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SOUTH HAMS AUDIT COMMITTEE - THURSDAY, 11TH APRIL, 2013

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 2)

2. **Reports**

Reports to Audit:

- a) Item 5 - Strategic Risk Assessment - 6 monthly update (Pages 3 - 28)
- b) Item 6 - Internal Audit Terms of Reference and Strategy 2013/14 (Pages 29 - 50)
- c) Item 7 - Internal Audit Plan for 2013/14 (Pages 51 - 66)
- d) Item 8 - Checklist from the Audit Commission Document - Protecting the Public Purse 2012 (Fighting Fraud against Local Government) (Pages 67 - 82)
- e) Item 9 - Progress Against the 2012/13 Internal Audit Plan (Pages 83 - 104)
- f) Item 10 - Constitution Annual Review (Pages 105 - 226)
- g) Item 11 - (Draft) External Audit 2012-13 Audit (Pages 227 - 248)

3. **Minutes** (Pages 249 - 256)

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Agenda Item 1

Please reply to: Jo Doney
Service: Corporate Services
Direct Telephone: 01803 861466
E-Mail: Jo.Doney@southhams.gov.uk

To: Chairman & Members of the Audit Committee
(Cllrs Bramble, Bruce-Spencer, Gorman, Jones and Pennington);

Our Ref: CS/JD

cc: Cllr Hicks (Lead Executive Member)
Remainder of the Council;
Usual press and officer circulation.

3 April 2013

Dear Councillor

A meeting of the **Audit Committee** will be held in the **Cary Room**, Follaton House, Plymouth Road, Totnes on **11 April 2013 at 10.00 a.m.** when your attendance is requested.

Yours sincerely

Jo Doney
Member Services Officer

<p>FOR ANY QUERIES ON THIS AGENDA PLEASE CONTACT JO DONEY MEMBER SUPPORT OFFICER ON DIRECT LINE 01803 861466</p>

A G E N D A

1. **Minutes** – to approve as a correct record and authorise the Chairman to sign the minutes of the Audit Committee held on 10 January 2013 (pages 1 to 4);
2. **Urgent Business** - brought forward at the discretion of the Chairman;
3. **Division of Agenda** - to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;
4. **Declarations of Interest** - Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests, they may have in any items to be considered at this meeting;
5. **Strategic Risk Assessment – 6 monthly update** – to consider a report that informs Members on the current situation with regard to corporate strategic risk assessment and which summarises the management/mitigation of identified risk – with an **EXEMPT Appendix** (pages 5 to 29);

6. **Internal Audit Terms of Reference and Strategy 2013/14** – to consider a report which enables the Audit Committee to review the Internal Audit Terms of Reference (Charter) and Strategy 2013/14, and which seeks approval of the documents as required by the CIPFA 'Code of Practice for Internal Audit in Local Government' (2006) (pages 30 to 51);
7. **Internal Audit Plan for 2013/14** – to consider a report that provides Members with the opportunity to review and comment upon the internal audit plan for 2013/14. (pages 52 to 66);
8. **Checklist from the Audit Commission Document – Protecting the Public Purse 2012 (Fighting Fraud against Local Government)** – to consider a report that informs Members of the position of the Council against the checklist included in the Audit Commission's publication 'Protecting the Public Purse 2012' (Fighting Fraud against Local Government) (November 2012) (pages 67 to 81);
9. **Progress Against the 2012/13 Internal Audit Plan** – to consider a report which informs Members of the principal activities and findings of the Council's Internal Audit team for 2012/13 to the 28 February 2013 (pages 82 to 124);
10. **Constitution Annual Review** - to consider a report which seeks to ensure that the Constitution is amended to reflect the changes that have either occurred in the Council over the previous year, or to implement any necessary changes to ensure that it is up to date, lawful and reflects the Council's practices (pages 125 to 128);
11. **(Draft) External Audit 2012-13 Audit Plan** – to consider the draft external audit plan for 2012-13 in the context of the challenges and opportunities the Council is facing (pages 129 to 148).

N.B. Legal and financial officers will not, as a general rule, be present throughout all meetings, but will be on standby if required. Members are requested to advise Member Services in advance of the meeting if they require any information of a legal or financial nature.

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MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

THIS AGENDA HAS BEEN PRINTED ON ENVIRONMENTALLY FRIENDLY PAPER

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Members of the public may wish to note that the Council's meeting rooms are accessible by wheelchairs and have a loop induction hearing system

AGENDA
ITEM

5

SOUTH HAMS/WEST DEVON COUNCIL

AGENDA
ITEM

5

NAME OF COMMITTEE	Audit Committee
DATE	11 April 2013
REPORT TITLE	Strategic Risk Assessment - 6 monthly update
Report of	Corporate Director (Alan Robinson)
WARDS AFFECTED	All

Summary of report:

In accordance with the Joint Risk Management Policy adopted by South Hams District Council on 10 May 2012 and by West Devon Borough Council on 17 May 2012, this report provides the required 6 monthly update for Members on the current situation with regard to corporate strategic risk assessment and a summary of the management/mitigation of the identified risks.

Financial implications:

There are no direct financial implications arising from the report, although effective corporate risk management may help protect the Councils from future losses.

RECOMMENDATIONS:

That the Audit Committees of both Councils review the strategic risks with scores over 16, as identified by officers, commenting on the nature of the risk and the risk management actions proposed, with the objective of improving corporate risk management.

Officer contact: Alan Robinson - alan.robinson@swdevon.gov.uk or by 'phone on 01822 813629

1. BACKGROUND

- 1.1 Following the recommendation of WDBC Audit Committee on 3 April 2012, the Council at its meeting on 17 May 2012 resolved to adopt the Joint Risk Management Policy.
- 1.2 Following the recommendation of SHDC Audit Committee on 5 April 2012, the Council at its meeting on 10 May 2012 also resolved to adopt the Joint Risk Management Policy.
- 1.3 The Joint Risk Management Policy requires the Senior Management Team to undertake reviews of the Corporate Risk Tables on a monthly 'light touch' basis

and more comprehensively on a quarterly basis. It also stipulates that a Corporate Director will provide update reports to both Audit Committees on a six monthly basis.

2. STRATEGIC RISK REGISTER

2.1 The risks currently monitored by SMT are set out in five tables (Confidential Appendix 1) as follows:

- Table 1 - Strategic Political Risks
- Table 2 - Strategic Management Risks
- Table 3 - Strategic Staffing Risks
- Table 4 - Strategic Financial and Asset Risks
- Table 5 - Corporate Issues Risks.

2.2 The tables include a summary of mitigating and management actions undertaken, or proposed, to manage the identified risks. Monitoring requires both a proactive approach to assessing potential risk, as well as carrying out retrospective reviews to improve learning from risk and embedding it across the organisations. Appended to the risk tables is a Risk Scoring Matrix which has been used to identify risk status. A risk rating is developed by assessing risk impact/severity and multiplying it by the likelihood/probability of the risk occurring. The risk score is the assessment based on the mitigation being successful.

2.3 The final attachment within Appendix 1 is a table which summarises the strategic risks, identifying the key risks at the point of the last review. The tables are therefore living documents and will regularly change in response to issues arising. Members should note that while risk is assessed collectively within SMT, the judgments in relation to the scores are inevitably subjective.

2.4 It is suggested that the Committees' attention is focussed on those risks with the highest score i.e. the risks with a score above 16. While members are invited to focus on the key risks, members are also welcome to review any of the risks identified, including questioning whether the risk is appropriately scored, or whether further mitigating actions are required.

3. HIGH RISK ISSUES IDENTIFIED BY SMT

3.1 Based on SMT's review of the attached risk tables, the high level risks are as follows (i.e. those with a risk score of 16 and above. For more detail please refer to the confidential risk tables attached):

Strategic Financial and Asset Risks

F3 (16) - Future major asset and service pressure;

F4 (16) - Robustness of medium term financial strategy and service blue-prints;

F6 (16) - Funding of future capital programme.

Strategic Management Risks

M2 (16) – Project Delivery – Failure to deliver projects on time and within budgets

M7 (16) - Management capacity to respond to the level of external demand generated by a combination of changes at the national level as well as customer/community requirements. This risk also relates to the capacity of staff as identified in S1 (see below).

Strategic Staffing Risks

S1 (20) - Officer capacity to implement the Connect Strategy and associated delivery plans, and the 2015 Transformation Programme, in tandem with service-based policy development, project delivery and day-to-day delivery.

S2 (16) – Loss of staff morale and inadequate resources for training and re-skilling in period of change.

Corporate Issues Risks

CI-7 (16) - Meeting Community Expectations in relation to Localism and the Planning Process.

CI-11 (20) - Tamar Valley Mining Heritage Partnership;

CI -12 (16) – Potential DNPA Enforcement Action re Travellers at Marley Head.

CI-17 (16) – Leaf sweeping – waste reclassification

- 3.2 Since the tables at Appendix 1 were last reviewed by the Committees in September 2012, a number of risks have been resolved and therefore removed from the risk register. As examples, risks that have previously been identified include those relating to HR policy differences between the two Councils; financial governance arrangements arising from shared services; and specific risks associated with the alignment of the Revenues and Benefits ICT systems across the two authorities and the potential outcome of legal action at the Focus site in Tavistock. SMT believe that all of these corporate risks have now largely been addressed.
- 3.3 Members may also wish to note that the strategic political risks initially identified in Table 1, that were associated with a combination of the election of the new Councils in 2011 in tandem with a significant reorganisation of staff, are now judged by SMT to have largely been mitigated and all the risks in this part of the register are deemed to be low.

4. LEGAL IMPLICATIONS

- 4.1 The Audit Committees have a role in keeping under review and recommending to their respective Councils improvements in relation to effective risk management.
- 4.2 There are no direct legal implications arising from the report although a strategic focus on risk management is good practice.
- 4.3 An assessment has been carried out as to whether the public interest in withholding the information in Appendix 1 outweighs the public interest in disclosing it. For some parts of the Risk Register, the public interest lies in non-disclosure due to the potential commercial/financial/legal nature of some of the risks identified.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no direct financial implications of the report, although effective corporate risk management may help protect the Councils from future losses.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	All
Statutory powers:	None specifically identified
Considerations of equality and human rights:	Factored into individual risk assessments where appropriate. Equalities Impact Review of the Risk Management Policy in hand.
Biodiversity considerations:	Factored into individual risk assessments where appropriate
Sustainability considerations:	Factored into individual risk assessments where appropriate
Crime and disorder implications:	Factored into individual risk assessments where appropriate
Background papers:	Joint Risk Management Policy
Appendices attached:	APPENDIX 1 - NOT FOR PUBLICATION <ul style="list-style-type: none">• Table 1 - Strategic Political Risk• Table 2 - Strategic Management Risks• Table 3 - Strategic Staffing Risk• Table 4 - Strategic Financial and Asset Risks• Table 5 - Corporate Issues Risks• Risk Scoring Matrix• Summary of Corporate Risk Matrix

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AGENDA
ITEM

6

SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

6

NAME OF COMMITTEE	AUDIT COMMITTEE
DATE	11 APRIL 2013
REPORT TITLE	INTERNAL AUDIT TERMS OF REFERENCE (CHARTER) & STRATEGY – 2013/14
Report of	CHIEF INTERNAL AUDITOR S.151 OFFICER
WARDS AFFECTED	ALL/CORPORATE

Summary of report:

The purpose of this report is to allow the Audit Committee to review the Internal Audit Terms of Reference (Charter) and Strategy 2013/14, and seek their approval for the documents as required by the CIPFA 'Code of Practice for Internal Audit in Local Government' (2006).

The standards for proper practice for internal audit are contained in the CIPFA Code of Practice. However, this is in the course of being updated although new guidance was not yet available at the time of writing this report. The Chief Internal Auditor maintains an Audit Manual which reflects these standards and sets out the procedures expected of the Council's Internal Audit team.

Both the Code of Practice and Audit Manual require that the Terms of Reference (Charter) and Audit Strategy are presented to the Audit Committee for review and approval. These documents are discussed in the report with the updated Terms of Reference (Charter) attached at Appendix A and the Audit Strategy at Appendix B.

Financial implications:

None, within the existing budget for internal audit.

RECOMMENDATIONS:

That the Audit Committee review and approve the Internal Audit Terms of Reference (Charter) and Strategy 2013/14.

Officer contact:

Allan Goodman, Chief Internal Auditor. *Email:* allan.goodman@swdevon.gov.uk

1. BACKGROUND

- 1.1 The Accounts and Audit Regulations, 2011 state that:
"A relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices."
- 1.2 For the purposes of the Regulations, proper practice is that contained in the CIPFA 'Code of Practice for Internal Audit in Local Government' (2006).
- 1.3 The Chief Internal Auditor maintains an Audit Manual which sets out the standards and procedures expected of the team and this has been updated to reflect the requirements of the 2006 Code of Practice. It is not intended to present the latest version, Audit Manual 2012, to the Audit Committee because of the detailed nature of the document.
- 1.4 However both the Code of Practice and Audit Manual 2012 require that the Terms of Reference and Audit Strategy are presented to the Audit Committee for review and approval.

United Kingdom Public Sector Internal Audit Standards (PSIAS)

- 1.5 2013 sees the introduction of the new United Kingdom Public Sector Internal Audit Standards (PSIAS) that will apply across the whole of the public sector. The PSIAS are based on the Institute of Internal Auditors (IIA) Standards, with a limited number of additional requirements and interpretations that allow the PSIAS to be adapted for the public sector.
- 1.6 At the time of writing this report CIPFAs 'Application Note' was only available for pre order with a March 2013 delivery promised. However, a review of the IIA's free document *Applying the IIA International Standards to the UK Public Sector* suggests that only limited changes are necessary to the Terms of Reference and Strategy. If this position changes, the Chief Internal Auditor will inform members at a later meeting of the Committee.
- 1.7 The main changes appear to be:
 - Combining the Terms of Reference and Strategy into a 'Charter';
 - Defining internal audit as: 'an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes'; and
 - A requirement for quality assurance external assessment every 5 years.
- 1.8 As the team operates to the CIPFA standards, the presentation and content of the Internal Audit Terms of Reference, Strategy and Manual will remain unchanged until the CIPFA guidance is available. The Committee will be kept informed of the situation.

2. INTERNAL AUDIT: TERMS OF REFERENCE (CHARTER) - Appendix A

2.1 The Terms of Reference were last considered by the Audit Committee in April 2010 for the year of audit 2010/11. Each year since 2010/11, the Chief Internal Auditor has confirmed that no changes were required to the Terms of Reference in the report accompanying the Audit Strategy. However, as three years has now elapsed, the Terms of Reference are presented again with the changes required for 2013.

2.2 The 2013/14 Terms of Reference have been updated having regard to the IIA's 2013 document Applying the IIA International Standards to the UK Public Sector, but have been kept in the original CIPFA format until their guidance is available.

2.3 The Terms of Reference (Charter) reflects the following:

- Statutory Requirements;
- Internal Audit's Purpose, Authority and Responsibility;
- Independence;
- Audit Management;
- Scope of Internal Audit's Work;
- Audit Reporting; and
- Audit Committee.

3. INTERNAL AUDIT STRATEGY 2013/14 - Appendix B

3.1 Standard 7 of the 2006 CIPFA Code of Practice requires the Chief Internal Auditor to produce an Audit Strategy, and this is also reflected in the Council's Internal Audit Manual 2012. As with the Terms of Reference, the Committee will be advised later if the 2013 Code requires any amendments.

3.2 The Strategy is a high-level statement of how the internal audit service will be delivered and developed in accordance with the Terms of Reference (Charter) and how it links to the organisational objectives and priorities.

3.3 It should be kept up to date with the organisation and its changing priorities and communicate the contribution that Internal Audit makes to the organisation and includes:

- Internal Audit objectives and outcomes;
- How the Chief Internal Auditor will form and evidence his or her opinion on the control environment to support the system of Internal Control and Annual Governance Statement;
- How Internal Audit's work will identify and address significant local and national issues and risks;
- How the service will be provided, i.e. internally, externally, or a mix of the two; and
- The resources and skills required to deliver the Strategy.

3.4 The Code says that the Strategy should be approved, but not directed, by the Audit Committee.

4. LEGAL IMPLICATIONS

4.1 Requirement of Section 111 Local Government Act 1972 and the Accounts and Audit Regulations 2011.

5. FINANCIAL IMPLICATIONS

5.1 None, within existing budgets.

6. RISK MANAGEMENT

6.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template, following these other considerations.

Corporate priorities engaged:	All
Statutory powers:	Section 111 Local Government Act 1972; and Accounts and Audit Regulations 2011.
Considerations of equality and human rights:	No specific equality and human rights issues arising from this report.
Biodiversity considerations:	No specific biodiversity issues arising from this report.
Sustainability considerations:	No specific sustainability issues arising from this report.
Crime and disorder implications:	No specific crime and disorder issues arising from this report.
Background papers:	IIA 2013 document Applying the IIA International Standards to the UK Public Sector; CIPFA 'Code of Practice for Internal Audit in Local Government' (2006); South Hams District Council Internal Audit Manual - 2012
Appendices attached:	Appendix A – Internal Audit Terms of Reference (Charter); Appendix B – Internal Audit Strategy 2013/14

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Requirements to provide an adequate and effective system of internal audit.	Audit's objectives and responsibilities may not reflect the Accounts and Audit Regulations requirements of providing an adequate and effective system of internal audit in accordance with the proper practices.	2	2	4	↔	<p>The Internal Audit Terms of Reference and Strategy updated and presented to the Audit Committee annually is a high level statement of how the internal audit service will be delivered in accordance with the Terms of Reference.</p> <p>An Audit Manual documenting the audit processes is maintained and reflects the CIPFA 'Code of Practice for Internal Audit in Local Government' which sets out the standards that internal audit is expected to achieve.</p>	Chief Internal Auditor
2	Opportunity	To provide an adequate and effective system of internal audit operating in accordance with the proper practices contributes to the overall control environment (system of internal control and governance framework) and the Annual Governance Statement.	2	2	4	↔	<p>An internal audit plan considering all areas of risk to the Council contributes to the overall control environment (system of internal control and governance framework) and the required Annual Governance Statement.</p>	Chief Internal Auditor

Direction of travel symbols ↓ ↑ ↔



South Hams District Council
Internal Audit
Terms of Reference (Charter) 2013/2014

South Hams District Council **Internal Audit Terms of Reference (Charter)**

Statutory Requirements

The need for an Internal Audit Service is implied by the Local Government Act, 1972 (Section 151) which requires that:

"...every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs."

In the case of South Hams District Council, the Head of Finance & Audit is the Section 151 Officer. One of the ways this duty is exercised is through the work of Internal Audit.

Specifically, the Accounts and Audit Regulations, 2011 state that:

"A relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices."

For the purposes of the Regulations, proper practice is that contained in the CIPFA 'Code of Practice for Internal Audit in Local Government' (2006), but having regard to the Institute of Internal Auditors (IIA) 2013 document Applying the IIA International Standards to the UK Public Sector;

Internal Audit's Purpose, Authority and Responsibility

The Institute of Internal Auditor's 2013 document 'Applying the IIA International Standards to the UK Public Sector' defines internal audit as 'an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes'

To meet this definition, Internal Audit undertakes examinations of systems in order to:

- establish the strengths and weaknesses in each system following a formal risk appraisal;
- test the controls to establish whether they are reliable or not; and
- report to management on the findings of such reviews in order to allow corrective action to be taken.

It is the responsibility of Internal Audit to review, appraise and report upon:

- the soundness, adequacy and application of internal control, risk management and corporate governance;

South Hams District Council **Internal Audit Terms of Reference (Charter)**

- the extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds arising from:
 - a) fraud and other offences;
 - b) error; and
 - c) poor housekeeping, i.e. reviewing economy, efficiency and effectiveness with which resources are employed.
- the completeness, suitability, reliability and integrity of financial and other management information developed within the organisation (Data Quality);
- the systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by management of the Council or externally. These include in particular the Council's Contract and Financial Procedure Rules; and
- whether operations are being carried out as planned and objectives and goals are being met.

Internal Audit will be given right of access to all records, assets, personnel and premises, including those of partner organisations, and its authority to obtain such information and explanations as it considers necessary to fulfil its responsibilities. This right will be established in the Council's Financial Procedure Rules within the Constitution.

Independence

Internal Audit should be independent of the activities that it audits.

Organisational Independence

The status of Internal Audit should enable it to function effectively. The support of the Council is essential and recognition of the independence of Internal Audit is fundamental to its effectiveness.

The Chief Internal Auditor should have direct access to and freedom to report in his or her own name and without fear or favour to, all officers and members and particularly to those charged with governance (the Audit Committee). In the event of the necessity arising, the facility also exists for Internal Audit to have direct access to the Chief Executive (as head of paid service), the S.151 Officer and the Chair of the Executive and/or the Audit Committee.

The Council should make arrangements for Internal Audit to have adequate budgetary resources to maintain organisational independence. Any delegation of budgets for Internal Audit to service level must not compromise the scope of Internal Audit or the ability of Internal Audit to provide an annual opinion to the Audit Committee as part of the assurance for the Annual Governance Statement.

South Hams District Council **Internal Audit Terms of Reference (Charter)**

Status of the Chief Internal Auditor

The position of the Chief Internal Auditor in the management structure should reflect the influence he or she has on the control environment and he or she should not report to or be managed at a lower organisational level than the corporate management team.

The Chief Internal Auditor should have sufficient status to facilitate the effective discussion of audit strategies, audit plans, audit reports and action plans with senior management and members of the Council.

Independence of Auditors

Each Internal Auditor:

- must have an objective attitude of mind and be in a sufficiently independent position to be able to exercise judgment, express opinions and present recommendations with impartiality;
- notwithstanding employment by the Council, must be free from any conflict of interest arising from any professional or personal relationships or from any pecuniary or other interests in an activity or organisation which is subject to audit;
- must be free from undue influences which either restrict or modify the scope or conduct of their work or significantly affect judgment as to the content of the internal audit report; and
- must not allow their objectivity to be impaired by auditing an activity for which they have or have had responsibility.

Should any of the above situations arise the Chief Internal Auditor should immediately be informed. A record of any interest shall be recorded in the Council's register of such interests. The Chief Internal Auditor shall, thereafter, assess the need to arrange for alternative arrangements to carry out the assignment.

In the exceptional circumstances that an internal audit contractor is used, steps will be taken to avoid or manage any perceived conflicts of interest e.g. using a contractor who also provides non internal audit services to the organisation will be either avoided or managed accordingly. A record of any interest shall be recorded in the Council's register of such interests.

Audit Management

The Chief Internal Auditor will:

- determine the priorities of, deliver and manage the Council's internal audit service through a risk based audit plan;

South Hams District Council **Internal Audit Terms of Reference (Charter)**

- produce a Strategy to explain how the service will be delivered and reflect the resources and skills required by the Chief Internal Auditor and auditors;
- regularly liaise with the Council's external auditors to ensure that scarce audit resources are used effectively;
- be accountable, report and build a relationship with the Council's Audit Committee and S.151 Officer; and
- monitor and report upon the effectiveness of the service delivered and compliance with professional and ethical standards.

