

The report also contained a business case that recommended the investment of a further £500,000, in the form of a loan to Fusion Leisure (the chosen provider for the Council's leisure facilities), to install solar arrays on the four leisure centres within the District.

In discussion, the following points were made:-

- (a) If ultimately adopted, the proposed reforms to Joint Local Plan Policy DEV 32 were recognised to be ground breaking;
- (b) Widespread support was expressed for the proposal to install solar arrays on the four leisure centres in the South Hams and it was hoped that this would be the first of many similar initiatives to come forward for Member approval;
- (c) The lead Member and lead officers were thanked for their input in allocating a grant to the Sustainable South Hams (SSH) organisation. Such was the excellent work being undertaken by SSH, a Member hoped that this would be the start of a strategic partnership between the organisation and the Council;
- (d) In respect of Council Car Parks, a Member set out his vision whereby affordable housing could be developed above these Car Parks, with each of these properties having solar panels installed on their roofs;
- (e) With regard to the opportunity for installation of solar panels on agricultural buildings, it was acknowledged that the capital finance outlay was a major barrier. As a possible solution to this barrier, the Section 151 Officer advised that exploratory and feasibility works could be undertaken into whether a loan scheme could be established.

It was then:

RESOLVED

1. That the progress on plans aligned to the aim of the Council being net-zero by 2030 and increasing biodiversity on its own land by 10% by 2025, be noted;

That Council be **RECOMMENDED** to delegate authority to the Section 151 Officer, in consultation with the Leader of the Council and the lead Executive Member for Finance to:

2. approve and agree the lending terms to Fusion Leisure for a loan of up to £500,000 to facilitate solar panel installation across all four Council Leisure Centres over the remaining term of the leisure contract, in accordance with treasury management advice; and

3. update the Council's Capital Strategy, Investment Strategy and Treasury Management Strategy for 2022/23 for a £500,000 loan provision to Fusion Leisure for the solar installation, in accordance with treasury management advice.

E.106/21

QUARTER 4 INTEGRATED PERFORMANCE MANAGEMENT REPORT

Members considered a report that set out the Integrated Performance Management report covering the Quarter 4 period (from 1 January 2022 to 31 March 2022). The report also provided detail on a revised suite of operational Key Performance Indicators for the Executive to consider.

In turn, each Executive Member presented relevant aspects of the performance report that were related to their respective portfolio areas of responsibility and paid particular attention to those actions that were currently identified as being 'not on track'.

It was then:

RESOLVED

- (i) That the progress in achieving our plans as adopted in the Better Lives for All Strategy be recognised;
- (ii) That the proposed Key Performance Indicators as set out in Appendix B of the presented agenda report be endorsed; and
- (iii) That the Executive commence work with Lead Officers on refining the 2023/24 delivery plans for consideration by Council in Autumn 2022.

E.107/21

REPORTS OF BODIES

Overview and Scrutiny Committee – 17 March 2022

The Executive was invited to consider the following recommendations that had arisen from the Overview and Scrutiny Committee meeting held on 17 March 2022:

i) O&S.61/21 Leisure Contract – Fusion Annual Report 2021

“That the Executive be RECOMMENDED to establish a Working Group to progress the much needed improvement works at Totnes Leisure Centre. The Working Group to consist of the Executive Lead for Leisure, the three local Ward Members, a representative of Tadpool, a representative of Fusion, and relevant lead officers. The first meeting to be held within four weeks of the Executive decision”.

During discussion, the Executive felt that, instead of establishing a formal Working Group, it would be more appropriate for a meeting to be set up.

As a consequence, it was **PROPOSED** and **SECONDED** and when put to the vote was declared **CARRIED**.

It was then:

RESOLVED

That a meeting be set up within four weeks of this Executive meeting to progress the much needed improvement works at Totnes Leisure Centre with invitations to this meeting being extended to: the Executive Lead Member for Leisure; the three local Ward Members; a representative of Tadpool; a representative of Fusion, and relevant lead officers.

ii) O&S.62/21 Better Lives For All Thematic Update: Community Wellbeing

“That the Executive be RECOMMENDED to NOTE that ‘Better Lives for All’ was not applying to the smaller communities in the South Hams and that it should ensure that these communities were better represented by the actions in the strategy”

During discussion, a number of Members took issue with this recommendation and, in citing a number of examples, felt it was unjust.

As a result, Members were not willing to formally accept the recommendation and it was **PROPOSED** and **SECONDED** that:

‘That the Executive does not accept the recommendation of the Overview and Scrutiny Committee in respect of Minute Reference O&S.62/21.’

When put to the vote, this alternative motion was declared **CARRIED**.