The Chief Internal Auditor is required to give an annual audit opinion on the control environment based on the audit work done.

The Scope of Internal Audit's Work

Management has the responsibility to establish and assess internal control so that its activities are conducted in an efficient and well ordered manner. Internal control comprises the whole system of procedures, both financial and otherwise, which are established by management to:

- safeguard its assets;
- ensure reliability of records;
- promote operational efficiency; and
- monitor adherence to policies and directives.

Internal Audit is an element of internal control, and its remit includes the entire control environment and governance framework.

If the Chief Internal Auditor or the Audit Committee considers that the level of audit resources or the terms of reference in any way limit the scope of Internal Audit, or prejudice the ability of Internal Audit to deliver a service consistent with the definition of internal audit, they should advise the Council accordingly.

The scope of audit work extends to services provided through partnership arrangements.

The Chief Internal Auditor will decide, in consultation with all parties, whether Internal Audit staff conduct the work to derive the required assurance themselves or rely on the assurances provided by other auditors. Where necessary, the Chief Internal Auditor will agree appropriate access rights in order to obtain the necessary assurances.

Audit Planning

Internal audit work must be adequately planned, controlled and recorded in order to achieve the agreed objectives, to establish audit priorities and to ensure the effective use of audit resources.

South Hams District Council **Internal Audit Terms of Reference (Charter)**

The Chief Internal Auditor will prepare a risk-based audit plan designed to implement the Audit Strategy.

In preparing the plan, the Chief Internal Auditor should take account of the adequacy and outcomes of the organisation's governance, risk management, performance management and other assurance processes. Where the outputs from those processes are not judged to be sufficiently reliable, the Chief Internal Auditor should undertake his or her own risk assessment and consult stakeholders on the draft plan and revise the plan if appropriate.

Internal Audit plans will, in so far as is practicable, link back to the Council's corporate objectives, be coordinated with other internal review programmes and assurance streams, and be communicated to the senior management team and Audit Committee.

Other Work

Internal Audit may also, where the resources and appropriate skills allow, provide additional services, including fraud-related and consultancy work. These services apply the professional skills of Internal Audit through a systematic and disciplined approach in line with the principles of the Council's Internal Audit Manual and may contribute to the opinion that Internal Audit provides on the control environment.

The Chief Internal Auditor must have regard to the impact on the approved audit plan and any potential conflicts of interest. The S.151 Officer must be informed where such services are to be provided.

Fraud and Corruption

It is management's responsibility to maintain the internal control system and to ensure that the organisation's resources are properly applied in the manner and on the activities intended. This includes responsibility for managing the risk of fraud and other illegal acts and informing the Chief Internal Auditor when fraud is suspected or identified.

The Chief Internal Auditor will feed such information into the audit team's work programme and the opinion on the internal control environment as appropriate. Internal Audit shall have regard to the possibility of such malpractice during their work and shall seek to identify serious defects in internal control, which might permit the occurrence of such an event. However, Internal Audit has no responsibility for the prevention of fraud and audit procedures cannot guarantee fraud or corruption will be detected.

Internal Audit will also act upon reports issued to it via the Council's Confidential Reporting (Whistleblowing) Policy.

South Hams District Council **Internal Audit Terms of Reference (Charter)**

Internal Audit shall upon discovery or upon gaining firm evidence, report reasonable suspicions to the appropriate level of management. The Council's Anti Fraud, Corruption and Bribery Policy and Strategy & related response plan requires that any suspected fraud or irregularity is reported to the Head of Finance & Audit for further investigation, and to the Monitoring Officer.

Once Internal Audit has completed its investigation it is management's responsibility, through reference if necessary to the Code of Conduct, to determine what further level of action to take and to ensure that controls are strengthened.

The framework for Internal Audit's involvement in fraud investigation and prosecution is set out in the Council's approved Anti Fraud, Corruption and Bribery Policy and Strategy.

Audit Reporting

The primary purpose of Internal Audit reporting is to communicate to management within the organisation information that provides an independent and objective opinion on governance, the control environment and risk exposure and to prompt management to implement agreed actions.

The Chief Internal Auditor should have direct access and freedom to report in their own name and without fear or favour to, all officers and members, particularly to those charged with governance (the Audit Committee).

Reports should be accurate, clear, concise, and constructive. They should be issued promptly and within laid-down timescales.

The aim of every internal audit report should be:

- to give an opinion on the risk and controls of the area under review, building up to the annual opinion on the control environment;
- to prompt management to implement the agreed actions for change leading to improvement in governance, risk management, the control environment and performance; and
- to provide a formal record of points arising from the audit and, where appropriate, of agreements reached with management, together with appropriate timescales.

Audit Committee

The Specific Functions of the Audit Committee are set out in the Council's Constitution (Part 3 Delegation Scheme) under three headings: Audit Activity; Internal Control and Financial Reporting.

South Hams District Council **Internal Audit Terms of Reference (Charter)**

The shared interests of the Audit Committee and Internal Audit suggest that there needs to be an effective working relationship between them.

That relationship has three elements:

- the approval (but not direction) of, and monitoring of progress against, the internal audit strategy and plan;
- using the results of Internal Audit's work to satisfy some of the Audit Committee's objectives (and vice versa); and
- aligning the operations of the Committee and Internal Audit, as far as possible without compromising their individual responsibilities, to make best use of resources.

The Chief Internal Auditor must balance being appropriately accountable to the Committee, helping the committee to be effective, with relationships with others e.g. the S.151 Officer.

To facilitate the work of the Committee, the Chief Internal Auditor will:

- attend its meetings, and contribute to the agenda;
- participate in the Committee's review of its own remit and effectiveness;
- ensure that it receives, and understands, documents that describe how Internal Audit will fulfil its objectives (e.g. the Audit Strategy, annual work programmes, progress reports);
- report the outcomes of internal audit work, in sufficient detail to allow the committee to understand what assurance it can take from that work and/or what unresolved risks or issues it needs to address;
- establish if anything arising from the work of the committee requires consideration of changes to the audit plan, and vice versa;
- present an annual report on the effectiveness of the system of internal audit; and
- present an annual internal audit report including an overall opinion on the control environment, and a summary of any unresolved issues.

The Chief Internal Auditor should also have the opportunity to meet privately with the Audit Committee.

Internal Audit - Terms of Reference

The Chief Internal Auditor will advise the Audit Committee on behalf of the Council on the content of the Terms of Reference and the need for any subsequent amendment. The Terms of Reference should be approved and regularly reviewed by the Audit Committee.



South Hams District Council
Internal Audit Strategy 2013/14

South Hams District Council **Internal Audit Strategy 2013/14**

Introduction

The Accounts and Audit Regulations 2011 state that:

"A relevant body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with the proper practices."

For the purposes of the Regulations, proper practice is that contained in the CIPFA 'Code of Practice for Internal Audit in Local Government' (2006).

Standard 7 of this Code requires the Chief Internal Auditor to produce an Audit Strategy, and this is reflected in the Council's Internal Audit Manual 2012, which states that the Strategy:

- Is a high-level statement of how the internal audit service will be delivered and developed in accordance with the Terms of Reference and how it links to the organisational objectives and priorities. The Strategy can be presented as a document in its own right or integrated into an existing document, such as the business or service plan. It sets the context within which more detailed plans can be developed.
- Will communicate the contribution that Internal Audit makes to the organisation and should include:
 - Internal Audit objectives and outcomes;
 - how the Chief Internal Auditor will form and evidence his or her opinion on the control environment to support the Annual Governance Statement;
 - how Internal Audit's work will identify and address significant local and national issues and risks;
 - how the service will be provided, i.e. internally, externally, or a mix of the two; and
 - the resources and skills required to deliver the Strategy.
- Should be approved, but not directed, by the Audit Committee.
- The Strategy should be kept up to date with the organisation and its changing priorities;

Internal Audit Objectives and Outcomes

The primary objective of the Internal Audit team is to provide an independent and objective opinion to the Council on the control environment and governance framework by evaluating its effectiveness in achieving the organisation's objectives through examining, evaluating and reporting on their adequacy as a contribution to the proper, economic, efficient use of resources.

To achieve this primary objective, the Council's Chief Internal Auditor aims to fulfil the statutory responsibilities for Internal Audit by:

- Identifying all of the systems, both financial and non financial, that form the Council's control environment and governance framework, and contribute to it meeting its obligations and objectives – the 'Audit Universe';

South Hams District Council **Internal Audit Strategy 2013/14**

- Creating an audit plan that will enable Internal Audit to carry out reviews covering all of the Audit Universe over a period of 5-years, prioritised through a risk assessment;
- Translating the 5-year audit plan into an annual plan by reassessing the risk for each audit area against emerging risks and the Council's Risk Registers;
- Undertaking individual audit reviews, to the standards set by CIPFA's Code of Practice for Internal Audit, to independently evaluate the effectiveness of internal control;
- Providing managers with an opinion on and recommendations to improve the effectiveness of risk management, control and governance processes as to:
 - the extent to which the Council's assets and interests are accounted for and safeguarded from losses of all kinds;
 - the completeness, suitability, reliability and integrity of financial and other management information developed within Council (Data Quality);
 - the systems established to ensure compliance with policies, plans, procedures, laws and regulations, i.e. rules established by management of the Council or externally. These include in particular the Council's Contract and Financial Procedure Rules;
 - whether operations are being carried out as planned and objectives and goals are being met.
- Providing managers with advice and consultancy on risk management, control and governance processes;
- Liaising with the Council's external auditors to ensure efficient use of scarce audit resources through the avoidance of duplication wherever possible; and
- Providing the Council through the Audit Committee with an opinion on internal control as a contribution to the System of Internal Control and Annual Governance Statement.

Opinion on Internal Control

As stated above one of the key objectives of Internal Audit is to communicate to management within the Council information that provides an independent and objective opinion on their control environment and risk exposure, and to prompt management to implement agreed actions.

Significant issues and risks are to be brought to the attention of the S.151 Officer as and when they arise. For routine work a written monthly report highlighting the 'opinions' communicated to managers and the performance of the Internal Audit team is to be provided by the Chief Internal Auditor copied to this officer. A formal monthly meeting must also be held to discuss issues arising and other matters.

The Chief Internal Auditor must report progress against the annual audit plan and any emerging issues and risks to the Audit Committee quarterly in a format agreed between the parties.

The Chief Internal Auditor must also provide a written annual report to the Audit Committee timed to support their recommendation to approve the Annual Governance Statement to the Council.

South Hams District Council **Internal Audit Strategy 2013/14**

The Chief Internal Auditor's annual report to the Audit Committee must:

- (a) Include an opinion on the overall adequacy and effectiveness of the Council's control environment;
- (b) Disclose any qualifications to that opinion, together with the reasons for the qualification;
- (c) Present a summary of the audit work from which the opinion is derived, including reliance placed on work by other assurance streams;
- (d) Draw attention to any issues the Chief Internal Auditor judges particularly relevant to the preparation of the Annual Governance Statement;

And for the system of internal audit:

- (e) Compare the audit work actually undertaken with the work that was planned and summarise the performance of the internal audit function against its performance measures and targets; and
- (f) Comment on compliance with these standards and communicate the results of the internal audit quality assurance programme.

Planning including Local and National Issues and Risks

The audit planning process is subject to a risk assessment at all stages of the process: the 5-year plan; annual plan and individual audit reviews.

Prioritising the 5-year plan is completed using a risk assessment scoring methodology that takes account of: the £k value; inherent risk (definition below); political sensitivity; when last audited; and the impact on other systems. This forms the basis of the resources allocated to each planned audit area.

Updating the original risk assessment above to create an annual audit plan includes taking account of emerging risks, both local and national, through consideration of the:

- Council's Risk Registers;
- Minutes of the Council, Executive, Scrutiny Panels and Senior Management Team;
- Issues arising from the previous year's audit reviews, including those covering the Risk Management and Corporate Governance frameworks (Annual Governance Statement);
- National issues highlighted by professional bodies such as CIPFA's Finance Advisory Network (FAN), National Anti Fraud Network (NAFN) or the Council's external auditor; and
- Liaison with other Internal Audit teams on a formal and informal basis.

Further planning and risk assessment is required at the commencement of each individual audit review to establish the scope of the audit and the level of testing required.

This considers:

- The objectives of the activity being reviewed;
- When it was last audited, the results of that review and whether the recommendations made have been implemented;

South Hams District Council **Internal Audit Strategy 2013/14**

- Any changes to the system since the last audit;
- The results of an analytical review (comparison of the data for the year of audit with the previous year's equivalent, taking account of expected changes);
- The inherent risk: the level of risk to the Council of the system if there were no controls in place, such as the vulnerability to fraud and if there are any known incidents of fraud, and the means by which the potential impact of risk is kept to a minimum;
- The quality, experience and morale of officers involved in the system; and
- Impact on the control environment of service reviews by managers and the results of any relevant performance indicators.

Provision of Internal Audit

The Internal Audit service is provided on behalf of the Council by a small team of in-house auditors. Past benchmarking of the cost of Internal Audit when compared with other Councils has shown that it is a cost effective service that continues to meet the requirements of its stakeholders.

The Chief Internal Auditor has established policies and procedures in an Audit Manual to guide staff in performing their duties and complying with the latest available CIPFA Code of Practice. The manual is regularly reviewed and updated to reflect changes in working practices and standards.

Internal Audit Performance Management and Quality Assurance

The CIPFA Standards and the Council's Audit Manual state that performance, quality and effectiveness should be assessed at two levels:

- For each individual audit; and
- For the internal audit service as a whole.

The documents also state that the Chief Internal Auditor should have in place a performance management and quality assurance framework to demonstrate that the internal audit service is:

- (a) Meeting its aims and objectives;
- (b) Compliant with the CIPFA Code of Practice;
- (c) Meeting internal quality standards;
- (d) Effective, efficient, continuously improving; and
- (e) Adding value and assisting the organisation in achieving its objectives.

This performance management and quality assurance framework must include, but not be limited to:

- A comprehensive set of targets to measure performance, developed in consultation with appropriate parties. Performance measures should be included in any service level agreement. The Chief Internal Auditor should measure, monitor and report appropriately on the progress against these targets;
- Seeking user feedback for each individual audit and periodically for the whole service;

South Hams District Council
Internal Audit Strategy 2013/14

- A periodic review of the service against the Strategy and the achievement of its aims and objectives. The results of this should inform the future Strategy and be reported to the Audit Committee;
- Internal quality reviews to be undertaken periodically to ensure compliance with this Code and the Audit Manual (self assessment);
- An external assessment every 5 years with the scope agreed by an appropriate sponsor; and
- An action plan to implement improvements.

The following table shows the key performance indicators used by the service.

Table 1: Internal Audit Key Performance Indicators

	<u>Current Target, and, Frequency of Measure</u>
➤ Achievement of the annual audit plan.	95% Monthly
➤ Percentage of draft audit reports issued within 10 working days of the completion of the audit.	100% Annually
➤ Percentage of final audit reports issued within 10 working days of the discussion and agreement of the draft audit report.	100% Annually
➤ Customer Survey: Responses Received; Audit Planning - Consultation; Objectives Quality of Audit Report - Clarity; Accuracy; Value; Presentation	90% Annually 90% Annually
Communication - Feedback; Helpfulness; Professionalism; Timeliness.	90% Annually
➤ Overall cost, with/without oncosts/recharges	£ Annually
➤ Average cost per audit day: direct costs, and with/without oncosts/recharges.	£ Annually £ Annually
➤ The percentage of audit reports where the agreed recommendations were satisfactorily actioned, or follow up indicator to align with other audit teams to be agreed later with the Chairman and reported to the Committee.	90% Annually

Once collated the indicators must be reported to the S.151 Officer on either a monthly or annual basis in line with collection and to the Audit Committee quarterly and/or annually. Performance indicators should be presented with prior year's equivalent to aid comparison.

Performance indicators or targets may be amended from time to time with the prior agreement of the Audit Committee.

South Hams District Council **Internal Audit Strategy 2013/14**

The Chief Internal Auditor needs to ensure that the performance and the effectiveness of the service improve over time, in terms of both the achievement of targets and the quality of the service provided to the user.

West Devon Borough Council (Shared Service)

The Internal Audit team consists of 3 whole time posts, the Chief Internal Auditor, Senior Auditor and an Auditor. These posts are employed by South Hams District Council but staff costs are shared on a proportionate basis with West Devon Borough Council, based on the internal audit team delivering an audit plan of 105 days to West Devon Borough Council. The shared internal audit service is providing an annual saving of £25,000 to South Hams District Council.

Separate Terms of Reference (Charter) and Audit Strategy Documents are presented to the West Devon Borough Council's Audit Committee.

Collaboration with Teignbridge District Council (Shared Service)

Several years ago the Shared Service Joint Steering Group considered the proposals of a business case for a shared service presented by South Hams (SHDC), Teignbridge (TDC) and West Devon District/Borough Councils.

For SHDC and TDC the accepted proposal was for an extension of the collaboration between the internal audit teams with exchange of audit resources, skills, training and key documents.

Details are available in the related report to the Audit Committee (minute reference: A14/08). At this meeting members also accepted in principle of the mutual assurance of the high priority of both Councils' audit plan in times of crisis, subject to the specific approval of the Chairman. TDC Audit Committee made the same commitment.

This arrangement has not been formally rescinded by members and therefore continues.

Resources and Skills

Resources

The CIPFA Standards and the Council's Audit Manual states that:

- Internal Audit must be appropriately staffed in terms of numbers, grades, qualifications and experience, having regard to its responsibilities and objectives, or have access to the appropriate resources;
- The Internal Audit service shall be managed by an appropriately qualified professional with wide experience of internal audit and of its management;
- The Chief Internal Auditor should be of the calibre reflecting the responsibilities arising from the need to liaise with members, senior management and other professionals, and be suitably experienced.

The approved Internal Audit establishment for the Council consists of 2.9 whole time posts, the Chief Internal Auditor (33.5 hours per week), Senior Auditor and an Auditor.

South Hams District Council **Internal Audit Strategy 2013/14**

Internal Audit is not immune to the financial pressures on the Council, but must balance any savings against the principles of this Strategy and the Terms of Reference (Charter). The Chief Internal Auditor's post has now been formally reduced to 33.5 hours, which is the level operated through 2012/13. To minimise the impacts on the assurance provided to the Council, the target for completion of 90% of the annual audit plan will be increased to 95% and with such it is considered that the level of staffing will prove to be adequate.

Specialist Areas

From time to time, additional resources will be brought in to provide assurance on certain specialist areas such as Value Added Tax (VAT) and Income Tax (PAYE) at the discretion of the S.151 Officer in consultation with the Chief Internal Auditor. The Audit Committee will be kept informed.

Shared Services - West Devon and Teignbridge

No additional staff resource has been made available to the South Hams team in providing **West Devon Borough Council** with 105 days of service. This arrangement was originally enabled in 2010/11 by reducing the frequency of lower priority audit work to once in 5 years from the previous 3 year duration and critically examining the approach to some of the significant financial systems, such as benefits, with the external auditor. The decision was taken following liaison with the Audit Commission and ensuring that the CIPFA Code of Practice does not prevent such a change.

The ongoing issue is whether the coverage is sufficient to enable the Chief Internal Auditor to provide an opinion on the Council's control environment. This can be achieved particularly with a suitable time allowance for follow up work to be thoroughly completed (taking coverage into a second year), and ensuring that sample testing in the other larger systems such as creditors and debtors includes areas not covered annually.

In addition the regular reassessment of the plan, based on emerging risk, will bring forward work on areas covered once in 5 years if significant changes occur.

Dealing with Alleged Fraud at Either Council

The main threat to completing the targeted % of the annual audit plan is the requirement for Internal Audit to investigate fraud. A contingency budget is built into the audit plan to provide cover for such eventualities, as well as other unexpected tasks such as advice to managers on control or internal financial regulations, contributions to the setting up of new systems or unexpected additional work on planned audits.

In extreme cases the contingency budget may prove insufficient for large scale investigations. In the circumstances where this occurs and where there is likely to be an impact on the remainder of the annual audit, the Chief Internal Auditor must discuss the situation with the S.151 Officer to enable a decision to be made to seek additional temporary resources if appropriate. The same comment applies to other staffing shortages brought about by long term sickness absence, vacant posts etc.

Mutual Assurance for/by Teignbridge District Council

As discussed above under the title 'Provision of Internal Audit', the Audit Committee has accepted (as has TDC's Audit Committee) that the teams will mutually assure the high

South Hams District Council **Internal Audit Strategy 2013/14**

priority work of each others plan in the time of crisis, with the specific approval of the Chairmen. This has not been formally rescinded by members at either Council.

In practical terms, such work will reduce the available resources for low priority audit work for the team providing assistance. However, the outcome may be the delivery of plans to an acceptable level at both Councils, without the additional cost of external resources. It is the responsibility of the audit managers of SHDC and TDC, in association with the S.151 Officer and the Chairman of the Audit Committee, to ensure that making additional resources available to the other team does not result in a shortfall in audit coverage that may undermine the System of Internal Control.

Skills

The Chief Internal Auditor's duty is to recruit staff with the appropriate professional background, personal qualities and potential. He or she is responsible for ensuring that up-to-date job descriptions exist that reflect roles and responsibilities and that person specifications define the required qualifications, competencies, skills, experience and personal attributes.

Internal Audit staff must also be properly trained to fulfil all their responsibilities. The Chief Internal Auditor will periodically assess individual auditors against these predetermined skills and competencies using the Council's formal appraisal system.

Any training or development needs identified will be included in an appropriate ongoing development programme that is recorded and regularly reviewed and monitored both within and outside of the appraisal process. A copy of the appraisal training programme will be sent to personnel with the appraisal as the corporate system requires.

Time will be allowed within the annual audit plan to allow internal audit staff to receive the relevant training.

In addition, the Chief Internal Auditor will allocate work to reflect the skills and experience required for the specific task, although it is essential that a balance is struck between knowledge and client relationships built through continuity and the need for audit staff to develop by auditing areas that they have not previously covered.

In some circumstances, there may be a skill shortage within the Internal Audit team as a whole e.g. specialist audit areas such as technical computer audit. Where this applies the advice of specialists should be sought from within the Council, from colleagues at Teignbridge District Council or other neighbouring Councils or the external auditor. In extreme situations, the services of a consultant may need to be bought in but the Chief Internal Auditor will only do this with the consent of the S.151 Officer. The Audit Committee will be informed in such cases.

AGENDA
ITEM
7

SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM
7

NAME OF COMMITTEE	AUDIT COMMITTEE
DATE	11 APRIL 2013
REPORT TITLE	INTERNAL AUDIT - PLAN FOR 2013/14
Report of	CHIEF INTERNAL AUDITOR, and S.151 OFFICER
WARDS AFFECTED	ALL

Summary of report:

The 'CIPFA Code of Practice for Internal Audit in Local Government 2006' defines internal audit as 'an assurance function that provides an independent and objective opinion to the organisation on the control environment by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient use of resources'.

The purpose of this report is to provide Members with the opportunity to review and comment upon the internal audit plan for 2013/14. The plan aims to optimise the use of the scarce and finite audit time available and enable the Chief Internal Auditor to provide an opinion on the adequacy, effectiveness and reliability of the Council's system of internal control, which will subsequently feed into the Annual Governance Statement.

Financial implications:

None, within existing budgets for Internal Audit provision.

RECOMMENDATIONS:

That the Audit Committee review and comment upon the Internal Audit Plan 2013/14 and the linked 2013/14 Computer Audit Plan.

Officer contact:

For further information concerning this report, please contact:
Allan Goodman, Chief Internal Auditor allan.goodman@southhams.gov.uk

1. BACKGROUND

- 1.1 The Accounts and Audit Regulations 2011 and Section 54 of the Local Government Act 1972 provide the legal basis for the establishment of internal audit in local authorities. Paragraph 5 of the Act states that 'A relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems'.
- 1.2 The 'CIPFA Code of Practice for Internal Audit in Local Government 2006' defines internal audit: 'Internal Audit is an assurance function that provides an independent and objective opinion to the organisation on the control environment by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient use of resources'.
- 1.3 The Code requires that the legal, constitutional and professional basis of the service is set out in Terms of Reference which are also presented to this Audit Committee, April 2013 under separate cover.
- 1.4 In addition, an Internal Audit Strategy states, at a high-level, how the internal audit service will be delivered and developed in accordance with the Terms of Reference. The Internal Audit Strategy 2013/14 also accompanies this plan but under separate cover.

2. INTERNAL AUDIT PLAN FOR 2013/14

- 2.1 The internal audit plan for the forthcoming year 2013/14 is based on the 5 year plan.

5-year Audit Plan 2010/11 to 2014/15

- 2.2 A 5-year plan has been drawn up to cover the period 2010/11 to 2014/15 which was presented to and accepted by the Audit Committee in April 2010.
- 2.3 Once the relevant systems and processes were identified an assessment of risk was applied based on a statistical methodology derived from an Institute of Internal Auditors approach, that took account of the:
- Value of transactions;
 - Complexity of the system;
 - Inherent risk (vulnerability to fraud or error);
 - Political sensitivity;
 - Time since last audit; and
 - Impact on other systems.
- 2.4 The resulting scores formed the basis of the priority rating, and the number of days to be spent on each system as a proportion of the days available.

- 2.5 A rating of 1 is audit work carried out annually as required in cases of high internal risk plus external influences such as the External Auditor or other inspection regimes; 2 is to an annual audit as a result of the assessed risk to the Council; and, 3 is a lower audit risk and frequency of coverage of once in five years.

Annual Audit Plan 2013/14 (Appendix A)

- 2.6 The 2013/14 annual plan has been developed from the 5-year Audit Plan 2010/11 to 2014/15 discussed above following an updated risk assessment using the criteria discussed at 2.3 to 2.5 above. In addition work is carried out to identify any emerging risks using information from: the Council/Committee minutes; external sources such as CIPFA and the Audit Commission; the Council's risk register; and cumulative audit knowledge. Heads of Service were also invited to contribute to the annual audit plan.

- 2.7 Other factors that result in a variation to the original 5-year plan are:

- Where there has been, or expected to be, significant changes to a system e.g. new computer software;
- Legislative changes; and
- Adjustment of days for some individual audits to reflect the practicalities of carrying out the work;

- 2.8 Key differences with the 5 year audit plan are:

Removed: Car Loans 6 days – currently no car loans;
Dartmouth Town Council 5 days – arrangement ended;
Performance Indicators 25 days – change to audit requirements for PIs;
Sustainability 10 days – deferred to 2014/15.

Added: West Devon Borough Council 25 days – shared service;
Specific Counter Fraud activities 10 days – as previously reported to the Committee;
Data Protection and Freedom of Information 8 days – deferred from 2012/13.

- 2.9 The 2013/14 audit plan also sets out the proposed quarters in which the audit work will take place, although in certain areas this will always be flexible. In normal circumstances the timing and detailed work plans will be drawn up following consultation with the client managers.

Computer Audit Plan 2013/14 (Appendix B)

- 2.10 For 2013/14, the computer audit work is to be resourced internally from the annual audit plan (26 days), and linked wherever it is practical, to the work in the main audit plan.

2.11 The intention is to maintain the coverage set out in the 5-year Computer Audit Plan presented to the Audit Committee in April 2010.

3. LEGAL IMPLICATIONS

3.1 In accordance with the Constitution, it is the responsibility of the Audit Committee to consider the internal audit plan for the forthcoming year (Appendix A).

3.2 There are no direct legal implications of the internal audit plan.

4. FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications of the internal audit plan outside of the existing budgets.

5. RISK MANAGEMENT

5.1 The risk management implications follow this table:

Corporate priorities engaged:	The report meets all of the corporate priorities
Statutory powers:	Accounts and Audit Regulations 2003 and 2006 Section 54 of the Local Government Act 1972
Considerations of equality and human rights:	There are no considerations required of equality and human rights for this report
Biodiversity considerations:	There are no biodiversity considerations for this report
Sustainability considerations:	There are no sustainability considerations for this report
Crime and disorder implications:	There are no crime and disorder considerations for this report
Background papers:	Internal Audit Plan 2013/14 Strategy and Terms of Reference 5-Year Internal Audit Plan – Audit Committee June 2010
Appendices attached:	Appendix A – Internal Audit Plan 2013/14 Appendix B – Computer Audit Plan 2013/14

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Opportunity relating to the provision of assurance to Members, managers and other stakeholders.	The audit plan and its coverage contribute to the Council's system of internal control and therefore provide reasonable assurance that service objectives will be met.	2	2	4	↔	<p>Audit plans include all areas of potential coverage and direct audit resources to the areas most beneficial to the Council and so scarce audit resources are used in a way that provides the necessary assurance.</p> <p>The audit plan is reassessed through the year to compare emerging risks with the original risk assessment. Any emerging risk that is considered to require audit coverage during the year is included at the expense of the lowest priority areas.</p> <p>The revision is reported to senior managers including the S.151 Officer and Audit Committee.</p>	Chief Internal Auditor; S.151 Officer
2	Opportunity relating to Internal Audit as a shared service	A shared internal audit service between South Hams and West Devon provides the opportunity for both Councils to employ a dedicated professional team at a reduced cost to the council tax payer.	2	2	4	↔	<p>Improved efficiency in audit coverage by aligning, where local circumstances permit, audit plans.</p> <p>Auditors are able to make use of research on a given topic for more than one audit, and share good practice observed with managers at both Councils.</p>	Chief Internal Auditor; S.151 Officer

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
3	Internal Audit forms part of the Council's system of internal control	The audit plan and its coverage may not contribute to the Council's system of internal control as required by the related guidance.	2	2	4	↔	Identification of the Audit Universe and subsequent assessment of risk. The audit plan is presented for review and comment to senior managers (including the S.151 Officer), Audit Committee and the external auditor. The Audit Committee's role includes monitoring performance against the plan and action on significant issues identified. The audit plan is linked to the Council's priorities.	Chief Internal Auditor; S.151 Officer
4	Audit plans are risk based.	Audit plans do not direct audit resources to the areas most beneficial to the Council and so scarce audit resources are kept away from areas of high risk.	2	2	4	↔	An assessment of risk was applied to an 'Audit Universe', based on a statistical methodology that took account of the: <ul style="list-style-type: none"> • Value of transactions; • Complexity of the system; Inherent risk (vulnerability to fraud or error); • Political sensitivity; • Time since last audit; and Impact on other systems. 	Chief Internal Auditor; S.151 Officer

Direction of travel symbols ↓ ↑ ↔



**South Hams
District Council**

INTERNAL AUDIT – ANNUAL PLAN 2013/14

The CIPFA. 'Code of Practice for Internal Audit in Local Government' (2006) is still the latest version and defines Internal Audit: Internal Audit is an assurance function that provides an independent and objective opinion to the organisation on the control environment by evaluating its effectiveness in achieving the organisation's objectives. It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient use of resources.

Objectives: the audit plan upholds the Council's objectives and commitments as with every audit we are seeking continuous improvement of services, making best use of available resources to fulfil priorities and deliver services with skill, competence and integrity.

FUNDAMENTAL SYSTEMS

Fundamental systems are those that the Council's external auditor considers to be so important that a failure in key controls may lead to their withholding or qualifying the opinion on the Council's statement of accounts. We therefore need to audit these systems on an annual basis; days based on the risk score, benchmarking and experience.

	Priority Rating	Council Objective		Proposed Quarter	2013/14 Days
Page 57 Main Accounting System and Budgetary Control	1	All	Accounts for the Council's activities and assists in meeting the budgets set by the Council. Linking systems and audits: Accounts: All financial systems; Budgets: Council Tax (Setting); Computer audit: Access to system.	4	13
	1	All	Pays the Council's creditors promptly and accurately and processes other internal debit items. Linking systems and audits: Main Accounting; Treasury Management; Council Tax (Refunds); Business Rates (NDR) Refunds; Housing Benefits; Petty Cash. Computer audit: Access to system. Audit to include the controls over the use of purchase cards.	2	11
	1	All	Ensures accurate calculation and timely payment of salaries and wages to employees. Linking systems and audits: Main Accounting; Computer audit: Access to system. Audit to include any redundancy payments and process for increments.	3	10
	1	All	Calculates, bills, accounts for and assists in recovery of cash paid by Council Tax payers. Linking systems and audits: Main Accounting; Housing Benefits; Cash Collection; Computer audit: Access to system.	3	14

Continued Overleaf

FUNDAMENTAL SYSTEMS (Continued)

	Priority Rating	Council Objective		Proposed Quarter	2013/14 Days
Business Rates (NDR)	1	All	Calculates, bills, accounts for and assists in recovery of cash paid by NDR payers. Linking systems and audits: Main Accounting; Council Tax; Creditors; Computer audit: Access to system.	3	12
Housing Benefits and Council Tax Support	1	All	Ensures accurate calculation and timely payment of Housing Benefits. Linking systems and audits: Main Accounting; Council Tax; Creditors; Computer audit: Access to system.	4	15
Benefit Debtors	1	All	Review of system of recovery for amounts due relating to Housing Benefits. Linking systems and audits: Main Accounting; Council Tax; Creditors; Computer audit: Access to system.	4	5
Debtors	1	All	Invoices, accounts for and assists in recovery of cash due to the Council. Linking systems and audits: Main Accounting; Cash Collection; Computer audit: Access to the system	2	10
Treasury Management	1	All	Manages the Council's cash flow and invests monies to maximise the interest earned. Linking systems and audits: Main Accounting; Creditors; Cash Collection; Computer audit: Access controls re Financial Director software.	3	7
Capital Expenditure and Receipts	1	All	Audit of expenditure of a capital nature to ensure that monies spent in line with the Capital Programme and Contract and Financial Procedure Rules.	4	10
TOTAL: FUNDAMENTAL SYSTEMS					107

OTHER SYSTEMS AND AUDIT WORK

The planned audit work is presented as 'Other Essential' audits where there is requirement for them to be completed annually, and 'Other' those completed once in 5 years Both are in service group order.

The 'Priority Rating' is derived from a statistical assessment of risk that includes the value of transactions, complexity, susceptibility to fraud or error, last audit coverage, impact on other systems and political sensitivity. A rating number of 1 is audit work carried out annually as required in cases of high internal risk plus external influences such as the External Auditor; 2 is an annual audit as a result of the assessed risk to the Council; and, 3 a lower audit risk and frequency of coverage (once in 5 years). Those audits brought forward from last year will have their rating enhanced with a plus sign (+).

Council's Priorities The link to the Council's published priorities. Proposed Quarter column shows the proposed quarter of the year in which a specific audit will be started. It has been drawn up giving regard to known audit needs, service and external pressures. However, the plan is flexible enough to take account of unforeseen matters for both internal audit and service managers, so the proposed quarter is effectively indicative.

Continued Overleaf

OTHER ESSENTIAL SYSTEMS AND AUDIT WORK					
	Priority Rating	Council Objective		Proposed Quarter	2013/14 Days
ASSETS					
Salcombe Harbour	2	Various	Audit work based on a sub-plan, having regard to emerging risks, to ensure coverage of all harbour activities over a period of 5 years.	3	10
Dartmouth Lower Ferry	2	Various	Audit work based on a sub-plan, having regard to emerging, to ensure coverage of all ferry activities over a period of years.	3	9
Sub-Total					19
ENVIRONMENT SERVICES					
Street Scene, including Car and Boat Parking	2	Various	Audit covers all aspects of the Street Scene services including car parking based on a rolling sub-plan, having regard to emerging risks, with pay and display, season tickets and standard charges as key areas.	4	9
Sub-Total					9
ENVIRONMENTAL HEALTH & HOUSING					
Private Sector Housing Renewal	2	Homes	Coverage will include system for providing disabled facilities grants & other related grant and loan schemes, with a counter fraud view.	3	8
Sub-Total					8
ICT & CUSTOMER SERVICES					
Performance Indicators, and Data Quality	2	All	Our work on performance indicators is a requirement of the Council's Data Quality Strategy.	2	5
Use of the Internet & E-Mail	2	All	Review of the use of the Internet & E-mail with the aid of dedicated software, to ensure the Council's policy is adhered to.	2	10
Computer Audit	2	All	Computer audit subject to a separate planning process (Appendix B) .	4	26
Sub-Total					41
OTHER					
Audit of Government Grants – RDPE Rural Community LAGs	2	Various	Quarterly and ad hoc audit and submission of grant claims prepared by Devon Renaissance on behalf of the 'Accountable Body' (the Council).	1/2/3/4	50
Follow Up Of Previous Year's Audits	2	Various	A revisit of the previous year's recommendations to ensure that the agreed actions have been implemented and are working satisfactorily.	1/2/3/4	6

Continued Overleaf

OTHER ESSENTIAL SYSTEMS AND AUDIT WORK (Continued)

	Priority Rating	Council Objective	Proposed Quarter	2013/14 Days	
OTHER (continued)					
Contingency (unplanned)	2	Various	An allowance for the numerous unexpected audit tasks and control advice to managers, including investigation of any suspected irregularities.	1/2/3/4	55
Sub-Total				111	
NON-FINANCIAL/CORPORATE					
Corporate Governance	2	All	Audit of the Council's Local Code of Corporate Governance for 2012.13 and subsequent report with the S.151 and Monitoring Officer to the Audit Committee. To include Gifts and Hospitality and Equality issues and links to the Annual Governance Statement.	1	8
Exemptions to Contract Standing Orders or Financial Instructions	2	All	To review applications from managers for exemption to Contract Procedure Rules in certain circumstances, normally in respect of procurement of goods and services.	1/2/3/4	5
System of Internal Control (SIC) and Annual Governance Statement (AGS)	2	All	Internal Audit in its annual report to the Council must include an opinion on the internal control environment and bring to the Council's attention any issues that will impact on the preparation of the AGS. (Control Environment = achievement of objectives, policy and decision making, complying with policies etc., risk management, financial management, best value and performance management) The AGS is to be approved at a meeting of the Council on the recommendation of Audit Committee, who should seek to satisfy themselves that they have obtained sufficient, relevant and reliable evidence to support the disclosures made.	1	6
Risk Management/Business Continuity	2	All	Audit of the Council's risk management process as required by the Council's Strategy, and business continuity. Budget also includes: Advice to the Risk Management Group and individual risk workshops. Also separately planned, audits based on the Council's risk register depending on resource availability: 2013/14 Contract Management, Use of Agency Staff.	1	5
Sub-Total				24	

Continued Overleaf

OTHER ESSENTIAL SYSTEMS AND AUDIT WORK (Continued)

	Priority Rating	Council Objective		Proposed Quarter	2013/14 Days
SHARED SERVICES					
West Devon Borough Council	1	All	Internal audit service based on a risk based audit plan agreed with the S.151 Officer and WDBC Audit Committee.	1/2/3/4	105
Teignbridge District Council	-	All	Exchange of audit knowledge and resources where mutually beneficial, as highlighted in previous reports to members. Mutual assurance of significant areas of each Councils' audit plans agreed by the Audit Committees.	-	-
Sub-Total					105
TOTAL: OTHER ESSENTIAL					317

OTHER SYSTEMS AND AUDIT WORK

	Priority Rating	Council Objective		Proposed Quarter	2013/14 Days
ASSETS					
Beach and Water Safety	3	Various	Consideration of the arrangements in place. Last audited in 2008/09.	1	4
Countryside Recreation & Management	3	Various	Consideration of controls over related income and expenditure. Last audited in 2008/09.	2	5
Outdoor Sports and Recreation	3	All	Consideration of controls over related income and expenditure. Last audited in 2008/09.	2	8
Sub-Total					17

ENVIRONMENTAL HEALTH & HOUSING

Emergency Planning	3		Review of the requirements and the Council's arrangements for civil emergencies and disaster planning. Last audited in 2006/07.	1	8
Food Safety	3		Reviewing the Council's arrangements to ensure food safety requirements are met. Last audited in 2006/07.	1	8

Continued Overleaf

South Hams District Council Internal Audit: 2013/14 Audit Plan

Appendix A

OTHER SYSTEMS AND AUDIT WORK (Continued)

	Priority Rating	Council Objective	Proposed Quarter	2013/14 Days
ENVIRONMENTAL HEALTH & HOUSING				
Licensing	3	Audit to consider processes relating to legislative requirements on the Council in respect of various licence types. Last audited in 2009/10.	1	8
Pollution Reduction	3	Review of income and expenditure in relation to the Council's responsibilities. Last audited in 2008/09.	1	8
Sub-Total				32

FINANCE & AUDIT

Allocation of HQ Costs	3	All	A review of the controls over allocating HQ costs to ensure that CIPFA guidelines are being met.	2	4
Sub-Total				4	

IT & CUSTOMER SERVICES

Council Tax Collection	3	All	Review of the costs of collecting local taxes. Last audited 2009/10.	2	5
Sub-Total				5	

PLANNING, ECONOMY & COMMUNITY

Planning Policy including S.106 Agreements	3	Various	Review of the processes relating to planning policy with particular emphasis on the management of S.106 Agreements. Last audited 2010/11.	1	8
Community Development including Grants and Loans	3	Various	Audit to provide assurance that the controls ensure that Community Grants and Loans are made in accordance with the Council's policy. Last audited 2008/09.	2	8
Sub-Total				16	

CORPORATE/NON-FINANCIAL

Advice to Information Compliance and Other Groups	3	All	Attending several officer groups to provide advice. Time previously charged to Contingency.	1/2/3/4	3
Contract Management (linked to the Council's Risk Register)	3	Various	Work on this corporate risk to be carried out in association with the Strategic Risk Management Group of officers.	1	6
Freedom of Information and Data Protection	3	All	To review the arrangements that the Council has made for the necessary processes to meet the requirements of the Freedom of Information Act, and continues to comply with the Data Protection Act. Last audited at SH 2007/08.	3	8

Continued Overleaf

OTHER SYSTEMS AND AUDIT WORK (Continued)

	Priority Rating	Council Objective	Proposed Quarter	2013/14 Days
CORPORATE/NON-FINANCIAL				
Partnership Management	3	All To review the arrangements for the management of partnerships including governance.	1	8
Safeguarding Children	3	All A review of the Council's responsibilities and arrangements.	2	5
Shared Services	3	All A review of the process for identifying and creating a shared service, to include governance issues, recharging etc. Following on from 2012/13 equivalent.	1	5
Use of Agency Staff	3	All To review the Council's use of Agency staff and the contractual arrangements made.	2	5
Sub-Total				40
COUNTER FRAUD				
Specific Counter Fraud Work	3	All As highlighted by the counter fraud arrangement checklists previously presented to the Audit Committee. A separate plan will be drafted and the Committee informed of the work to be carried out, but will include future presentation of the necessary checklists to Members.	2	10
Sub-Total				10
TOTAL: OTHER SYSTEMS AND AUDIT WORK				124
AUDIT MANAGEMENT				Days
Audit Administration	-			20
Audit Management, including Audit Planning	-			20
Audit Monitoring Reports to Management and the Audit Committee	-			15
Training	-			15
Miscellaneous e.g. corporate documents etc.	-			5
TOTAL				75
TOTAL RESOURCES REQUIRED 2013/14 From totals above				623

Page 63

RESOURCES AVAILABLE		2013/14 Days
Chief Internal Auditor		234
Senior Auditor		260
Auditor		260
Sickness	Basis of Estimate: CIPFA Guidance plus 10	-18
Bank Holidays		-27
Annual Leave		-86
TOTAL RESOURCES AVAILABLE		623

Allan Goodman, Chief Internal Auditor

March 2013



**South Hams
District Council**

SOUTH HAMS DISTRICT COUNCIL

INTERNAL AUDIT

ANNUAL COMPUTER AUDIT PLAN – 2013/14

AUDIT AREAS	Priority Rating	Council Objective	Proposed Quarter	2013/14 Days
Installation & Healthcheck, including: Using CIPFA Guidance – <ul style="list-style-type: none"> • Database Management • Environment Controls • Input Data and Running Files • Access control • Back-up • Disaster Recovery 	1	All	4	7
Security and Strategy CIPFA Guidance - <ul style="list-style-type: none"> • Integrated ICT Strategy; and • ICT Security Strategy. 	3	All	4	6
E Commerce CIPFA Guidance - <ul style="list-style-type: none"> • Contractual and Operational Procedures; • Legal Conditions; • Security of Processing; and • Data Protection Act implications. 	3	Various	4	6
Other Reviews <ul style="list-style-type: none"> • Telecommunications Network; and • Other – through liaison with the external auditors and updating of the risk assessment. 	2	All	4	7
TOTAL RESOURCES REQUIRED				26
RESOURCES AVAILABLE				2013/14 Days
Computer Audit in Main Audit Plan (Appendix A)				26
TOTAL RESOURCES AVAILABLE				26

The computer audit plan was also derived from an audit assessment of all of the systems within the Council requiring audit, 'the Computer Audit Universe'. Once these systems were identified an assessment of risk was applied, based on a statistical methodology in the same way as the main audit plan (see Appendix A). The 5-year computer audit plan is based on the CIPFA 'Computer Audit Guidelines'. The priority rating has been simplified. Work will be carried out either annually or once twice in 6 years depending on the audit risk. Our computer audit plan also upholds the Council's aims and priorities as with every audit we are seeking continuous improvement of services, making best use of available resources to fulfil priorities and deliver services with skill, competence and integrity.

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AGENDA
ITEM

8

SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

8

NAME OF COMMITTEE	Audit Committee
DATE	11 April 2013
REPORT TITLE	Checklist from the Audit Commission Document: Protecting The Public Purse 2012 (Fighting Fraud against Local Government)
Report of	Chief Internal Auditor, and S.151 Officer
WARDS AFFECTED	All

Summary of report:

The purpose of this report is to inform members of the position of the Council against the checklist included in the Audit Commission publication 'Protecting the Public Purse 2012 (Fighting Fraud against Local Government)' (November 2012).

This report links to the previous versions of the checklist presented to members and the National Fraud Authority's strategy 'Fighting Fraud Locally'; and Audit Commission publication 'The National Fraud Initiative (Council members' briefing)' (May 2012) presented to the Audit Committee at the meeting of 27th September 2012.