It was then:

RESOLVED

That the Executive does not accept the recommendation of the Overview and Scrutiny Committee in respect of Minute Reference O&S.62/21: ‘Better Lives for All Thematic Update: Community Wellbeing.’

iii) O&S.63/21 Task and Finish Group Updates: Housing

“That the Executive be RECOMMENDED that:

- 1. Officers explore the formation of a Strategic Partnership with a Housing Association (or Housing Associations) and other partners to deliver affordable rented housing through schemes similar to those mentioned at discussion point 1 of the attendant report “Affordable Rural Housing – Final Recommendations”, with such partnership(s) to include the location of suitable sites within the district; and*
- 2. Officers explore the setting up of a Community Land Trust modelled on the Cornwall Community Land Trust; including the possibility of working with other Devon local authorities in its formation; and*
- 3. The list of exemplar schemes be submitted to officers and that these be used to identify best practice for sites in the South Hams.”*

In discussion, the Executive felt that, specifically regarding part 3 of the recommendation, there was greater work to be undertaken by the Task and Finish Group to enable for a more informed decision to be taken. Therefore, the Executive was of the view that consideration of this matter should be deferred to a future meeting.

It was then:

RESOLVED

That the conclusions of the Review be deferred to a future Executive meeting to enable for the Task and Finish Group to undertake further work.

(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF MINUTE E.105/21 PARTS 2 AND 3 (WHICH ARE RECOMMENDATIONS TO THE COUNCIL MEETING TO BE HELD ON 19 MAY 2022) WILL BECOME EFFECTIVE FROM 5.00PM ON WEDNESDAY, 20 APRIL 2022 UNLESS CALLED IN, IN ACCORDANCE WITH SCRUTINY PROCEDURE RULE 18).

(Meeting commenced at 10:00 am and concluded at 11.35 am)

Chairman

**MINUTES OF THE SPECIAL MEETING OF
THE SALCOMBE HARBOUR BOARD
HELD AT CLIFF HOUSE, SALCOMBE, ON MONDAY, 25 APRIL, 2022**

Members in attendance			
* Denotes attendance		∅ Denotes apology for absence	
*	Cllr J Brazil (Chairman)	*	Ms A Jones
*	Cllr D Brown – via Teams and in a non-voting capacity	*	Mr A Owens
		∅	Mr C Plant
*	Cllr R J Foss	*	Mr I Shipperley
*	Cllr M Long	*	Mr I Stewart

Other Members in attendance and participating:

Cllr H Bastone (via Teams);

Item No	Minute Ref No below refers	Officers in attendance and participating
All agenda items		Director of Place and Enterprise; Salcombe Harbour Master; Monitoring Officer (via Teams); Deputy Harbour Masters; and Democratic Services Officer

SH.39/21 URGENT BUSINESS

There were no items of urgent business raised at this meeting.

SH.40/21 DECLARATIONS OF INTEREST

Members were invited to declare any interests in the items of business to be considered during the course of the meeting, and the following was made:

Mr I Stewart and Ms A Jones declared a disclosable pecuniary interest in all related agenda items by virtue of paying harbour duties. As a result of the Deputy Monitoring Officer having granted each Board Member a dispensation, they were able to take part in the debate and vote on any related matters (Minute SH.04/21 refers).

SH.41/21 GOVERNANCE AND DUTY HOLDER ARRANGEMENTS

The Monitoring Officer introduced a report which considered the role of duty holder and where this responsibility could sit. Ashford Solicitors had been commissioned to run a Board workshop to review the options available for duty holder arrangements.

During the debate the following points were raised:

- Assurances were given that moving the duty holder responsibilities to the Executive of the Council would not result in any operational changes.
- The duty holder needed to have the ability to spend significant

amounts quickly in response to any critical safety issues that may arise.

- It was acknowledged that Board Meetings were already attended by the Executive Lead Member with responsibility for Salcombe Harbour.
- The Chair of the Harbour Board would present any recommendations made by the Board to the Executive at the appropriate Executive Meeting.
- The Executive would receive training in the Maritime Code and would know their duties as Duty Holders. However, as the years of maritime experience were held within the Board, the Executive would take the advice of the Board and the Independent Person on safety issues.
- It was felt that the Executive's Duty Holder training should be bespoke and cover local governance and byelaws with the cost of this training being split between the Salcombe Harbour Authority and South Hams District Council.
- The Executive Members should be invited to join the Board twice a year for a tour of the Harbour that should include a review of the key strategic and operational issues that were facing the Harbour;
- The Asset Register to be completed, along with the risk register including safety implications, which should then be reviewed biannually and formally reported on to the Executive.
- It was confirmed that the Salcombe Harbour budget would remain ring-fenced, with the annual budget meeting being retained to enable for the Board to review proposals made to them, with resultant recommendations then being reported to the Executive for ultimate approval.
- The Board was informed that Ashford Solicitors were currently working on the drafting of a Memorandum of Understanding and Terms of Reference. Once drafts completed, these would be finalised by Director of Place and Enterprise in consultation with the Board.
- The report stated that the Board appointed its own Chairman when in fact this was the responsibility of the Council at its Annual Meeting.

It was then:

RECOMMENDED

That the Board **RECOMMEND** to Full Council that responsibility for the Council's functions as Harbour Authority, and the role of Duty Holder, should be that of the Executive, with the Harbour Board acting as an advisory Board to the Executive, in accordance with

the Memorandum of Understanding and Terms of Reference: these to be settled by Director of Place and Enterprise in consultation with the Salcombe Harbour Board.

(Meeting commenced at 2:30 pm and concluded at 3:36pm)

Chairman

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