Financial implications:

None, within existing budgets.

RECOMMENDATIONS:

That the Audit Committee considers the position of the Council against the checklist included in the Audit Commission publication 'Protecting the Public Purse 2012 (Fighting Fraud against Local Government) (November 2012).

Officer contact:

For further information concerning this report, please contact:
 Allan Goodman, Chief Internal Auditor allan.goodman@southhams.gov.uk
 Mike Tithecott, Acting Head of Finance and Audit & S.151 Officer

1. BACKGROUND

1.1 This is the fourth year that the Audit Commission has published 'Protecting the Public Purse – Local Government Fighting Fraud' (September 2009, October 2010, November 2011, November 2012).

1.2 The original report introduction said:

'Every pound lost through fraud affects citizens by increasing taxation and threatening essential service.....There has been a growing recognition of the damaging impact that fraud has on the UK economy and on citizens. This recognition has been matched by some important initiatives to combat fraud. Fighting fraud is high on the agendas of the government and most private and public sector organisations. The newly formed National Fraud Authority is committed to measuring and analysing the incidence and impact of fraud across the UK'.

2. UPDATE FOR 2012

2.1 Protecting the Public Purse 2012 focuses on the continuing progress by local government to protect tax payers by fighting fraud and is available at. <http://www.audit-commission.gov.uk/counter-fraud/protecting-the-public-purse-reports/>

It states that the local government bodies are targeting their investigative resources more efficiently and effectively.

2.2 Among the report's recommendations it is advised that Councils use a checklist to ensure that they have sound governance and counter-fraud arrangements that are working as intended.

2.3 The Council's Chief Internal Auditor presented the completed checklist to the April 2010, 2011 and 2012 Audit Committee meetings which reflected the Council's position at these times against each of the questions.

2.4 The Audit Commission's report included recommendations that Councils should:

- Review their counter-fraud strategies in the context of the *NFA's Fighting Fraud Locally*;
- Actively pursue the potential frauds National Fraud Initiative (NFI) data matches are followed up effectively, including those targeting council tax discount abuse (next data release due in February 2012);
- Maintain robust staff recruitment and internal controls to guard against internal fraud;
- Maintain a capability to investigate fraud that is not related to housing benefit;
- Ensure that they have effective and proportionate defences against emerging fraud risks;
- Share investigative resources with other bodies; and
- Access the potential benefits and savings of greater joint working with other councils.

3. LEGAL IMPLICATIONS

3.1 Statutory powers: Accounts and Audit Regulations 2003, 2006, 2009 etc.

4. FINANCIAL IMPLICATIONS

4.1 None, within existing budgets.

5. RISK MANAGEMENT

5.1 The risk management implications follow these considerations:

Corporate priorities engaged:	All
Statutory powers:	Accounts and Audit Regulations 2003, 2006, 2009 etc
Considerations of equality and human rights:	No specific equality and human rights issues arising from this report.
Biodiversity considerations:	No specific biodiversity issues arising from this report.
Sustainability considerations:	No specific sustainability issues arising from this report.
Crime and disorder implications:	No specific crime and disorder issues arising from this report.
Background papers:	<ul style="list-style-type: none">• Audit Commission report: Protecting The Public Purse 2012 (Fighting Fraud against Local Government);• National Fraud Authority's document <i>Fighting Fraud Locally</i> considered by the September 2012 Audit Committee;• The Council's Anti Fraud, Corruption & Bribery Policy and Strategy 2011;• Benefit Fraud Prosecution and Sanction Policy; and• Confidential Reporting (Whistle Blowing) Policy
Appendices attached:	Appendix A: Completed checklist from Protecting The Public Purse 2012 (Fighting Fraud against Local Government)

STRATEGIC RISKS TEMPLATE

No	Opportunity Title	Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Demonstrating zero tolerance of fraud.	Communicating the Anti-Fraud stance to members, officers and the public may deter those that consider that an attempted fraud is work risking.	-	-	-	↔	The Council demonstrates its commitment to an Anti-Fraud culture, by the regular review, updating and approval of an Anti Fraud Strategy. Strategy.	Chief Internal Auditor
2	The Council's response to suspected fraud is documented	Investigations are commenced promptly after suspicions are aroused.	-	-	-	↔	The approach to investigating suspected fraud is clearly laid out in the Council's Fraud And Corruption Response Plan appended to the Anti-Fraud and Corruption Strategy. Early liaison with the police, where appropriate is clearly stated in the Council's Fraud And Corruption Response Plan.	Chief Internal Auditor
3	Preventative measures are in place	Preventative measures are in place, including a system of internal controls which are regularly reviewed.	-	-	-	↔	Controls are regularly reviewed by managers and Internal Audit on a risk basis, with vulnerability to fraud being a key part of the audit risk assessment.	Chief Internal Auditor

No	Risk Title	Risk Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
4	Risk of fraud.	Risk of fraud or corruption being perpetrated on the Council.	2	2	4	↔	Preventative measures are in place. These include a system of internal controls which are regularly reviewed, and a zero tolerance policy which is communicated to members, officers, stakeholders and the community. The risk of fraud appears in the Council's risk register.	Chief Internal Auditor
5	Reporting suspected fraud is encouraged.	Fraud or corruption is not identified at an early stage.	2	2	4	↔	The Council's Confidential Reporting Policy (whistle blowing) encourages members, officers and the public to report suspected fraud without fear of reprisals. Internal control measures are in place.	Chief Internal Auditor
6	A professional approach to fraud investigation	Suspected fraud or corruption is not investigated in a sound professional way.	2	2	4	↔	Only appropriately trained officers are appointed to investigate suspected fraud.	Chief Internal Auditor

Direction of travel symbols ↓ ↑ ↔

	Yes	No	2011 Response	2012 Update
General				
1. Do we have a zero-tolerance policy towards fraud?	Yes		<p>The Council's Anti-Fraud, Corruption and Bribery Policy and Strategy (incorporating the Housing Benefit Fraud Prosecution and Sanction Policy) states that the Council is committed to discouraging, preventing and detecting fraud and corruption where attempted on, or from within, the Council's organisation.</p> <p>The risk of fraud has been recorded in the Council's risk register.</p> <p>The Anti Fraud and Corruption Strategy was reviewed in 2011 and updated including to take account of the requirements of the Bribery Act 2011.</p> <p>An email was sent to all staff reminding them of the Council's zero tolerance with a link to the revised Policy and Strategy. A separate procedure document, 'Response Plan', has also been updated and made available to all staff via the Intranet.</p>	<p>An item in the Council's 'Friday Flash' and Members' Bulletin was used to promote the Council's zero tolerance with a link to the revised Policy and Strategy, supported by the Audit Committee.</p> <p>The document also appears on the Council's new website.</p> <p>'Horizon scanning' for unforeseen events forms part of the Strategic Management Risk register. The risk registers are reviewed quarterly by the Risk Management Group which includes the Chief Internal Auditor and Monitoring Officer. Potential fraud risks will be fed into the Internal Audit teams counter fraud work.</p>
2. Do we have the right approach, and effective counter-fraud strategies, policies and plans? Have we aligned our strategy with <i>Fighting Fraud Locally</i> ?	Yes		<p>As 1 above.</p> <p>The National Fraud Authority's document <i>Fighting Fraud Locally</i> was not available from their web site at the time of completing this checklist.</p>	<p>The National Fraud Authority's document <i>Fighting Fraud Locally</i> was discussed at the September 2012 Audit Committee. Some required actions were noted and are updated in this report.</p>
3. Do we have dedicated counter-fraud staff?	Yes		<p>A dedicated housing benefit fraud and visiting team cover revenues, benefits and housing.</p> <p>Counter fraud and corruption arrangements are a key part of the internal audit of the Council's financial systems and governance framework.</p>	<p>As highlighted in a separate report to this Committee, the 2013/14 Internal Audit Plan includes specific resources for counter fraud work, in response to the action plan from the National Fraud Authority's document <i>Fighting Fraud Locally</i>.</p>

	Yes	No	2011 Response	2012 Update
General				
4. Do counter-fraud staff review all the work of our organisation?	Yes		The internal audit plan covers all of the activities of the Council through a risk based audit approach. Vulnerability to fraud is one of the key components that determine the frequency of audit and resources used for any specific audit area.	Unchanged, except: In including days in future Internal Audit Plans for specific counter audit activities, a plan will be devised to direct the related work in an effective way. This will be reported to the Audit Committee (action plan from the National Fraud Authority's document <i>Fighting Fraud Locally</i>).
5. Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?	Yes		Internal Audit plans are presented to the Audit Committee annually and monitoring reports on activities include fraud risks and a summary of any investigations and their outcomes. Quarterly reports advise the Committee of any suspected or actual fraud identified.	Unchanged, except: The Chief Internal Auditor will bring together a centralised list of fraud risks as part of the Internal Audit team's counter fraud work (action plan from the National Fraud Authority's document <i>Fighting Fraud Locally</i>).
6. Have we assessed our management of counter-fraud work against good practice?	Yes		Audit Commission Protecting the Public Purse checklists complemented and presented to members in 2009, 2010 and 2011. CIPFA Better Governance Forum document Managing the Risk of Fraud. Internal audit assessed annually against the expectations of CIPFA's Code of Practice for Internal Auditors in Local Government.	The National Fraud Authority's document <i>Fighting Fraud Locally</i> considered by the September 2012 Audit Committee and the progress against the action plan reflected in this report. For April 2014, the two assessments of the counter fraud arrangements will be combined (the NFA checklist will not be update in September 2013).

	Yes	No	2011 Response	2012 Update
General				
7. Do we raise awareness of fraud risks with: <ul style="list-style-type: none"> • New staff (including agency staff)? • Existing staff? • Members? • Our contractors? 	Yes		The Council's commitment to the Anti-Fraud and Corruption Strategy is communicated to new staff at induction days and existing staff through the staff news letter and leaflets on notice boards linked to the Whistle Blowing Policy. In addition the revised Anti Fraud, Corruption and Bribery Policy and Strategy was emailed to all staff reiterating the zero tolerance of the Council and drawing officers attention to the Confidential Reporting (Whistle Blowing) Policy. Contractors – fraud risks are managed actively through set pricing schedules and checking of invoices. All Council contracts include our corruption & bribery warnings as standard (this is mandated along with full anti-fraud criteria for EU contracts in line with the directives).	As paragraph 1 above: An item in the Council's 'Friday Flash' and Members' Bulletin was used to promote the Council's zero tolerance with a link to the revised Policy and Strategy, supported by the Audit Committee.
8. Do we work well with national, regional and local networks and partnerships to ensure we know about current fraud risks and issues?	Yes		<ul style="list-style-type: none"> • The Audit Commission's data matching service (NFI); • The dedicated housing benefit fraud and visiting team and Internal Audit subscribe to the National Anti-Fraud Network and receive regular bulletins, which are forwarded to the relevant service where appropriate. • The Council subscribes to the CIPFA Technical Information Service and other bulletins; • Liaison with other audit and benefit teams particularly in Devon. 	As discussed in the National Fraud Authority's document <i>Fighting Fraud Locally</i> in addition the Department for Work and Pensions Housing Benefits Matching Service is used on a monthly basis. Reference is also being made to a private sector company that helps businesses to manage credit risk and prevent fraud. Internal Audit shares data with neighbouring Council teams relating to fraud and the system weaknesses that allowed the fraud to be perpetrated.

Audit Commission: Protecting the Public Purse – Updated for 2012
 Checklist for Those Responsible for Governance

	Yes	No	2011 Response	2012 Update
General				
9. Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?	Yes		As 8 above plus the Benefits Fraud Team have working arrangements and monitoring meetings with the Department for Work and Pensions (DWP), both Exeter and Plymouth offices.	As 8 above.
10. Do we identify areas where internal controls may not be performing as intended? How quickly do we then take action?	Yes		Internal audit process, results reported to managers, senior managers in detail and in summary to the Audit Committee. Vulnerability to fraud also consider at the start of each individual audit. Action taken quickly depending on the significance of the non performing control and whether other compensating controls are in place to maintain integrity.	Unchanged. Internal Audit will carry out some counter fraud enquiries using Computer Assisted Audit techniques (CAATs).
11. Do we maximise the benefit of our participation in the Audit Commission National Fraud Initiative (NFI) and receive reports on matches investigated?	Yes		The Council takes part in the Audit Commission NFI. Action is taken and outcomes are reported to the Audit Committee by exception through normal reporting channels where appropriate.	Members were updated with the Council's work on the NFI in September 2012. The results of the latest matched have been released to the Council by the Audit Commission (January 2013).
12. Do we have arrangements in place that encourage our staff to raise their concerns about money laundering?	Yes		Anti-Money Laundering Policy and Procedure was recommended for approval by the Audit Committee on 2nd December 2008. It was also recommended that the S.151 Officer be appointed as the 'Money Laundering Reporting Officer', with the appropriate procedures set up to enable staff to raise their concerns. Relevant staff have been provided with guidance and training on the policy and procedures.	An updated Anti Money Laundering Policy and Procedure was approved by the Council upon the recommendation of the June 2012 Audit Committee, and published on the Council's Intranet and Website.

	Yes	No	2011 Response	2012 Update
General				
13. Do we have effective arrangements for: <ul style="list-style-type: none"> • Reporting fraud; • Recording Fraud; and • Whistler Blowing? 	Yes		The Council's Confidential Reporting (Whistleblowing) Policy was updated by the Monitoring Officer in March 2009 and related Frequently Asked Questions added. These are available to all staff and members on the Intranet including the Staff Pages. In addition a leaflet on staff notice boards provides further guidance. As discussed at 7 above, an email to all staff reminded them of the Confidential Reporting (Whistle Blowing) Policy.	Unchanged.
14. Do we have effective fidelity insurance arrangements?	Yes		Fidelity Insurance cover is in place, with the 'Sums Guaranteed' linked for designated officers to the risk of loss. Reviewed annually by Internal Audit as part of the Treasury Management audit with results reported to the Audit Committee.	Unchanged.

	Yes	No	2011 Response	2012 Update
Fighting Fraud with Reduced Resources				
15. Have we reassessed our fraud risks in the light of the current financial climate?	Yes		CIPFA have supplied a document entitled Audit Planning in the New Financial Climate. Vulnerability to fraud is a component of the annual planning risk assessment for Internal Audit as well as for individual audit exercises.	Unchanged. Various guidance taken into account during audit planning – e.g. CIPFA's "Auditing in an Economic Downturn".
16. Have we amended our counter-fraud action plan as result?	Yes		The CIPFA documents cover a number of different areas that are already included in the risk based annual audit plan. It has therefore remained unchanged.	Counter fraud action plan to be produced for 2013/14 using the resource put aside for specific counter fraud work. The current financial climate will contribute to the risks.
17. Have we reallocated staffing as a result?		No	As 16 above.	Unchanged.

			2011 Response	2012 Update
Some Current Risk & Issues				
Housing Tenancy				
18. Do we take proper action to ensure that we only allocate social housing to those who are eligible?	Yes		<p>The Council are part of the countywide Choice Based Letting Scheme (Devon Home Choice).</p> <p>Applicants are assessed and placed into bands depending on circumstances and housing need by the responsible Council.</p> <p>Officers registering the data in the system raise any irregularities in application with the Fraud Team.</p> <p>Applicants are able to bid for allocation to a property advertised by the Registered Providers (RP). Allocation offers are made by the RP to the applicant with the highest band/longest time in the band.</p> <p>The RP must verify that the details provided by the applicant are correct prior to allocation.</p>	Unchanged.
19. Do we ensure that social housing is occupied by those to whom it is allocated?	N/A	N/A	<p>It is the responsibility of the Registered Provider (RP) to ensure that the social housing is occupied by those to whom it is allocated, but the Council confirms that the occupation has been completed as expected using the Landlords update on the Devon Home Choice website.</p>	Unchanged.

			2011 Response	2012 Update
Some Current Risk & Issues				
Procurement				
20. Are we satisfied that procurement controls are working as intended?	Yes		<p>Audited annually without significant issues being raised.</p> <p>Relatively low value procurement covered in the annual creditor payment audit and service audits.</p> <p>Higher values in the annual capital expenditure audit.</p> <p>Contract Procedure Rules and other key procurement documents are readily available as is the advice of the Corporate Procurement Officer who is actively involved in all procurement over £30k.</p> <p>A system exists to 'waive' the rules in specific circumstances and depending on the value, with the approval of the statutory officers and Internal Audit as minimum but without the need for a full report to members.</p>	Unchanged.
21. Have we reviewed our contract letting procedures since the investigations by the Office of Fair Trading into cartels and compared them with best practice?	Yes		<p>The Contract Procedure Rules were updated and aligned with West Devon Borough Council's equivalent, approved by the Council on November 2011 upon the recommendation of the September 2011 Audit Committee. They reflect the guidance issued by the Office of Fair Trading.</p> <p>The guidance issued by the Office of Fair Trading, which includes reducing the risk of illegal practices such as cartels, will be considered at the next review, the results of which will be presented to members later in the year.</p>	Unchanged.

	Yes	No	2011 Response	2012 Update
Some Current Risk & Issues (continued)				
Recruitment				
22. Are we satisfied our recruitment procedures: <ul style="list-style-type: none"> Prevent us employing people working under false identities? Confirm employment references effectively? Ensure applicants are eligible to work in the UK? Require agencies supplying us with staff to undertake the checks that we require? 	Yes		Candidates that are selected for interview are required to provide two forms of identity. Referees provided by the applicant are written to by the Council. Evidence of the right to work in the UK via a British passport is required or other relevant documentation in the exact terms expected by the Immigration, Asylum and Nationality Act 2006. Successful applicants are required to provide a National Insurance number. The Council's Agency contract requires the agency to undertake the same recruitment checks that the Council itself undertake.	Unchanged.
Personal Budgets				
23. Where we are expanding the use of personal budgets for social care, in particular direct payments, have we introduced appropriate safeguarding proportionate to risk and inline with recommended good practice?	N/A	N/A	No direct social care responsibilities.	Unchanged.
24. Have we updated our whistle blowing arrangements, for both staff and citizens, so that they may raise concerns about the financial abuse of personal budgets?	N/A	N/A	No direct social care responsibilities.	Unchanged.

	Yes	No	2011 Response	2012 Update
Some Current Risk & Issues (continued)				
Council Tax				
25. Do we take proper action to ensure that we only award discounts and allowances to those who are eligible?	Yes		<p>Controls are in place for awarding discounts and a programme of discount reviews is underway.</p> <p>The NFI also covered this area with cases identified by the data matching and discount removed.</p>	<p>A data matching exercise has commenced relating to single persons discount, to compare these discounts with information held in credit agency databases and having regard to the Data Protection Act.</p> <p>Letters have been sent in January 2013 to those people where the numbers of residents don't match asking them to complete and sign a form.</p> <p>The forms returned are being reviewed for fraud risk. If the forms are not returned, it is stated that the discount may be removed, following a reminder.</p> <p>The approach mirrors other Councils and is supported by Devon County.</p>
Housing and Council Tax Benefit				
<p>26. When we tackle housing and council tax benefit fraud do we make full use of:</p> <ul style="list-style-type: none"> • National Fraud Initiative (NFI)? • Department for Work and Pensions Housing Benefit matching service; • Internal data matching; and • Private sector data matching. 	Yes		<p>Policies and procedures are in place as discussed in this checklist.</p> <p>Benchmarking with other local authorities of sanctions taken.</p> <p>A dedicated fraud hotline is available to the public who can anonymously give information about any fraudulent claimant - the Council investigates every report.</p> <p>Full use is made of the NFI and in addition the Department for Work and Pensions Housing Benefits Matching Service on a monthly basis.</p> <p>Reference is also made to a private sector company that helps businesses to manage credit risk and prevent fraud.</p>	<p>Unchanged.</p> <p>Members will be updated with the results of the latest NFI data matching at an Audit Committee in 2013/14.</p>

	Yes	No	2011 Response	2012 Update
Some Current Risk & Issues (continued)				
Emerging Fraud Risks				
24. Do we have appropriate and proportionate defences against fraud risks: <ul style="list-style-type: none"> • Business rates; • Local welfare assistance; • Local Council Tax support; • Grants? 	Yes		New, no 2011 equivalent.	Internal controls in place for business rates; discretionary housing payments; Council Tax support and Grants. These are all subject to review and testing by Internal Audit with the results reported to the relevant managers and a summary to the Audit Committee.

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NAME OF COMMITTEE	Audit Committee
DATE	11 April 2013
REPORT TITLE	PROGRESS AGAINST THE 2012/13 INTERNAL AUDIT PLAN
Report of	Chief Internal Auditor
WARDS AFFECTED	All/Corporate

Summary of report:

The purpose of this report is to inform members of the principal activities and findings of the Council's Internal Audit team for 2012/13 to the 28th February 2013, by:

- Providing a summary of the main issues raised by completed individual audits; and
- Showing the progress made by the section against the 2012/13 annual audit plan, reviewed by this Committee in April 2012.

Financial implications:

None, within existing budgets.

RECOMMENDATIONS:

That the Audit Committee considers the progress made against the 2012/13 Internal Audit Plan and comments on the summary of issues arising.

Officer contact:

Allan Goodman, Chief Internal Auditor
 Email: allan.goodman@southhams.gov.uk

1. BACKGROUND

1.1 The Terms of Reference for Internal Audit were presented to the Audit Committee in April 2012 (Minute reference A.36/11) and cover:

Purpose, Authority and Responsibility;

Independence;
 Audit Management;
 Scope of Internal Audit's Work;
 Audit Reporting; and
 Audit Committee.

- 1.2 The Audit Strategy was updated for 2012/13 and was approved by the Audit Committee in April 2012 (Minute reference A.36/11 refers) and covers:

Objectives and Outcomes;
 Opinion on Internal Control;
 Local and National Risk Issues;
 Provision of Internal Audit; and
 Resources and Skills.

2. PROVISION OF INTERNAL AUDIT AND PROGRESS – 2012/13

Audit Plan 2012/13

- 2.1 The 2012/13 audit plan (Appendix A) was presented and accepted by the Audit Committee at their meeting of April 2012 (A.37/11 refers).

Local and National Risk Based Amendments to the Plan

- 2.2 The audit plan is continuously reviewed and updated to reflect emerging risks, and these are incorporated into the audit plan either through the contingency days or by change to the plan, depending on the significance.
- 2.3 The Committee has been informed of the following amendment to the 2012/13 plan at previous meetings:

Audit	Plan Days 2012/13	Plan Days Update	Reason for Change
Dartmouth Town Council	5	0	Arrangement terminated by Dartmouth Town Council on cost grounds, after the SHDC plan had been presented to the April Audit Committee.
West Devon District Council	95	100	To cover the Code of Corporate Governance and Annual Governance Statement previously undertaken by the Finance team.

- 2.4 Overspends on the estimated time for individual audits occur as the time in the audit plan is an estimate based on risk and generally not the amount of time needed to do the work required. All efforts are made to 'cut our cloth according to our means', but in some circumstances where control issues are identified, a risk based assessment is carried out. This constitutes consideration, depending on the significance, of whether

additional time should be spent and if so where the work is to be charged, either contingency or by change to the audit plan.

2.5 The following table sets out the significant overspends on time budgets (3.5 days or more) on individual audits as totalled in Appendix A, and the reasons for the overrun:

Audit	Planned Days	Days Used	Reason for Overspend
-	-	-	None over 3.5 days
-	-	2	As para 2.4 - Culmination of overspends below 3.5 days for finalised audits
Total	-	2	Overspends to date – 2 days

Resources and Skills

2.6 Sickness to the 28th February 2013 is 13 days (2011/12 equivalent 9 days).

2.7 In 2012/13 to date, training has been or is being provided to the audit team as follows:

Chief Internal Auditor

- Assessing Corporate Governance Effectiveness (IIA Bristol);
- Achieving Success in Challenging Times (IIA Exeter);
- Middle Manager Development Programme (internal) – modules on Corporate Services (Constitution etc); Managing Attendance and Managing Change; and, Customer Focus;
- Localisation of Council Tax (LG Futures, Totnes).

Senior Auditor:

- Achieving Success in Challenging Times (IIA Exeter);
- Excel 2007 Advanced (E Academy); and
- RIPA Policy and Procedures (internal).

Auditor:

- Microsoft Outlook (E Academy); and
- Localisation of Council Tax (LG Futures, Totnes).

Progress Against the Plan

2.8 The 2012/13 Internal Audit Plan is attached at **Appendix A**. This has been extended to show the final position for each audit, and replicates a part of the monitoring report presented to the S.151 Officer on a monthly basis.

2.9 **Appendix B** is an ongoing part of the report to advise the Audit Committee in detail of significant findings since the last meeting and confirm that the agreed action has been implemented or what progress has been made.

- 2.10 **Appendix C** provides a summary of the main issues raised for all of the audits where a final audit report has been issued. In addition, the Appendix shows the results of our follow up of previous audit work and tasks that have not produced an audit report.
- 2.11 **Appendix D** provides a summary of unplanned work carried out by the team. This work is by definition unexpected work, which ranges from advice to managers on control issues, to the investigation of potential irregularities. Tasks are budgeted from the 'Contingency' line of the audit plan.

Non Compliance with Financial Procedure Rules

- 2.12 There are no significant issues to bring to the attention of the Committee so far this year.

Fraud, Corruption or Bribery

- 2.13 No actual, suspected or allegations of fraud, corruption or bribery have been identified so far this year.

Performance Indicators

- 2.14 Internal Audit's performance indicators are mainly collected annually and will be reported to the Audit Committee in full in the year-end report. The full list of those recorded is set out in the Audit Strategy 2012/13.
- 2.15 At this stage in the year, the key indicator 'Completion of 2012/13 Audit Plan' is as follows:

Indicator	Target %	Actual %	Comments
Audits completed from 2011/12 combined audit plan.	90	96	As reported to the Audit Committee June 2012.
Audits at the 30th November 2012 at various stages of completion from 2012/13 audit plan and their 2011/12 equivalents.			
SHDC	-	81%	(74% at February 2012).
WDBC	-	81%	(84% at February 2012).
Combined plan	90	85%	(78% at February 2012). Target to 28 th February 2013: 81%

Internal Audit – Shared Services

- 2.16 The following has been achieved so far this financial year:

Shared service with West Devon since last Committee:

- The Joint Finance Procedure Rules have been completed and approved by both Councils, with the document aligned as closely as it can be.

- Progress on the 2012/13 audit plan reported to the West Devon Audit Committee. A growing number of audits are being completed across the two sites at the same time;
- The formal project management of the 2015 Transformation Programme project on Shared Services Financial Arrangements and Governance Project has been closed with the approval of the Programme Board. Officers will continue to develop processes in this respect from the solid base developed so far and the Programme Board were content with this 'business as usual' approach.

Teignbridge

- Exchange of audit programmes, advice, official guidance and best practice;
- Single attendance and feedback to the other partner on professional update courses and seminars;
- Co-operation re the 2012/13 audit of Building Control; and
- Liaison over various corporate documents.

3. LEGAL IMPLICATIONS

3.1 Statutory Powers: Accounts and Audit Regulations 2011

4. FINANCIAL IMPLICATIONS

4.1 None, within existing budgets.

5. RISK MANAGEMENT

5.1 The risk management implications follow this table:

Corporate priorities engaged:	All/Corporate
Statutory powers:	Accounts and Audit Regulations 2011
Considerations of equality and human rights:	No specific equality and human rights issues arising from this report.
Biodiversity considerations:	There are no specific biodiversity issues arising from this report.
Sustainability considerations:	There are no specific sustainability issues arising from this report.
Crime and disorder implications:	No specific crime and disorder issues arising from this report.
Background papers:	CIPFA Code of Practice for Internal Audit in Local Government 2006; SHDC 5-year Audit Plan 2010/11 to 2015/16.
Appendices attached:	Appendix A: Audit Plan 2012/13 – Progress to 30th November 2012 Appendix B: Planned Audit 2012/13 – Final Reports: Detailed Items Appendix C: Planned Audit 2012/13 – Summary of Results Appendix D: Unplanned Audit 2012/13 – Summary of Results

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Opportunity of Make the Best Use of Scarce Audit Resource	Audit work completed in line with the audit plan and to the required quality standards will ensure that the external auditor places reliance upon the work of internal audit, resulting in no additional charges to carry out the audits required to allow him/her to issue the certificate and opinion on the Council's accounts, including for the Annual Governance Statement.	-	-	-	↔	A risk based audit plan directs scarce audit resources towards areas of high risk to the Council.	Chief Internal Auditor
2	Inappropriate Use of Scarce Audit Resource	The directing of scarce audit resources away from areas of high risk may undermine the opinion provided to the Council by the Chief Internal Auditor on the System of Internal Control.	2	2	4	↔	Risk based audit plan, reviewed by senior managers and members, and updated as appropriate through the year.	Chief Internal Auditor

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
3	Links with External Audit	The external auditor placing no reliance upon the work of internal audit, resulting in additional charges to carry out the audits required to allow him/her to issue the certificate and opinion on the Council's accounts, including for the Annual Governance Statement.	2	2	4	↔	Regular liaison with the external auditor. Risk based audit plan, reviewed by senior managers and members, and updated as appropriate through the year. Regular monitoring of progress by the S.151 Officer and the Audit Committee.	Chief Internal Auditor
4	Assurance for the Annual Governance Statement	The Council's Annual Governance Statement cannot be signed if Internal Audit fails to complete the work set out in the approved risk based audit plan due to unforeseen circumstances.	2	2	4	↔	Regular monitoring of performance by the S.151 Officer and the Audit Committee. Audit approach adheres to the appropriate professional standards. Closer links with our neighbouring Council's audit team will provide reasonable assurance that higher risk audits are covered each year without fail.	Chief Internal Auditor

Direction of travel symbols ↓ ↑ ↔

Progress Against the 2012/13 Internal Audit Plan

APPENDIX A

Projects Agreed in the Audit Plan	Planned Number of Days	Fieldwork Commenced	Draft Report	Management Comments Received	Finalised	Opinion (finalised reports only)				Comments
						Excellent	Good	Fair	Poor	
MAS & Budgetary Control	13	■								52% completed.
Creditor Payments	11	■								95% completed.
Payroll	10	■	■							Draft report issued 28.01.2013.
Council Tax	14	■	■	■	■			■		Summary to Audit Committee - April 2013
Business Rates (NDR)	12	■	■	■	■			■		Summary to Audit Committee - April 2013
Benefits	20	■	■							Draft report issued 14.02.2013.
Debtors	10	■								95% completed.
Treasury Management	7	■								48% completed.
Capital Expenditure	8	■	■							Draft report issued 27.02.2013.
Fundamental Systems	105									
Salcombe Harbour	10	■	■	■	■			■		Summary to Audit Committee - April 2013
Dartmouth Lower Ferry	9	■	■	■	■			■		Summary to Audit Committee - January 2013
Street Scene - Car and Boat Parking	9	■								48% completed.
Private Sector Housing Renewal	8	■	■	■	■			■		Summary to Audit Committee - January 2013
Data Quality & Performance Indicators	5	■	■	■	■				■	Summary to Audit Committee - April 2013
Email Monitoring	4	■	■	■	■			■		Summary to Audit Committee - January 2013
Internet Monitoring	4	■	■	■	■			■		Summary to Audit Committee - January 2013
Computer Audit	26	■								15% completed.
Grants - RDPE Rural Community LAGs	50	60 days used	-	-	-	-	-	-	-	120 Project claims audited; plus 49 Management & Admin invoices.

Page 60

Progress Against the 2012/13 Internal Audit Plan

APPENDIX A

Projects Agreed in the Audit Plan	Planned Number of Days	Fieldwork Commenced	Draft Report	Management Comments Received	Finalised	Opinion (finalised reports only)				Comments
						Excellent	Good	Fair	Poor	
Follow Up of Previous Year's Audits	10	5 days used	-	-	-	-	-	-	-	
Contingency (Unplanned)	55	55 days used	-	-	-	-	-	-	-	
<i>Corporate Governance</i>	8	<i>C/Fwd</i>	-	-	-	-	-	-	-	<i>To be presented to June Audit Committee with time charged to 2013/14 plan.</i>
Exemptions to Contract or Financial Procedure Rules	5	2.3 days used	-	-	-	-	-	-	-	8 Exemption applications received and processed April to November 2012.
System of Internal Control (SIC) & Annual Governance Statement (AGS)	5	■	■	■	■		■			AGS recommended to the Council for approval following report to the Audit Committee - July 2012. AGS published September 2012. Audit report summary to Audit Committee - September 2012
<i>Risk Management / Business Continuity</i>	5	<i>C/Fwd</i>	-	-	-	-	-	-	-	<i>Carried forward to 2013/14 plan, Quarter 1.</i>
West Devon Borough Council	95 + 5	100 days used	-	-	-	-	-	-	-	Separate report to WDBC Audit Committee
<i>Dartmouth Town Council</i>	5 - 5	X	X	X	X	X	X	X	X	<i>Arrangement ended by Town Council.</i>
Other Essential	307									
Community Parks and Open Spaces	9	■	■	■	■		■			Summary to Audit Committee - September 2012
Building Maintenance	9	■	■	■	■		■			Summary to Audit Committee - September 2012
Print Room	9	■	■	■	■		■			Summary to Audit Committee - September 2012
Health and Safety at Work	9	■	■							Draft report issued 22.11.2012
Pannier Markets	9	■	■	■	■			■		Summary to Audit Committee - January 2013
Insurance	9	■	■	■	■			■		Summary to Audit Committee - April 2013
Complaints System	5	■	■	■	■			■		Summary to Audit Committee - September 2012
Building Control	5	■	■	■	■		■			Summary to Audit Committee - January 2013
Capital Receipts & Grants	5	■	■	■	■		■			Summary to Audit Committee - April 2013

Page 6

Progress Against the 2012/13 Internal Audit Plan

APPENDIX A

Projects Agreed in the Audit Plan	Planned Number of Days	Fieldwork Commenced	Draft Report	Management Comments Received	Finalised	Opinion (finalised reports only)				Comments
						Excellent	Good	Fair	Poor	
Inventories	3	■	■	■	■		■			Summary to Audit Committee - April 2013
Procurement	10	■								5% completed
Schemes with Other Organisations	9	■	■	■	■		■			Summary to Audit Committee - January 2013
Land Charges including Street Naming	9	■	■	■	■		■			Summary to Audit Committee - September 2012
Major Developments (including Sherford)	6	■	■				■			Summary to Audit Committee - January 2013
Advice to Information Compliance/Other Groups	3	2 days used	-	-	-	-	-	-	-	
Asset Management	7	■								24% completed
Corporate Management Cost Centre	6	■	■	■	■	■				Summary to Audit Committee - January 2013
Shared Services	5	■	■	■	■		■			Summary to Audit Committee - January 2013 13.9 days used also includes 2015 Project Management; visit to Vale of White Horse D.C. and drafting Financial Procedure Rules.
Other	127									
Audit Administration	20	15 days used	-	-	-	-	-	-	-	
Audit Management, including Audit Planning	20	15 days used	-	-	-	-	-	-	-	
Audit Monitoring against the Plan, including Reports to Management and Audit Committee	15	11 days used	-	-	-	-	-	-	-	
Training	10	8 days used	-	-	-	-	-	-	-	
Miscellaneous e.g. Financial Procedure Rules	5	2 days used	-	-	-	-	-	-	-	
Other	70									
Overall Total	601									

Progress Against the 2012/13 Internal Audit Plan

APPENDIX A

Included above:											
Installation & Healthcheck	7										
Departmental IT/Cost Effectiveness	7										
Project Management and Systems Development	8										
Other Reviews	4	-	-	-	-	-	-	-	-	-	Planned as advice re 2015 Transformation Programme – used for part of 9 day secondment to new Website Project.
Computer Audit	26										

Planned Audit 2012/13 – Significant Issues Identified

There are no items to report that are significant enough to warrant individual attention.

Planned Audit 2011/12 and 2012/13 – Final Reports Issued

The following tables provide a summary of the **audit opinion** and main issues raised in the reports issued to managers.
In all cases (unless stated) an action plan has been agreed to address these issues.

Opinion Definitions

Excellent

The areas reviewed were found to be well controlled; internal controls are in place and operating effectively. Risks against the achievement of objectives are well managed.

Good

The majority of the areas reviewed were found to be adequately controlled. Generally risks are well managed but a few areas for improvement have been identified.

Fair

There is a control framework in place, but some of the areas reviewed were not found to be adequately controlled. In these areas risks are not well managed and require controls to be strengthened to ensure the achievement of system objectives.

Poor

Controls are seriously lacking or ineffective in their operation. No assurance can be given that the system's objectives will be achieved.

Planned Audit 2011/12 – Final Reports Issued

September 2012 Audit Committee

Print Room Issued 26.07.2012 **Good**

Community Parks and Open Spaces Issued 30.07.2012 **Good**

Building Maintenance Issued 02.08.2012 **Good**

Complaints and Compliments System Issued 09.08.2012 **Fair (0 high priority recommendations)**

Land Charges including Street Naming Issued 13.08.2012 **Good**

Planned Audit 2012/13 – Final Reports Issued (continued)

September 2012 Audit Committee (continued)

System of Internal Control and Annual Governance Statement Issued 13.08.2012 **Good**

January 2013 Audit Committee

Major Developments - Sherford Issued 06.09.2012 **Good**

Schemes with Other Organisations Issued 27.09.2012 **Good**

Shared Services Issued 04.10.2012 **Good**

Use of Internet and Email Issued 09.10.2012 **Good**

Corporate Management Cost Centre Issued 11.10.2012 **Excellent**

Pannier Markets Issued 12.10.2012 **Fair**

Travel and Subsistence (Follow Up) Issued 26.09.2012 **Good**

Building Control Issued 30.10.2012 **Good**

Leisure Client (Follow Up) Issued 08.10.2012 **Fair**

Payroll (Follow Up) Issued 26.09.2012 **Good**

Dartmouth Lower Ferry Issued 30.10.2012 **Good**

Private Sector Housing Renewal Issued 22.10.2012 **Good**

April 2013 Audit Committee

Page 96

Subject	Audit Findings	Management Response
<p>Salcombe Harbour Issued 12.12.2012</p>	<p>Good The majority of the areas reviewed were found to be adequately controlled. The main issues raised were that:</p> <ul style="list-style-type: none"> • The harbour management software is being updated and there are a number of issues that can be brought to the software supplier's attention that will improve control as well as efficiency; and • The fees and charges for 2012/13 reflected the Harbour Board's wishes, but the minute was written in a way that a different interpretation could be placed on it compared with the requirements of members. 	<p>A copy of the issues raised in the audit report has been copied to the software supplier, for their comments. It is likely that if the requests are not required/relevant to all or the majority of users, the software supplier will make an additional charge for anything over and above the norm. Minutes will be more strenuously proof read in the future.</p>

Planned Audit 2012/13 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
<p>Insurance Issued 13.12.2012</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 97</p>	<p>Fair Our conclusion is that the insurance system is generally working satisfactorily and fulfilling the purpose for which it is intended. The main issues raise are:</p> <ul style="list-style-type: none"> • The aged property valuations for insurance purposes (which are inflated annually) currently being relied upon; • Insurance held by contractors is not always being checked by the responsible service or passed to the Insurance Officer for review; • The increase in the value of Motor Vehicle claims, which has been brought to the attention of the Risk Management Group by the Insurance Officer; and • The aged software being used to record and manage insurance claims made. 	<p>Additional resources have been taken on to carry out property valuations and it will now be possible to carry out a rolling programme of re-valuations for insurance purposes concurrent with this.</p> <p>There is a wider issue of some services needing to consult with Finance over a number of areas such as insurance and VAT whenever they plan to become involved in a partnership or a project. An annual e-mail will be sent to relevant staff to remind them of this requirement.</p> <p>The Operations Manager will review claims on a monthly basis and consider whether training (including external opportunities) or if necessary disciplinary action is required. The purchase of the software upgrade has been approved by the Chief Accountant and the request is to be passed to ICT team.</p>
<p>Data Quality and Performance Indicators Issued 13.12.2012</p>	<p>Fair We have highlighted several issues which will contribute to the controls over data quality and the accuracy of performance indicators, the most significant of which are:</p> <ul style="list-style-type: none"> • The need to review the Data Quality Assurance Strategy; and • Several recommendations to improve the accuracy of the Green House Gas (GHG) Emissions out turn, including the consequences if the Council chose not to collate this data and submit it to the Department of Energy & Climate Change. National returns demonstrate that in Devon, only South Hams, West Devon & Exeter have ever submitted any GHG results and nationally 40% of authorities have never made any returns. 	<p>This will be done after the completion of the Transformation 2015 website project.</p> <p>The Corporate Support Officer will liaise with DECC to establish what penalties, if any, would be imposed on the Council for not submitting a GHG Emissions report. Should it be decided that the best course of action is to continue, action was agreed to improve data in the areas of train journey mileage and passengers, aeroplane mileage, the Outreach vehicle, water consumption, and Salcombe Harbour fuel.</p>

Planned Audit 2012/13 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
Capital Receipts and Grants Issued 22.01.2013	Good There are sufficient controls in place over capital and grant receipts and they are operating satisfactorily. There were no property sales other than the approved and contracted disposal of Avondale House for which the capital receipt will not be received in 2012/13. The detailed testing of vehicle disposals indicated that they were made in line with Financial Procedure Rules, and expenditure on the vehicles in the two financial years before disposal did not give rise to any suggestion of impropriety.	No recommendations were made.
Inventories Issued 23.01.2013 Page 98	Fair We were able to confirm that ICT maintain an inventory of all ICT hardware and software on behalf of all services across the Council. However, other than records of items requiring 'all risks' insurance cover maintained by two of the sections visited, we could find no evidence that inventories of lower value equipment at Follaton House are being maintained. Other significant issues raised are: <ul style="list-style-type: none"> • Not all of the lower value equipment is security marked where this might be expected; and • The WDBC and the SHDC Financial Procedure Rules are not aligned. 	The Chief Internal Auditor has been asked to liaise with other Devon Local Authorities to establish how they maintain inventories and what items are recorded. On receipt of this information a process will be confirmed for maintaining inventories and this will be communicated to Heads of Service. This will be done in conjunction with the reminder to be issued as discussed above. The Financial Procedure Rules have been aligned with West Devon in respect of inventories and were presented to Audit Committee for approval in January 2013.

Planned Audit 2012/13 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
<p>Non Domestic Rates (NDR) Issued 30.01.2013</p>	<p>Fair</p> <p>There is a control framework in place that ensures that bills are issued for the correct amounts and monies collected properly accounted for, but issues were found in some of the areas reviewed, a few of which were identified in previous years' audits.</p> <p>Work has commenced on these issues, but it has not yet been possible to address all of them due to limited staff resource and other work demands.</p> <p>The main issues raised included:</p> <ul style="list-style-type: none"> • Aligning procedures with West Devon Borough Council; • Limited separation of duties; • The potential to use the recovery functions of the revenues software to greater effect; and • The lack of a sample monitoring programme particularly focussing the monitoring of suppressions to billing and recovery which creates a weakness when linked with the limited controls over cash transfers. It is acknowledged that there is a separate programme in place which reviews all actions completed by Customers Services staff and Processors on a sample basis. 	<p>Work to achieve aligned procedures and controls is on-going.</p> <p>A series of compensating checks are in place and under constant development, including the monitoring programme. The software supplier is to be engaged after the West Devon B.C. data transfer has been completed, to advise particularly on the use of recovery functions, including more appropriate use of suppressions for billing and recovery. It is hoped that this advice will allow suppression lists to be much reduced.</p> <p>At this stage procedures for monitoring the actions listed will be reviewed. Reports could be retained as evidence of review.</p> <p>Amending the system so that it does not allow open ended suppressions to be applied will also be discussed.</p>

Planned Audit 2012/13 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
<p>Council Tax Issued 26.02.2013</p>	<p>Fair We are aware that the main system is operating with adequate controls but parts of the system are let down by the issues raised in the report, some relating to previously reported issues. The main issues include:</p> <ul style="list-style-type: none"> • Alignment of procedures for the two Councils; • Limited separation of duties and system access; • The temporary cessation of the sample monitoring programme including the monitoring of suppressions to billing and recovery which creates a weakness when linked with the limited controls over cash transfers; • Completion of a canvass, requiring claimants to confirm in writing that discounts and exemptions are still appropriate, and other potential solutions for verifying the legitimacy of these claims and discounts; • A clear programme of review of accounts set to complete or not pended; and • Issue of a clearly documented Debt Recovery Policy (to confirm the processes that are in place). 	<p>Agreed, this is something that we will concentrate on following West Devon system migration and annual billing. A series of compensating checks are in place and under constant development, including the monitoring programme. We need to obtain weekly reports from the Council Tax software and include these in our regular monitoring.</p> <p>The canvass has now started under contract with Devon County Council and the software supplier. These contractors complete the canvass and inform us of any change in circumstances.</p> <p>Further reviews are also planned to be completed on other discounted categories by the Revenue Team. This is something that we will target in 2013 and will be included in our 'quality checks'.</p> <p>A draft policy has been completed and is awaiting the Customer Services Manager review. We have revised the information included on the Council website to make it more suitable for Council Tax payers.</p>

Planned Audit 2012/13 – Work Complete (No Audit Report)

Subject	Comments
Exemptions to Financial Procedure Rules	See table at Appendix A.
RDPE Rural Communities – Local Action Groups (LAGs)	See table at Appendix A. Audit of project funding claims on behalf of Council who act as Accountable Body
System of Internal Control (SIC), and Annual Governance Statement (AGS)	A report setting out the work done to enable the AGS to be completed in line with the CIPFA/SOLACE guidance was presented to the July 2012 Audit Committee. The Committee recommended approval of the AGS to the Council. The AGS will be published in September 2012.
Update of Anti Money Laundering Policy	Revised joint Anti Money Laundering Policy presented to the Audit Committee to recommend approval by the Council. Following the Council approval, the document and supporting guidance has been published on the Council's Intranet and targeted training commenced.
Financial Procedure Rules	Update and alignment of a joint draft document completed and with the Monitoring Officer and S.151 Officer for review.

Planned Audit 2012/13 – Follow Up with 2012/13 Audits

September 2012 Audit Committee

Land Charges and Street Naming - 2007/08. Mainly implemented.
 Customer Complaints – 2008/09. Mainly implemented.
 Building Maintenance – 2009/10. Mainly implemented.
 Print Room – 2006/07. Mainly implemented.
 Community Park and Open Spaces – 2008/09. Mainly implemented.

January 2013 Audit Committee

Private Sector Housing Renewal – 2011/12. Implemented.
 Building Control 2009/10 Follow Up – 2010/11. Mainly implemented.
 Pannier Markets – 2005/06. Mainly implemented.
 Email Monitoring – 2011/12. Implemented.
 Internet Monitoring – 2011/12. Implemented.
 Shared Services – 2011/12. Progress being made on all issues raised.
 Partnership Schemes – 2008/09. Mainly implemented.
 Sherford – 2009/10. Implemented.

April 2013 Audit Committee

Subject	Comments
Council Tax – 2011/12	Some implementation. 13/25 recommendations repeated due to other work pressures. Revised action plan agreed.
Non Domestic Rates (NDR) – 2011/12	Some implementation. 14/22 recommendations not actioned due to other work pressures. Revised action plan agreed.

Planned Audit 2012/13 – Follow Up with 2012/13 Audits (continued)

Subject	Comments
Inventories – 2006/07	Mainly implemented. 1/7 recommendations repeated.
Capital Receipts and Grants – 2008/09	Implemented.
Data Quality and Performance Indicators – 2011/12	Some implementation. 6/9 recommendations repeated mainly relating to updating the Data Quality Assurance Strategy and the Greenhouse Gas Emissions indicator.
Insurance - 2007/08	Mainly implemented. 3/24 recommendations repeated.
Salcombe Harbour – 2011/12	Mainly implemented. 8/16 recommendations repeated mainly as a reminder as relate to confines of current software.

Planned Audit 2012/13 – Follow Up of Previous Audits by Written Confirmation

Subject	Comments
ICT Installation and Network Security – 2011/12	Reminder sent 02.01.2013. Follow up with annual audit.
ICT Change Control – 2011/12	Reminder sent 20.12.2012. Follow up with annual audit.
Street Scene/Car Parking – 2011/12	Reminder sent 28.11.2012. Follow up with annual audit.
Housing Benefits – 2011/12	Follow up with annual audit.
Creditors - 2011/12	Memo sent and revised implantation date agreed for one recommendation. Further follow up with annual audit.
Main Accounting System and Budgetary Control – 2011/12	Memo sent as reminder. To annual audit.
Non Domestic Rates – 2010/11	Memo sent as reminder. Cleared with annual audit.
Council Tax – 2010/11	Memo sent as reminder. Cleared with annual audit.
Stores – 2011/12	Followed up with linked Building Maintenance audit 2012/13.
Elections – 2011/12	Memo sent as reminder as not all agreed implantation dates past, further memo sent 30th November 2012.
Private Sector Housing Renewals – 2011/12	Memo sent as reminder. Cleared with annual audit.
Treasury Management – 2011/12	Memo sent and discussed and taken to annual audit.
Payroll – 2011/12	Discussions held with the relevant officers and a follow up report issued view revised action plan. Opinion remains unchanged.
Dartmouth Ferry – 2011/12	Memo sent and discussed and taken to annual audit.
Leisure Client – 2011/12	Discussions held with the relevant officers and a follow up report issued view revised action plan. Opinion remains unchanged.
HR Recruitment – 2011/12	Follow up carried out with Payroll.
Travel and Subsistence – 2011/12	Discussions held with the relevant officers and a follow up report issued view revised action plan. Opinion remains unchanged.

Planned Audit 2012/13 – Follow Up of Previous Audits by Written Confirmation (continued)

Subject	Comments
Data Quality and Performance Indicators – 2011/12	Memo sent 30 th April 2012. No reply by 30 th May 2012 so discussed progress on revised performance monitoring and timing of 2011/12 audit. Cleared with annual audit.
Recycling – 2011/12	Memo sent but part reply only received. Meeting arranged.
Cash Collection – 2011/12	Memo sent but part reply only received. Meeting arranged.
Public Conveniences – 2011/12	Memo sent but part reply only received. Meeting arranged.

Unplanned Audit – 2012/13

General

Description	Main Issues
<p>Minor enquiries and issues investigated, including some planned work, which by its nature does not require a report. Resourced from the contingency line of the audit plan.</p>	<ul style="list-style-type: none"> • General procurement and disposal rules advice; • General ICT issues; • General Finance issues; • Document retention enquiries; • Additional individual internet and e-mail monitoring as requested my managers; • Future of local audit consultation submission to Local Government Futures; • Salcombe Harbour/Creek Boat Park – advice; • Audit Commission fraud survey; • Dartmouth Embankment – advice; • Leisure issues – advice; • Dartmouth regatta – advice; • Room and refreshment booking process; • NFI and Fighting Fraud Locally checklists and report to the Audit Committee; • Additional testing of 2011/12 transactions around year end cut off, on behalf of the Audit Commission; • Assistance to Grant Thornton tax audits – PAYE and VAT; • Assistance re HMRC inspection; • Advice re matters relating to Totnes Pavilions; • Contribution to a review of the future of the aging Housing Rent software; • Secondment to New Website Project (5 of the 9 days needed); • Numerous minor control issues, advice on financial controls and procurement procedures given to service officers at all levels and contribution to various draft policies & strategies.

AGENDA
ITEM

10

SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

10

NAME OF COMMITTEE	Audit Committee
DATE	11 April 2013
REPORT TITLE	Annual Review of the Council's Constitution
REPORT OF	Monitoring Officer and Democratic Services Manager
WARDS AFFECTED	All

Summary of report:

To consider a report which seeks to ensure that the Constitution is amended to reflect the changes that have either occurred in the Council over the previous year, or to implement any necessary changes to ensure that it is up to date, lawful and reflects the Council's current practices.

Financial implications:

There are no financial implications arising from this report.

RECOMMENDATION:

That the Audit Committee RECOMMEND to Council that the amendments to the South Hams District Council Constitution 2013 (as summarised in paragraph 2.2 of the report and fully outlined on the website) be approved.

Officer contacts:

Catherine Bowen, Monitoring Officer (cbowen@westdevon.gov.uk 01822 813600).

Darryl White, Democratic Services Manager (darryl.white@southhams.gov.uk) 01803 861247).

Lead Member contact:

Cllr Mike Saltern, Executive Member for Corporate Services
(cldr.saltern@southhams.gov.uk)

1. BACKGROUND

- 1.1 It is a constitutional requirement whereby each year, the Council (at its annual meeting) must formally adopt its Constitution for the forthcoming municipal year.
- 1.2 Changes to the Constitution are made throughout the year by the Council and through its consideration of recommendations arising from Committee minutes. Typical examples of such changes include:
- the newly approved Financial Procedure Rules;
 - the revised process for dealing with complaints alleging that Members have breached the Code of Conduct no longer being considered by a Standards Committee; and
 - the decision to remove the need to convene agreed amendment Licensing Sub-Committee meetings.
- 1.3 Such changes are effective from the date of approval and are made by the Monitoring Officer. In addition, the Monitoring Officer also has delegated authority to make minor (or legal) amendments to the Constitution during the course of the year. For clarity, these changes are made during the course of the year and are not shown as proposed amendments at this time.
- 1.4 The Council Constitution is fully updated every April to ensure that it is ready for adoption by Council at its annual meeting.

2. THE PROPOSED AMENDMENTS

- 2.1 As part of the annual review, officers are suggesting some amendments to the Constitution which are shown highlighted in yellow font on the Council's website (www.southhams.gov.uk). Due to the volume of papers, these have not been circulated with the agenda, but are available on request by contacting Member Services (member.services@southhams.gov.uk).
- 2.2 However, the main changes proposed to the Constitution are:
- 2.2.1 **Part 1: Summary, Explanation and Definitions:** it is proposed to divide this Part and place the Definitions under a separate heading. In addition, it is proposed to delete the Citizens' Rights section contained in this part, since it is repeated in Part 2 – Article 3: Citizens and the Council;
- 2.2.2 **Part 2 – Article 3: Citizens and the Council:** to reflect the fact that citizens have the ability (if deemed appropriate) to contribute to Task and Finish Groups;
- 2.2.3 **Part 2 – Article 4: The Full Council:** to update the Policy Framework (e.g. to delete reference to the Equality Strategy, which is no longer required). In addition, to delete any reference to informal meetings, workshops and seminars;

- 2.2.4 **Part 2 – Article 6: Overview and Scrutiny:** since there is duplication in Part 3: Delegation Scheme and Part 4: Overview and Scrutiny Procedure Rules, it is proposed to delete this article;
- 2.2.5 **Part 2 – Article 7: The Executive:** to delete reference to the section entitled: ‘Schedule: Description of Executive Arrangements;’
- 2.2.6 **Part 2 – Article 9: Audit Committee and Article 10: Salcombe Harbour Board:** since there is duplication in Part 3: Delegation Scheme and Part 4: Rules for Other Bodies of the Council, it is proposed to delete these articles;
- 2.2.7 **Part 2 – Article 12: Officers:** since there is duplication in Part 7: Management Structure, it is proposed to delete certain elements of this Article. In addition, it is no longer a requirement for the Monitoring Officer to contribute to the promotion and maintenance of high standards of conduct of town and parish councils in the district;
- 2.2.8 **Part 2 – Article 15: Review and Revision of the Constitution:** for clarity, it is proposed to amend the paragraph in relation to approving changes to the Constitution;
- 2.2.9 **Part 2 – Article 16: Suspension, Interpretation and Publication of the Constitution:** it is proposed to remove the requirement for the Monitoring Officer to ensure that paper copies of the Constitution are made available for inspection at local libraries;
- 2.2.10 **Part 2 – Schedule 1: Description of Executive Arrangements:** the schedule is considered to be unnecessary and it is therefore proposed to be deleted.
- 2.2.11 **Part 3 – Delegation Scheme:** the Scheme is proposed to be amended to ensure that reference is made to a subordinate document that will sit under the Constitution and will detail which officers deal with which particular responsibilities within each service area. The document will also clarify areas which sit firmly within the remit of Committees and which matters are delegated to officers to decide. This piece of work will be completed prior to the meeting of Annual Council in May.
- 2.2.12 **Part 4 – Council Procedure Rules:** an additional procedure rule is proposed entitled: ‘Reference up of Decisions’. This suggestion has been proposed to clarify the ability of the Executive, the Scrutiny Panels and the Committees to make recommendations for the determination of full Council.
- 2.2.13 **Part 4 – Overview and Scrutiny Procedure Rules:** the rule in relation to meetings has been amended to reflect the decision to reduce the number of ordinary meetings each year to four.
- 2.2.14 **Part 5 – Protocol on Councillor / Officer Relations:** some suggestions proposed by the lead Executive Member for Corporate Services have been incorporated.

3. LEGAL IMPLICATIONS

- 3.1 The Local Government Act 2000 requires the Council to have (and to maintain) a Constitution.
- 3.2 The Monitoring Officer must review the Constitution annually and make recommendations to the Audit Committee, who in turn must recommend its adoption to full Council. Only the Council can approve and adopt the Council's Constitution.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications to this report

5. RISK MANAGEMENT

- 5.1 The risk management implications are:

Opportunities	Benefits
To review the Constitution to ensure that it is up to date and reflects current practice and law.	An annual review ensures an up to date and lawful Constitution.
Issues/Obstacles/Threats	Control measures/mitigation
Failure to review the Constitution and approve changes leading to unlawful decisions.	By reviewing in a timely manner annually.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	All
Considerations of equality and human rights:	None directly arising from this report
Biodiversity considerations:	None directly arising from this report
Sustainability considerations:	None directly arising from this report
Crime and disorder implications:	None directly arising from this report
Background papers:	The suggested amendments to the Constitution

Part 1

Summary, Explanation and Definitions



The Council's Constitution

South Hams District Council has a Constitution which 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, while others are a matter for the Council to decide.

Part 2 of the Constitution is divided into sixteen articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols in Parts 3 – 7.

The main features of the Constitution are as follows:

- the Council meeting will set the overall budget and policy framework and will be a focus for debate about the performance of the Executive;
- an Executive body consisting of a Leader and other Executive Members will make decisions within the policy and budget framework established by full Council. Decisions will be delegated to the Executive as a body and (since May 2011) to individual Members;
- three Scrutiny Panels will hold the Executive to account, can make recommendations to the Executive or Council (or both) arising from the outcome of the Scrutiny process and may review not only areas of Council activity but also matters of wider local concern. The Corporate Performance & Resources Scrutiny Panel will also promote high standards of conduct and support Member's observance of their Code of Conduct;
- an Audit Committee will provide independent assurance of the adequacy of the risk management framework and the associated control environment and independent scrutiny of the Council's performance in financial and non financial matters;
- most "regulatory" decisions (this term is defined below) will continue to be made by bodies of the Council;
- the functions of the Council as harbour authority under the Pier and Harbour Order (Salcombe) Confirmation Act 1954 stand referred to the Salcombe Harbour Board which is charged with operating, improving, maintaining and managing the whole of the Salcombe Harbour Estuary for the benefit of users.

What's in the Constitution?

Article 1 of the Constitution commits the Council to principles of good governance, community leadership, public involvement and efficient, effective, transparent and accountable decision making. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The full Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny (Article 6)
- The Executive (Article 7)
- Regulatory and Other Bodies of the Council (Article 8)
- Audit Committee and Salcombe Harbour Board (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)
- Decision Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)
- Suspension, Interpretation and Publication of the Constitution (Article 16)

Part 3 of the Constitution contains the description of the functions of the Council and how they are carried out – whether by the Council itself, a committee, a Member of the Executive or officers.

Part 4 contains the Rules by which the Council and its committees work, and how information can be made available to the public.

Part 5 contains codes and protocols governing how Members of the Council and officers should behave.

Part 6 contains the scheme for Members' allowances.

Part 7 contains the managerial structure of the Council's staff.

How the Council operates

The Council is composed of forty Councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors 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 agree to follow a code of conduct (set out in Part 5 below) to ensure high standards in the way they undertake their duties. The Corporate Performance & Resources Scrutiny Panel is responsible for ensuring that Members are sufficiently trained on the Code of Conduct.

All Members meet together in Council. Meetings of the Council are normally open to the public. At Council meetings, Members decide the Council's overall policies, particularly Statutory Plans and they set the budget and policy framework for the Council's business overall.

The Council appoints the Leader of the Council and the Deputy Leader of the Council at its first meeting after an election. They hold office for the next four years. The Council appoints other Members of the Executive, chairmen, vice-chairmen and members of all the other bodies of the Council and most representatives on Outside Bodies at the annual meeting of Council.

The Council may question the performance and decisions of the Executive and of other bodies of the Council. It receives annual and other reports from the Leader of the Council, Executive portfolio holders, chairmen of other bodies and individual Councillors.

There is a list of functions that are reserved to the Council (in Article 4). Many other functions are delegated to bodies of the Council or officers (see below), but the Council may determine those matters not within the remit of any of its reporting bodies.

Council meetings may include formal decision making, wider debates and presentations. The Council may also meet informally in workshops and seminars.

How decisions are made

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader of the Council, the Deputy Leader of the Council and between three and eight other Members all appointed by the Council. The Deputy Leader and the other Members of the Executive are each individually responsible for a particular service area, or portfolio, of Council functions, namely –

- Assets
- Corporate Services
- Customer Services and ICT
- Environment Services
- Environmental Health and Housing
- Finance and Audit
- Planning, Economy and Community

When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed at a meeting of the Executive, the meeting will generally be open for the public to attend except where personal or confidential matters are being discussed.

The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

Scrutiny and Audit

Three Scrutiny Panels support and review the work of the Executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public enquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery.

Scrutiny Panels also monitor the decisions of the Executive. They can 'call-in' a decision which has been made by the Executive but not yet implemented in order to consider whether the decision is appropriate. Scrutiny Panels may recommend that the Executive reconsider the decision.

Scrutiny Panels may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

The Audit Committee has a more specific role in relation to the Council's financial affairs including the internal and external audit functions and monitors the internal workings of the Council (known broadly as "governance"). It is responsible for making sure that the Council operates in accordance with the law and laid-down procedures, and is accountable to the community for the spending of public money.

Regulatory Committees

A 'Regulatory Committee' is a term often used by councils to describe committees which deal with Local Authority business which the Executive are not allowed to deal with, such as licensing and planning. Regulatory Committees also normally deal with applying legislation and statutory regulations which have a degree of public or environmental protection.

In this Constitution, they include:

- the Development Management Committee (which deals with planning matters)
- the Licensing Committee (which licenses pubs, taxis and a host of other things)

Meetings of the Council's Regulatory Committees are open to the public except where personal or confidential matters are being discussed.

The Council's Staff

The Council has people working 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. A protocol governs the relationships between officers and Members of the Council (Part 5 refers).

Citizens' Rights

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Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others are a result of the Council's own processes and decisions. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as an applicant for benefit, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections, if they are registered;
- contact their local Councillor, or any other Councillor, about any matters of concern to them;
- petition the Council;
- obtain a copy of the Constitution;
- attend meetings of the Council and its other bodies except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- with prior notification, ask questions at Executive meetings and address the Development Management and Licensing Committees;
- with no prior notification, ask questions at the Salcombe Harbour Board;
- with prior notification, address the Scrutiny Panels during the Public Forum agenda item;
- find out, from the Executive's Forward Plan, what major decisions are to be discussed by the Executive (or decided by the Executive or officers) and when this will take place;
- see reports and background papers, and any record of decisions ("minutes") made by the Council and Executive;
- complain to the Council about something the Council has done wrong, failed to do or if the Council has not treated a citizen in a professional or courteous manner;

- complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they must only do this after using the Council's own complaints process;
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work.

For further information on your rights as a citizen, please contact the Monitoring Officer (or the Democratic Services Manager in her absence), South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE, Telephone: (01822) 813666.

A detailed statement of the rights to inspect agendas, reports, background papers and minutes of meetings of the Council and its bodies is set out in Part 4 of this Constitution.

Definitions used in the Constitution

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- (1) Any reference to an officer of the Council authorising an officer to do any act or thing shall, except where the law says otherwise, include the Chief Executive.
- (2) References to the masculine gender shall include the feminine, and the singular shall include the plural and vice versa, unless the context otherwise demands.
- (3) Reference to a statute or regulation includes any subsequent amendment(s) made to it.
- (4) Unless the context otherwise demands, the following terms mean:

"Article(s)" - the article(s) set out in Part 2 of the Constitution.

"Chairman" - the chairman of Council, a committee or the person presiding at a committee or sub-committee meeting.

"Chief Executive" - the Council's Chief Executive and **Head of Paid Service** (being designated as such under section 4 of the 1989 Act) or, in his absence, an officer nominated by him or designated as such by the Council due to his incapacity (see Article 9 of the Constitution).

"Chief Finance Officer" - the **Head of Finance & Audit** being the person designated under section 151 of the 1972 Act (and under the 1988 Act and the 1989 Act), (see Article 11 of the Constitution). Sometimes called the Section 151 Officer.

"Chief Officer" – the Chief Executive and the Corporate Directors

“Clear Day” - a day which is neither a Saturday, Sunday nor a bank holiday.

“Code of Conduct” - the South Hams District Council Code of Members’ Conduct set out in Part 5(a) of the Constitution.

“Committee” - a committee of the Council, being one of the following:

- Audit Committee
- Development Management Committee
- Licensing Committee
- Scrutiny Panels –
 - Community Life and Housing Panel
 - Corporate Performance and Resources Panel
 - Economy and Environment Panel

or such other committee as the Council may from time to time appoint for the discharge of its duties.

“Constitution” - the document adopted for the time being by the Council which sets out how the Council operates, how decisions are made and the procedures which the Council follows.

“Contract Procedure Rules” - the rules governing contracts entered into by the Council (see Part 4(6) of the Constitution).

“Corporate Property Officer” - Head of Assets who is responsible for the Council’s Capital Strategy and Asset Management Plan (see the Financial Procedure Rules in Part 4(5) of the Constitution).

“Council” - South Hams District Council.

“Council Procedure Rules” - the rules set out in Part 4(1) of the Constitution.

“Councillors” - see Members.

“Delegation Scheme” - the powers and duties of the Council which have been delegated to the executive, to committees or to officers in accordance with the Scheme (see Part 3 of the Constitution).

“Deputy Leader” - the person currently appointed to this position by the Council.

“District” - the area for which the Council is responsible.

“Extraordinary meeting” - an extra meeting of the Council which is not an ordinary scheduled meeting (sometimes referred to as special meetings).

“Financial Procedure Rules” - the financial rules of the Council for the time being adopted by it as set out in Part 4(5) of the Constitution.

“Heads of Service” - those shared Heads of Service responsible for the Council's service areas as set out in Article 9 of the Constitution.

“Leader of the Council” - shall mean the person currently appointed to this position by the Council

“Leader of a political group” - the leader of a political group as defined in the Local Government (Committees, etc.) Regulations 1989.

“Majority” - occurs when one candidate receives more votes than the sum of the votes cast for all of the other candidates.

“Meeting” - a meeting of the Council or a Committee.

“Member” - in relation to the Council a Member of the Council and in relation to any committee a person appointed as a member of that committee whether or not entitled to vote. Members are sometimes referred to as Councillors.

“Monitoring Officer” - being the person designated under section 5 of the 1989 Act or, if that person is unable to act owing to absence or illness, the person nominated as her deputy.

“Notice(s) in writing” - includes notices sent by fax or e-mail.

“Number of Members” - in relation to the Council, the number of persons who may act at the time in question as Members of the Council, and in relation to a committee, the number of persons who may act at the time in question as voting members of that body.

“Officer” - employee of the Council or the holder of a paid office under the Council other than one held by a Member. Sometimes referred to as employees.

“Ordinary meeting” - a Council meeting which is scheduled for the current Council year and appears in the Council's Schedule of meetings.

“Person presiding” - the person entitled, or appointed to preside at any meeting.

“Political group” - a political group as defined in the Local Government (Committees etc.) Regulations 1989.

“Proper Officer” - the person designated as such by the Council.

“Protocol” - the Protocol for Member/Officer Relations set out in Part 5(c) of the Constitution.

“Register of Interests” - the register of Members' interests as required by the Code of Conduct (see Part 5(a) of the Constitution).

“Relevant officer” - an officer appointed for a particular purpose.

“Responsible Budget Holder” - officers who are responsible for managing cost centres within a budget (see the Financial Procedure Rules in Part 4(5) of the Constitution).

“Senior Management Team” - Made up of the Chief Executive, Corporate Directors and Heads of Service (see Article 11 of the Constitution).

“Senior Officers” - members of the Senior Management Team and the Monitoring Officer

“Sub- committee” - a sub-committee of one of the Council's Committees.

“Task and Finish Groups” - as appointed by Scrutiny Panels from time to time.

“Terms of reference” - those functions delegated by the Council to its committees (see Part 3 of the Constitution).

“the 1972 Act” - the Local Government Act 1972.

“the 1988 Act” - the Local Government Finance Act 1988.

“the 1989 Act” - the Local Government and Housing Act 1989.

“the 2000 Act” - the Local Government Act 2000.

“Vice Chairman” - the Vice Chairman of the Council, a committee or the person presiding at a committee meeting where the chairman is absent or unable to act.

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Part 2

Articles of the Constitution



Article 3: Citizens and the Council

3.1 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- (a) **Voting:** Citizens on the electoral roll for the area have the right to vote.
- (b) **Petitions:** Citizens on the electoral roll for the area have the right to sign and submit to the Council -
 - (i) a petition to request a referendum for an elected mayor form of Constitution
 - (ii) a petition on any subject.

The Council will deal with petitions in accordance with the statutory rules that apply to them and with the Council's own petitions scheme.

- (c) **Information:** Citizens have the right to:
 - (i) attend meetings of the Council, the Executive and other bodies of the Council except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the Forward Plan what key decisions will be taken by the Executive and when;
 - (iii) see reports and background papers, and any records of decisions made by the Council, the Executive or any of the other bodies; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.

- (d) **Participation:** Citizens-
- (i) have the right to participate in the public question time sessions at Executive and the public forum sessions at meetings of the Salcombe Harbour Board and each of the Scrutiny Panels;
 - (ii) may be invited to contribute to a formal meeting of the Scrutiny Panels or to any of their Task and Finish Groups~~the role of the Scrutiny Panels~~;
 - (iii) may participate in the respective public participation schemes of the Development Management and Licensing Committees.
- (e) **Complaints:** Citizens have the right to complain to:
- (i) the Council itself under its complaints scheme;
 - (ii) the Local Government Ombudsman, but only after using the Council's own complaints scheme;
 - (iii) the Council's Monitoring Officer about a perceived breach by a councillor of the Members' Code of Conduct (set out in Part 5 of this Constitution) .

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3.2 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to Councillors or officers and must not wilfully damage or harm things owned by the Council, Councillors or officers.

Part 2

Articles of the Constitution



Article 4: The Full Council

4.1 Composition

The Full Council consists of all 40 Members who represent the 30 Wards of the District of the South Hams.

4.2 Meanings

(a) **Policy Framework.** The Policy Framework means the following plans and strategies adopted by the Council:

- ~~The Connect Strategy~~ ~~Sustainable Community Strategy;~~
- ~~Crime and Disorder Reduction Strategy;~~
- ~~The Local Plan Development Plan Documents and Local Development Framework;~~
- ~~Council's Corporate Plan;~~
- Licensing Authority Policy Statements;
- ~~Housing Strategy and Investment Programme;~~
- Customer First;
- ~~The Financial Strategy; and~~
- ~~Towards Excellence;~~
- ~~Equality Strategy (Forward Together); and~~
- Other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.

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(b) **Budget.** The Budget includes:

- the allocation of financial resources to different services and projects;
- proposed contingency funds;
- the Council Tax base;
- setting the Council Tax, and
- decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.3 **Functions of the Full Council**

The full list of functions, which are reserved to Council, are contained in the Delegation Scheme (Part 3 refers).

4.4 **Council Meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

~~The Council may also hold informal meetings, for example workshops and seminars.~~

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~~4.5 **Responsibility for Functions**~~

~~The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions.~~

Part 2

Articles of the Constitution



Article 7: The Executive

THE ROLE OF THE EXECUTIVE

7.1 Role

The Executive will exercise all of the local authority's functions which are not the responsibility of any other part of the local authority, by law or under this Constitution. The Executive will provide leadership to the overall activities of the Council.

7.2 Form and composition

The Executive will consist of the Leader of the Council, the Deputy Leader of the Council and up to eight other Executive Members to be appointed by the Council.

7.3 Leader of the Council

The Leader will be a councillor elected to the position by the Council. The Leader will be elected for a four year term from the first annual meeting of Council following a local election until the annual general meeting of the Council following the next election.

During this four year term, the Leader will continue to hold office unless:-

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council

7.4 Deputy Leader of the Council

The Leader will appoint a Deputy Leader of the Council for the same four year term of office, with powers to act in the Leader's absence.

During this four year term, the Deputy Leader will continue to hold office unless:-

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council.

7.5 Other Executive Councillors

Other Executive Councillors shall hold office until:

- (a) the next annual meeting of the Council (unless re-elected thereat); or
- (b) they resign from office; or
- (c) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (d) they are no longer Councillors; or
- (e) they are removed from office, either individually or collectively, by resolution of the Council.

7.6 Portfolio Holders

7.6.1 The functions of the Executive shall be divided into portfolios determined by the Leader of the Council. The Leader will settle Portfolios in his or her absolute discretion from time to time.

7.6.2 The Leader will allocate portfolios of functions to individual Members of the Executive ("Portfolio Holders"). Within the scope of their allocated portfolio of functions, Portfolio Holders will –

- (a) exercise regular monitoring of the budget and other resources;
- (b) monitor performance;

- (c) strive to deliver corporate objectives;
- (d) seek to achieve best value in the services for which they are responsible;
- (e) have regard to the Council's policies and strategic objectives; and
- (f) provide an annual presentation to full council for up to ten minutes on the current achievements, aims and challenges which are ongoing within their portfolio area before allowing for Member questions for up to ten minutes on this presentation.

7.7 Delegation of Executive Functions/Key Decisions

7.7.1 The Leader, after consultation with Portfolio Holders and the Chief Executive, will table at every meeting of the Executive a list of what he/she considers are key decisions (via the published Executive Forward Plan) and once this list has been approved such decisions shall not be taken other than by the full Executive.

7.7.2 A key decision is an Executive decision which is either -

- (a) likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates.

For this purpose "significant expenditure or savings" shall mean:

Revenue – Any contract or proposal with an annual payment of more than £50,000; and

Capital – Any project with a value in excess of £100,000); or

- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority, in the opinion of the Monitoring Officer (or the Democratic Services Manager in his/her absence), in consultation with the respective local Ward Member(s).

7.7.3 Where a decision relates to an Executive Member's local ward, that Member may take part in the discussion, but will abstain from any vote on the item.

7.8 Delegation to Portfolio Holders

- 7.8.1 Each Portfolio Holder may take any decision other than a key decision which is both within his/her remit and does not contravene the Policy and Budget Framework in Part 4 of the Constitution.
- 7.8.2 Before taking a decision under this delegation a Portfolio Holder shall, so far as is reasonable practicable, consult any Member whose ward is particularly affected by that decision and shall arrange for a copy of any report which he/she intends to take into account in coming to a decision to be made available to the Chairman of the relevant Scrutiny Panel and to the local Ward Member(s) if it relates to a local issue.
- 7.8.3 No portfolio holder may sanction expenditure within their own ward without the co-signature of the Leader or Deputy Leader.
- 7.8.4 A form summarising any such decision and signed by the Portfolio Holder, together with a record of any report or other information which was taken into account by the decision-maker, shall be sent to the Monitoring Officer immediately.
- 7.8.5 The Monitoring Officer will notify all Members of the Council of all decisions made by portfolio holders within two working days of their having been made.
- p7.8.6 All forms sent to the Monitoring Officer in accordance with (d) above shall be kept in a register which shall be tabled at all meetings of the Executive and be available for public inspection.
- 7.8.7 If any decision relates to a local issue a Member whose ward is particularly affected may, within five working days of such notification being given, ask that the decision be referred to the full Executive for consideration. If the decision is of general application to the whole District any Member may require the decision to come before the Executive for determination.
- 7.8.8 Until the Executive has considered a decision which is the subject of a requisition under **7.8.7** above it shall not be implemented.

7.9 Call in

7.9.1 A decision made by the Executive, one of its Committees or a Portfolio Holder, may be 'called in' for consideration by the Scrutiny Committee. Such a call in will take precedence over a request by an individual Member for reconsideration by the Executive under paragraph **7.8.7** above.

7.9.2 Notice of all such decisions will be sent by email to all Members within two working days of being made. The notice will bear the date on which it is published and will specify that the decision(s) which it records will come into force five working days after that date unless it is called in.

7.9.3 Within that period, any five Members may call in such a decision by requesting the Democratic Services Manager to convene a meeting of the relevant Scrutiny Panel to consider it.

7.7 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

7.8 Responsibility for Functions

The Leader of the Council will maintain a list in Part 3 of this Constitution setting out which individual Members of the Executive, committees of the Executive, officers or joint arrangements are responsible for the exercise of particular Executive functions.

Schedule:**Description of Executive Arrangements**

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The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Scrutiny) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Executive Procedure Rules;
3. Article 11 (Joint arrangements);
4. Article 13 (Decision making) and the Access to Information Procedure Rules;
and
5. Part 3 (Delegation Scheme);

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Seven Heads of Service:-	
Head of Assets	Property Services, Building Control, Engineering, Natural Environment & Recreation, Salcombe Harbour, Dartmouth Ferry
Head of Planning, Economy & Community	Strategic Planning, Development Management, Land Charges, Community Delivery, Economic Development, Arts
Head of Environmental Health & Housing	Housing, Environmental Health
Head of ICT & Customer Services	Customer Services, Revenues & Benefits, Housing Options, Facilities, ICT & Design, Corporate Improvement, Post
Head of Finance & Audit	Finance, Audit
Head of Corporate Services	Human Resources, Legal, Member Services, Electoral Services, Communications/Media, Print
Head of Environment Services	Recycling/Waste Collection, Street Scene, Grounds Maintenance

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(c) For the purposes of the functions described in Article 12.2–12.4 below and the Officer Employment Procedure Rules (in Part 4), the Council designates the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Finance & Audit	Section 151 Officer
Monitoring Officer	Monitoring Officer
Corporate Directors	Non-Statutory Chief Officers
Heads of Service	Deputy Chief Officers

(d) The overall departmental structure of the Council, showing the management structure and deployment of officers, is also set out at Part 7 of this Constitution.

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12.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council:** The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions:** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

12.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution:** The Monitoring Officer will maintain an up-to-date version of this Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making:** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Full Council or to the Executive in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **Proper officer for access to information:** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (d) **Contributing to Corporate Management:** The Monitoring Officer will contribute to the corporate management of the authority in particular by acting as the Solicitor to the Council and providing professional legal advice to the Council.
- (e) **Supporting the Corporate Performance and Resources Scrutiny Panel in respect of Code of Conduct matters:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct of Members of the Council ~~and of town and parish councils in the District~~ by providing support to the Panel when required, contributing to the training of Members and the provision of advice for them.
- (f) **Conducting investigations into alleged breaches of the Member Code of Conduct:** The Monitoring Officer will arrange for the conduct of investigations into, and take other action upon, matters referred by the ~~Monitoring Officer and/or~~ Corporate Performance and Resources Scrutiny Panel and make reports or recommendations in respect of them to the Panel.
- (g) **Advising whether Executive decisions are within the budget and policy framework and the principles of decision making (set out in Article 13):** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (h) **Providing advice:** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget and policy framework issues to all Members.
- (i) **Restrictions on posts:** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

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12.4 Functions of the Section 151 Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making:** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Executive in relation to an Executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will –
- involve incurring unlawful expenditure; or
 - is unlawful; or
 - is likely to cause a loss or deficiency; or
 - involve the Council entering an item of account unlawfully.
- (b) **Administration of financial affairs:** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management:** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice:** The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, and budget and policy framework issues to all Members and will support and advise Members and officers in their respective roles.
- (e) **Give financial information:** The Section 151 Officer will provide financial information to the media, members of the public and the community.

12.5 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.6 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

12.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

Part 2

Articles of the Constitution



Article 15: Review and Revision of the Constitution

15.1 Duty to Monitor and Review the Constitution

- (a) ~~In consultation with the Head of Paid Service,~~ the Monitoring Officer will keep under review the operation of the Constitution to ensure that
- (i) the aims and principles of the Constitution are given full effect; and
 - (ii) the Council remains able to act lawfully, with probity and in accordance with the rules of natural justice.
- (b) The Monitoring Officer will be responsible for maintaining an up-to-date Constitution and will consult with the Audit Committee on matters of concern or where change is proposed.

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15.2 Protocol for Monitoring and Review of Constitution by the Monitoring Officer

- (a) A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1.
- (b) In undertaking this task, the Monitoring Officer, ~~in consultation with the Head of Paid Service~~ may:
- (i) observe meetings of different parts of the Member and officer structure;
 - (ii) undertake an audit trail of a sample of decisions;
 - (iii) record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
 - (iv) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

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15.3 Changes to the Constitution

a) ~~a) Approval:~~ Changes to the ~~C~~constitution will ~~only~~ be approved ~~annually~~ by the Full Council after consideration of ~~either:~~

- ~~the proposal by the Head of Paid Service and the Monitoring Officer;~~
- ~~a recommendation from a Committee;~~
- ~~a report of the Political Structures Working Group; or~~
- ~~a motion on notice submitted by Members in accordance with Council Procedure Rule 10.~~

~~The Monitoring Officer may make minor amendments to the Constitution as and when deemed necessary, and, where in the opinion of either or both of those officers the changes proposed are significant, a Member Working Group appointed by Council.~~

b) **Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa:** The Council must take reasonable steps as prescribed by law to consult with local electors and other interested persons in the area when drawing up proposals.

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Part 2

Articles of the Constitution



South Hams
District Council

Article 16: Suspension, Interpretation and Publication of the Constitution

16.1 Suspension of the Constitution

(a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules ~~in Part 4 specified below~~ may be suspended by the full Council and the Executive to the extent permitted within those Rules and the law.

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~~(b) **Procedure to suspend.** A motion to suspend any Rules may not be moved without notice unless at least one half of the whole number of Members of the Council or the Executive is present for meetings of the Council and Executive respectively. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.~~

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~~(c) **Rules capable of suspension.** The Rules capable of suspension are:~~

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~~(i) Council Procedure Rules as defined by Rule 22~~

~~(ii) Contract Procedure Rules as defined by Rule 2.3~~

16.2 Interpretation

(a) Council Meetings

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. In making any ruling the Chairman will be guided by the principles and purposes of this Constitution set out in Article 1.

(b) Meetings of the Executive, Committees or other bodies of the Council

The ruling of the Chairman of the Executive, Committee or other body as to the construction or application of this Constitution shall not be challenged at any meeting of the Executive, Committees or other bodies of the Council. In making any ruling the Chairman will be guided by the principles and purposes of this Constitution set out in Article 1.

16.3 Publication

(a) The Monitoring Officer will ensure that an electronic or a printed copy of this Constitution is given to each Member of the Council upon delivery to him or her of that individual's declaration of acceptance of office when the Member is first elected to the Council. Updates to the Constitution will be made available in electronic format

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(b) The Monitoring Officer will ensure that copies are available for inspection at Council offices and on its website. A paper copy, libraries and other appropriate locations (eg the Council's website), and can be purchased by members of the local press and the public on payment of a reasonable fee.

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(c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the District, in print and on the Council's website and is updated as necessary.

Part 2 Articles of the Constitution



~~Schedule 1: Description of Executive Arrangements~~

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~~ALL EXECUTIVE FORMS OF CONSTITUTION~~

~~The following parts of this Constitution constitute the executive arrangements:~~

- ~~1. Article 6 (Scrutiny) and the Overview and Scrutiny Procedure Rules;~~
- ~~2. Article 7 (The Executive) and the Executive Procedure Rules;~~
- ~~3. Article 11 (Joint arrangements);~~
- ~~4. Article 13 (Decision making) and the Access to Information Procedure Rules;~~
- ~~5. Part 3 (Delegation Scheme);~~

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SOUTH HAMS DISTRICT COUNCIL

Part 3

Delegation Scheme

Contents of Part 3 of the Constitution

1. General Overview of the Constitution

2. Principles of Delegation

3. Delegations to Council

4. Delegations to Executive

5. Delegations to Committees

- Audit
- Development Management Committee
- Licensing Committee
- **Overview & Scrutiny Committee Panels**
- Salcombe Harbour
- Other Council Bodies

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6. Delegations to Senior Officers

- Matters reserved for Council or Committee
- Urgent items
- Delegation to Specific Senior Officers
- Chief Executive
- Corporate Directors
- Monitoring Officer
- Heads of Service
- Devon Building Control Partnership

1. GENERAL OVERVIEW OF THE CONSTITUTION

1.1 This Part of the Constitution deals with the manner in which the Council carries out its business. It sets out:

What statutory functions have been assigned by law to the Council?

- What other functions it has, by virtue of being a large organisation that owns property, employs staff and so on;
- Which Council body (Council itself, the Executive, or a Committee) is –
 - Responsible for carrying out any of these functions, or
 - Responsible for overseeing how each of these functions is carried out;
- Which senior officer is responsible to the Council for carrying out each of those functions; and,
- The extent of powers delegated to any Council body, individual Member of the Executive, or officer to carry out any function.

1.2 The Council operates executive arrangements which are as set out in Part 2 of this Constitution. Under those arrangements –

- certain functions are restricted to the full Council;
- certain other functions are required to be carried out by a regulatory Committee, such as Development Management and Licensing;
- certain other committees have specific functions, namely Audit, and the Scrutiny Panels; and,
- the Council has chosen to have functions relating to the operation of the Salcombe Harbour carried out through the Salcombe Harbour Board.

Everything else is the responsibility of the Executive. The details of the arrangements are set out in this Part.

1. GENERAL OVERVIEW OF THE CONSTITUTION (cont'd)

Functions assigned by law

- 1.3 Councils carry out a large range of functions conferred upon them by Parliament. The list is too extensive to be placed here but there are some indications and examples in the Scheme of Delegation which follows. In addition, under the Localism Act 2011 the Council has been given a general power of competence, enabling it to do anything that an individual might do. This is subject to certain qualifications.
- 1.4 The organisational functions flowing from statutory powers are carried out as described in the Scheme of Delegation. This is in two parts:
 - the powers exercisable by Members of the Council, in whatever capacity; and,
 - those exercisable by officers.
- 1.5 In this Part are summarised the functions specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, which are reserved to Council, those which may or must be exercised by the Executive, and those which must not be exercised by the Executive. The body or person to whom the function is assigned is named.
- 1.6 The Principles of Decision Making are set out in Part 2, Article 13.

2. PRINCIPLES OF DELEGATION

2.1 Section 101 of the Local Government Act 1972 provides that:

- A Council may delegate its powers (except those incapable of delegation) to a committee or an officer
- A Committee may delegate its powers to a sub-committee
- A Committee may delegate its powers to an officer
- Powers which have been delegated may be exercised by the delegating body.

2.2 Any delegation to the Executive, an individual Executive Member, Committee or a Senior Officer (i.e. Chief Executive, Corporate Directors, Heads of Service and the Monitoring Officer) shall be exercised in compliance with the Council's Constitution, any other policies or conditions imposed by the Council and with the law.

2.3. In making any decision regard shall be had to the Council's Priorities and principles of decision-making as set out in Article 6 of the Constitution.

2.4 A Senior Officer may nominate another named Officer to carry out any powers and duties which have been delegated to that Senior Officer.

2.5 If any officer to whom a function has been delegated is for any reason unable to act, or if the post of any such officer is vacant, the Chief Executive, or in his absence, any other Chief Officer may exercise the delegated power.

2.6 In an emergency, the Chief Executive is empowered to carry out any function of the Council.

2.7 Where officers are contemplating any action under delegated powers which is likely to have a significant impact in a particular area, they should also consult the relevant local ward Members.

2.8 A delegated officer must ensure that s/he obtains appropriate advice from the Council's legal, financial and other specialist staff before action is taken.

2.9 The Monitoring Officer may make consequential amendments to the Delegation Scheme to reflect the re-designation of posts in any Service which affects the terms of the scheme.

2.10 The Monitoring Officer shall settle any points requiring interpretation or clarification in the practical application of this Delegation Scheme.

3. DELEGATIONS TO FULL COUNCIL

Only the Council may exercise the following functions:

- To adopt and approve the Constitution and governance arrangements including the form of the executive
- To approve and adopt or amend the Policy Framework
- To approve and adopt the Budget
- To determine the Council's Priorities
- To appoint the Chairman and Vice-Chairman
- To appoint the Council Leader and Deputy Leader
- To appoint Committee Chairmen and Vice-Chairmen
- To appoint members of the Executive
- To appoint and to agree or amend the terms of reference for bodies of the Council, to decide on their composition and to make appointments to them
- To appoint representatives to outside bodies (unless the appointment is a function of the Executive or has been delegated by the Council);
- To adopt the schedule of meetings for the ensuing year
- To approve joint arrangements for the discharge of any of the Council's functions by another local authority
- To authorise or approve Members' duties in connection with Council business for the purposes of their allowances
- To consider the recommendations of the Independent Remuneration Panel and adopt a Scheme for Members' Allowances that can be claimed by Members of the Council in respect of authorised or approved duties (including travel and subsistence) under Article 2.5 and Part 6 of this Constitution
- To make any decisions which would be contrary to the Policy Framework
- To determine matters involving expenditure for which budget provision is not made or is likely to be exceeded
- To determine matters which do not fall within the remit of the Executive or any Committee or body

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3. DELEGATIONS TO FULL COUNCIL (cont'd)

- To appoint the Chief Executive, chief and deputy chief officers and statutory officers
- To determine matters affecting or likely to affect more than one Council body or where consultation with or approval of more than one Council body is required
- To determine any matters referred to it by a Committee in accordance with Procedure Rule 14
- To make decisions concerning district boundaries, elections, electoral areas and divisions, wards or polling districts taking account of recommendations from time to time by the Boundary Committee/Commission
- To make orders for the grouping of parishes, and make appointments to vacant seats on a parish council where it is not quorate
- To make community governance orders.
- To direct the executive to reconsider any draft plan or strategy submitted for the Council's consideration
- To approve for public consultation draft proposals for the alteration or replacement of a development plan
- To amend any draft plan or strategy submitted for the Council's consideration
- To approve for submission to the Secretary of State or any Minister of the Crown a draft plan or strategy
- To adopt any draft plan or strategy submitted for the Council's consideration with or without modifications
- To maintain a system of internal control that identifies objectives and obligations, the risk to the achievement of these objectives and obligations and controls to mitigate the risks
- To approve the Annual Governance Statement and to receive an annual report on the risk management process
- To set the Council Tax
- To borrow money
- To receive statutory reports from the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer

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3. DELEGATIONS TO FULL COUNCIL (cont'd)

- To determine whether or not to accept delegation from another local authority
- To approve the Treasury Management Strategy and Investment Strategy
- To make, amend, revoke, re-enact or adopt bylaws and to promote or oppose the making of local legislation or private Parliamentary Bills
- To change the name of the District
- To confer the title of Honorary Alderman
- To consider all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive; and

~~• To make development management decisions where~~

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- ~~• the application is for development which is not in accordance with the development plan which the Development Management Committee does not propose to refuse and~~
- ~~• notification to the Secretary of State is required under the Town and Country Planning Acts or under any other future provision which substantially re-enacts the requirements of those directions.~~

4. DELEGATIONS TO THE EXECUTIVE

Responsibilities:

- 4.1 The Executive is responsible for determining and arranging for the carrying out of all and any functions except those which–
- i. are on the list of matters reserved for full Council, or
 - ii. are specifically delegated to another Council body or an officer, or
 - iii. the Executive is prevented by law from doing.
- 4.2 Certain functions are as a matter of local choice carried out by the Executive and for clarity these are listed below.
- 4.3 The list of matters reserved to full Council is set out above in this Part of this constitution.
- 4.4 The matters delegated to another Council body or to an officer are listed below in this part of the Constitution.
- 4.5 The matters which the Executive is prevented by law from doing are these:
- a. Functions relating to town and country planning and development control, the protection of trees and hedgerows and complaints about high hedges which are delegated to the Development Management Committee and the Head of Planning, Economy and Community Delivery.
 - b. Functions relating to licensing and regulation of liquor sales and entertainments, gambling, taxis and other miscellaneous activities and trades, health and safety at work and smoke-free premises, all of which are delegated to the Licensing Committee and the Head of Environmental Health and Housing.
 - c. Power to make, amend, revoke, or re-enact byelaws which remains with the Council or to enforce byelaws which is delegated to the relevant Head of Service
 - d. Miscellaneous functions which mostly remain with the Council, namely:
 - making standing orders to regulate procedures and governance of contracts and procurement;
 - designation of the head of paid service, the monitoring officer, and provision of their staff;
 - making arrangements for proper administration of financial affairs including the appointment of the S151 Officer;
 - approving the Council's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts – although the Executive will consider and recommend approval;

4. DELEGATIONS TO THE EXECUTIVE (cont'd)

d. Miscellaneous functions which mostly remain with the Council, namely: (cont'd)

- approving the Members' Allowances Scheme;
- making arrangements for the discharge of functions by a committee or officer, or by another local authority, making appointments to committees and delineating the voting rights of co-opted members or scrutiny panels;
- making requests for electoral schemes or making community governance orders;
- making payments or providing other benefits in cases of maladministration etc. which are delegated to the head of paid service;
- appointing staff, and determining the terms and conditions on which they hold office (including procedures for their dismissal) which are delegated to the head of paid service;
- appointing "proper officers" which is delegated to the head of paid service and Heads of Service.

4.6 Where the Executive is prohibited from carrying out particular functions it is also prohibited from –

- a. imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration or determining any other terms to which any such approval, consent, licence, permission or registration is subject, or
- b. amending, modifying, varying or revoking any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or
- c. determining whether, and in what manner, to enforce against any failure to comply with an approval, consent, licence, permission or registration or any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject, or other contravention or
- d. determining whether to make a charge for any approval, consent, licence, permit or registration and the amount of any such charge.

4. DELEGATIONS TO THE EXECUTIVE (cont'd)

4.7 As a matter of local choice, the Executive will carry out the following functions:

- i. Any functions under any local Act except for the Pier and Harbour Order (Salcombe) Confirmation Act 1954.
- ii. Determination of appeals from any decisions made by the authority.
- iii. Functions relating to drafting, submitting, revising and publishing local area agreements.

4.8 The following "local choice" functions will be delegated to officers:

- review of council tax and housing benefit applications;
- functions relating to contaminated land, control of pollution, or air quality;
- inspection, detection and service of an abatement notice for statutory nuisance;
- The obtaining of information and particulars about persons interested in land.

4.9 The following "local choice" functions are reserved to Council:

4.9.1 The appointment of any individual -

4.9.1.1 to any office other than an office in which s/he is employed by the authority;

4.9.1.2 to anybody other than -

- the authority;
- a joint committee of two or more authorities; or
- to any committee or sub-committee of such a body, and

4.9.1.3 the revocation of any such appointment.

4.9.2 The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities

4.9.3 The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area

4. DELEGATIONS TO THE EXECUTIVE (cont'd)

4.10 In discharging the functions of preparing for adoption a plan or strategy listed below, the Executive may consider and make a recommendation about them to Council:

- Control of borrowing, investments, capital expenditure or determining the authority's minimum revenue provision;

• ~~Crime and Disorder Reduction Strategy;~~

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• ~~The Local Plan Development Plan Documents;~~

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- Licensing Authority Policy Statement;

• ~~Plans and alterations which together comprise the Development Plan;~~

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• ~~The Connect Strategy Sustainable Community Strategy ("the Connect Strategy").~~

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4.11 In the following circumstances, the Executive may not exercise the functions described below:

4.11.1 When the decision to approve any plan or strategy other than those listed above has been reserved to itself by Council;

4.11.2 When an individual member of the Executive or the Executive as a body is minded to determine a matter relating to the authority's budget, borrowing or capital expenditure in a manner that is either –

- not in accordance with the budget or any current capital investment plan, or
- not authorised by the authority's executive arrangements, financial regulations, standing orders or other rules or procedures in the intended terms;

4.11.3 When an individual member of the Executive or the Executive as a body is minded to determine a matter which is the Executive's responsibility in a manner that is not in accordance with a plan or strategy that has been approved by Council.

4. DELEGATIONS TO THE EXECUTIVE (cont'd)

4.12 For the avoidance of doubt,

4.12.1 The Executive will manage all the Council's land and property;

4.12.2 The Executive will, having regard to the views of the relevant Scrutiny Panel, keep under review and recommend to Council the fees and charges for the Council's services (other than those within the remit of the Development Management Committee and the Licensing Committee) where

- i. statutory authority exists for the levying of such charges, and
- ii. where, in the opinion of the Head of Finance and Audit, the levying of such charges will not give rise to a material adverse impact on the overall budget of the Council.

4.12.3 The Executive will be responsible for approval of Delivery Plans which are subordinate to the Plans listed in paragraph 10 above. These include:

i. Local Plan Policy Documents: to be responsible for Supplementary Planning Documents, Policy Position Statements, Codes of Practice and Policy Guidance;

ii. Neighbourhood and Community Plan Areas: to support communities in the preparation of Neighbourhood Plans and Orders and Community Plans and agree Plan Areas;

iii. Neighbourhood Plans, Orders and Community Right to Build: to consider and monitor and make any necessary recommendations to Council.

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5. DELEGATIONS TO COMMITTEES

AUDIT COMMITTEE

Responsibilities

To carry out the Council's responsibilities for the following areas:

Internal Audit

To consider and approve (but not direct) the Internal Audit Terms of Reference (Charter), Strategy and Audit Plans.

To consider:

- Progress on the Internal Audit Plan and summary of internal audit activity, opinions and findings;
- The Internal Audit Annual Report including an opinion on the Council's overall control environment for the purpose of the Annual Governance Statement;
- Reports dealing with the management and performance of the internal audit service providers (known as the 'effectiveness of the system on internal audit');
- Reports from Internal Audit on agreed recommendations not implemented within a reasonable timescale (known as 'follow up');
- Reports on data quality to ensure that all performance information meets data quality standards; and
- The monitoring of the progress of Internal Audit plans including summaries of Internal Audit reports.

To promote:

- internal control, including commissioning work from internal audit in association with the s 151 officer and monitor audit performance

and to make any necessary recommendations to the relevant Committee or Council in respect of the above.

External Audit

To consider:

- The External Auditor's Annual Governance Report and other relevant external audit reports;
- External Audit work to ensure that it gives value for money;
- The External Audit plans;

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• Reports dealing with the management and performance of the external audit service providers; and

• Commission work and other specific reports from external audit as agreed with the External Auditor in association with the s151 Officer.

Accounts

• To review and approve the Annual Statement of Accounts and to consider whether appropriate accounting policies have been followed;

• To consider the External Auditor's report on the annual audit of accounts

and to make any necessary recommendations to the relevant Committee or Council in respect of the above.

Regulatory Framework

To:

• Maintain an overview of the Council's Constitution;

• Recommend to Council the adoption of:

o A code of Corporate Governance;

o Antifraud, Corruption and Bribery Strategy

o Anti Money Laundering Policy

o Risk Management Policies

• Oversee the System of Internal Control and Annual Governance Statement ;

• To monitor Value for Money (including benchmarking)

and to make any necessary recommendations to the relevant Committee or Council in respect of the above.

Review and Scrutiny of Strategies

To monitor:

• Risk Management Strategy

• The Assurance Framework (including System of Internal Control)

• Code of Corporate Governance

• Antifraud, Corruption and Bribery Strategy

• Anti Money Laundering Policy

• Whistle-blowing Policy

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and to make any necessary recommendations to the relevant Committee or Council in respect of the above.

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Audit Activity:-

- (i) to consider internal audit's annual report and opinion, and summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;
- (ii) to consider summaries of specific internal audit reports as requested;
- (iii) to consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale;
- (iv) to consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- (v) to consider specific reports as agreed with the external auditor;
- (vi) to comment on the scope and depth of external audit work and to ensure it gives value for money;
- (vii) to commission work from internal and external audit;

Internal Controls:-

- (viii) to maintain an overview of this Constitution;
- (ix) to review any issue referred to it by the Chief Executive, a Corporate Director or any Council body;
- (x) to monitor Council policies on confidential reporting, anti-fraud corruption and bribery, and anti-money laundering;
- (xi) to review the effectiveness of the Council's risk management process on a regular basis and gain assurance that appropriate action is being taken to ensure that corporate risks are being managed, including a report to Council annually;
- (xii) to promote the system of internal control through the systematic appraisal of internal controls and develop an anti-fraud culture, focus audit resources through review and comment upon audit plans, monitor audit delivery and performance through regular review of the completion of planned audit work within agreed timescales, monitor key findings and management responses to audit reports and the implementation of audit recommendation(s);

5. DELEGATIONS TO COMMITTEES (cont'd)

AUDIT COMMITTEE (cont'd)

- (xiii) to oversee the production of the Council's Annual Governance Statement and recommend its adoption to Council;
- (xiv) to consider the Council's arrangements for corporate governance and to ensure compliance with best practice and to receive and comment upon an annual review of the Council's Code of Corporate Governance
- (xv) to consider the Council's compliance with its own and other published standards and controls

Financial Reporting:-

- (xvi) to review and formally approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from audit regarding the robustness of the accounts that need to be brought to the attention of the Council;
- (xvii) to consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

5. DELEGATIONS TO COMMITTEES

DEVELOPMENT MANAGEMENT COMMITTEE

Responsibilities

The Development Management Committee is responsible for and authorised to consider and make determinations (with or without site inspection, subject to statutory and other appropriate consultation and subject to the concurrent exercise of powers by Officers under the Scheme of Delegation (set out in this Part of the Constitution) in the following areas:

PLANNING

5.1 Development Management and Control

- Advertisement Control.
- Agreements regulating the development or use of land.
- Applications by Local Planning Authorities.
- Authority to determine whether planning permission required.
- Certificate of Appropriate Alternative Development. (Land Compensation Act)
- Certificates of Lawful Use or Development.
- Consultations by Crown and Duchy.
- Discontinuance of use or alteration or removal of buildings or works.
- Electricity Supply Acts Consultations.
- Enforcement Control (including Planning Contravention Notices, Requisitions, Breach of Condition Notices, Stop Notices (including temporary stop notices) etc)
- General Planning Control including the determination of planning applications
- Land adversely affecting the amenity of the neighbourhood.
- Authorising Prosecutions
- Provisions as to compensation and provisions enabling an owner to require the purchase of an interest.
- Responding to Dartmoor National Park, and other neighbouring authority consultations.

5. DELEGATIONS TO COMMITTEES (cont'd)

DEVELOPMENT MANAGEMENT COMMITTEE (cont'd)

PLANNING

5.1 Development Management and Control (cont'd)

- Responding to Statutory and other consultees
- Revocation or modification of planning permission.
- Telecommunication Mast Applications.
- To extinguish/divert public rights of way under the Town and Country Planning Acts and to make representations to other Authorities in relation to their exercise of these powers under that or other legislation.

5.2 Conservation - Historic Buildings

- Building Preservation Notices.
- Compulsory acquisition of buildings in need of repair and related powers.
- Historic Building Grants
- Listed Building Consents and Conservation Area Consents.
- Listed Building Enforcement.
- Revocation or modification of Listed Building Consent.
- Urgent repairs or works

5.3 Community Landscaping

- High Hedges
- Hedgerows
- To comment on consultations by the Forestry Commission.
- To offer grant aid for tree surgery to trees of public amenity importance within the financial limits set down in the Council's estimates.
- Tree Preservation Orders and related control and enforcement.

5. DELEGATIONS TO COMMITTEES (cont'd)

DEVELOPMENT MANAGEMENT COMMITTEE (cont'd)

Relevant Statutory Powers

- Town and Country Planning Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Planning (Consequential Provisions) Act 1990
- Planning and Compensation Act 1991
- Planning Act 2008
- Planning and Energy Act 2008
- Caravan Sites and Control of Development Act 1960
- Anti Social Behaviour Act 2003
- Localism Act 2011

or any statutory re-enactment, amendment or variation of any of them as from time to time determined by Parliament.

5.4. Local Land Charges

- To provide and administer a comprehensive Land Charges system.

Fees

To keep under review the fees and charges for the Committee's services where statutory authority exists for the levying of such charges and to levy the same where, in the opinion of the Head of Finance and Audit, the levying of such charges will not give rise to a material adverse impact on the overall budget of the Council.

5. DELEGATIONS TO COMMITTEES (cont'd)

LICENSING COMMITTEE

Responsibilities

- To be responsible for all of the Council's licensing functions including:
- To review and recommend to Council:
 - the Licensing Statement of Policy
 - the Gambling Statement of Principles
 - the Policy not to permit casinos
- To review and be responsible for all other Licensing Policies
- To determine the revocation and suspension of Hackney Carriage / Private Hire Driver or Vehicle Licenses
- To determine all licensing applications for all licensing functions (except in relation to the licensing functions under the Licensing Act 2003 and the Gambling Act 2005 - see below) to which an objection has been received and not withdrawn or satisfactorily addressed by the applicant;
- To determine the revocation of any licence.

LICENSING SUB COMMITTEES

- a) Licensing sub-committees have the following responsibilities in relation to functions under the Licensing Act 2003:
- Applications for personal licences - if there is a police objection
 - Applications for personal licences with unspent convictions – all cases
 - Review of personal licences – if there is a police objection
 - Applications for premises licence/club premises certificate – if a relevant representation is made
 - Applications for provisional statement – if a relevant representation is made
 - Application to vary premises licence/club premises certificate - if a relevant representation is made
 - Applications to vary designated premises supervisor – if police objection made
 - Applications for transfer of premises licence – if police objection
 - Applications for interim authorities – if a police objection
 - Applications to review premises licence/club premises certificate – all cases
 - Decision to object when Council is a consultee and not relevant authority - all cases
 - Determination of a police or Environmental Health objection to a temporary event notice - all cases

5. DELEGATIONS TO COMMITTEES (cont'd)

LICENSING SUB COMMITTEES (cont'd)

- b) Licensing sub-committees have the following responsibilities in relation to the Gambling Act 2005:
- Application for premises licence: if a relevant representation has been made and not withdrawn
 - Application for a variation to a licence: if a representation has been made and not withdrawn
 - Application for a transfer of a licence: where representations have been received from the Gambling Commission
 - Application for a provisional statement: if a representation has been made and not withdrawn
 - Review of a premises licence
 - Application for club gaming/club machine permits: where objections have been made and not withdrawn, or where refusal proposed
 - Temporary use notice: Decision to give a counter notice, or where objection notice received
 - Fees
- c) Licensing sub-committees have the following responsibilities in relation to the Hackney Carriage / Private Hire Driver or Vehicle Licences:
- Review, revocation or suspension of licences
- d) Licensing sub-committees have the following responsibilities in relation to the Miscellaneous Licences issued under the statutes listed in paragraph 3 below.
- To determine appeals from officers' decisions where required

Fees

To keep under review the fees and charges for the Committee's services where statutory authority exists for the levying of such charges and to levy the same where, in the opinion of the Head of Finance and Audit, the levying of such charges will not give rise to a material adverse impact on the overall budget of the Council.

Legislation

List of statutes and Regulations to be inserted

5. DELEGATIONS TO COMMITTEES (cont'd)

OVERVIEW AND SCRUTINY PANELS

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1 Terms of Reference

The Council will appoint three Scrutiny Panels with the following functions.

Each Scrutiny Panel will:

- (a) have the ability to hold the Executive to account;
- (b) review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (c) make reports and evidence-based recommendations to the full Council, the Executive and other bodies of the Council including those established under Joint Arrangements in connection with the discharge of any functions;
- (d) make reports and evidence-based recommendations to the full Council on any matters of broad local concern or importance within their remit;
- (e) conduct reviews and carry out community and other consultation in the analysis of policy issues and possible options;
- (f) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive or an Executive Portfolio Holder or key decisions made but not yet implemented by officers;
- (g) undertake the functions within the thematic areas set out in the table below. These thematic areas will of necessity be broadly defined. Any potential confusion or duplication between the thematic areas of these bodies which may result in duplication of effort or omission will be resolved by the Programming Panel.

5. DELEGATIONS TO COMMITTEES (cont'd)

OVERVIEW AND SCRUTINY (cont'd)

Group	Thematic area
Economy and Environment	Enhancing the prosperity of businesses, communities and individuals, and maintaining and enhancing the quality of the environment
Community Life and Housing	<ul style="list-style-type: none"> • Securing safe, clean and healthy communities and securing a supply of affordable housing for local people. • considering leisure contract monitoring reports and undertake an annual review in line with the Funding and Management Agreement. • discharging the functions of a Crime and Disorder Overview and Scrutiny Committee.
Corporate Performance and Resources	<p>The performance of the “back office” services, complaints (including Ombudsman complaints and those against Members alleging a breach of the Code of Conduct), access to information and related policies and protocols.</p> <p>To be responsible for the new standards responsibilities under the Localism Act (to include the new Code, Registers of Interests, training, advice, standards complaints, investigations, considering reports, hearings, sanctions and dispensations).</p>

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2 Overview and Scrutiny: Specific Functions

Each Scrutiny Panel will, within its own thematic area:

- (a) review and scrutinise the decisions made by and performance of the Executive or council officers both in relation to individual decisions and decisions made over time and may question Members of the Executive and officers whether generally or in relation to specific decisions, initiatives or projects;
- (b) scrutinise the need for and the appropriateness of the Council's policies and the effectiveness of the outputs of the delivery systems in achieving the outcomes of those policies;
- (c) review and scrutinise the performance of the Council in relation to its budget, policy objectives, performance targets or particular service areas, and assist in the development of the budget and policy framework by in-depth analysis of the current provision, performance and policy issues;

5. DELEGATIONS TO COMMITTEES (cont'd)

OVERVIEW AND SCRUTINY

2 Overview and Scrutiny: Specific Functions (cont'd)

- (d) make recommendations to the Executive and Council arising from the outcome of the scrutiny process and its reviews;
- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address a Scrutiny Panel and local people about their activities and performance; and
- (f) question and gather evidence from any person with relevant knowledge, expertise or responsibility (with their consent).
- (g) instigate research, community and other consultation in the analysis of policy issues, possible options and the development of policy;
- (h) regularly involve Members of the Executive and occasionally Members of other bodies of the Council and officers to find out their views or advice on issues, proposals and policy affecting the area;
- (i) consider reports or questions from any individual Councillor on matters relevant to the terms of reference of the Group to enable the views of constituents and other organisations to be taken into account; and
- (j) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

3 Corporate Performance and Resources Scrutiny Panel – Standards Matters

Roles and Functions:-

- (a) to provide and maintain high standards of conduct by councillors and co-opted members;
- (b) to assist councillors and co-opted members of the authority to observe the Council's Code of Conduct;
- (c) to advise the Council on the adoption or revision of the Members' Code of Conduct and on matters relating to the ethical conduct of the Council and its Members;
- (d) to advise and train councillors and co-opted members on matters relating to the Code of Conduct;

5. DELEGATIONS TO COMMITTEES (cont'd)

OVERVIEW AND SCRUTINY (cont'd)

3 Corporate Performance and Resources Scrutiny Panel – Standards Matters (cont'd)

- (e) to grant dispensations to District Councillors (and where relevant, co-opted members of the District Council) on requirements relating to Disclosable Pecuniary Interests in the following circumstances:
- i. where many Members of the decision-making body have a Disclosable Pecuniary Interest, which would result in the political balance being affected;
 - ii. it is in the interests of the inhabitants that a dispensation be granted; or
 - iii. it is appropriate to grant a dispensation.

In addition, (and when it is not expedient to wait until the next scheduled Panel meeting) dispensations can also be granted by:-

- a Scrutiny Code of Conduct Sub Panel, or
- the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Corporate Performance & Resources Scrutiny Panel.

- (f) to consult the Independent Person(s) in accordance with the 'Dealing with Complaints Policy' relation to complaints, matters referred for investigation and hearings;

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- (g) to consider complaints alleging a breach of the Code of Conduct by District Councillors (and any co-opted members where relevant) and those members of town and parish councils in the District of South Hams; and

- (h) to receive investigation reports and to carry out hearings (including sanctions) in respect of allegations of misconduct for District Councillors (and co-opted Members where relevant) and town and parish council members, and to recommend sanctions or other recommendations / actions.

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4 Corporate Performance and Resources Scrutiny Panel Sub Committees – Standards Matters

Roles and Functions:-

- (a) to consider complaints alleging a breach of the Members' Code of Conduct as referred by the Council's Monitoring Officer; and
- (b) to receive investigation reports and carry out Hearings (including sanctions) in respect of allegations and misconduct.

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5. DELEGATIONS TO COMMITTEES (cont'd)

OVERVIEW AND SCRUTINY (cont'd)

5 Officers

Scrutiny Panels will have administrative support and be able to call on other relevant officer support and external expertise where necessary.

6 Annual Report

Each Scrutiny Panel must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

5. DELEGATIONS TO COMMITTEES (cont'd)

SALCOMBE HARBOUR BOARD

Consultation is required before embarking on a review of the Harbour's governance

Specific Board functions:

- (i) That Salcombe Harbour will conduct operations in accordance with the powers granted to the Council as a Harbour Authority by the Salcombe Harbour Order 1954 (The Pier and Harbour Order (Salcombe) Confirmation Act 1954) and any other enabling legislation and, insofar as it falls within the scope of these powers, the policy of the Council in relation to the Harbour as expressed through:-
 - The Harbour Policy Document;
 - Estuary and Environmental Management Plans;
 - Any byelaws approved and adopted in respect of the Harbour;
 - Safety Management Systems in Compliance with the Port Marine Safety Code;
 - Other Council decisions from time to time.
- (ii) That the Harbour is self-financing and that it maintains commercial accounts in conjunction with the accounts as required by the Authority to demonstrate the Harbour's commercial viability;
- (iii) That a three year strategic business plan for the Harbour is produced, approved by Council and reviewed annually;
- (iv) That decisions relating to the Harbour are based on advice from officers who have a clear understanding of the special requirements of the Harbour;
- (v) That they adopt and maintain transparent, speedy and informative communication with relevant Members of the Council's Executive for consultation and reporting purposes;
- (vi) That they have due regard for the interests of the local community and user groups, attending community forums seeking views to gain a balanced picture of the effects of policy and decisions;
- (vii) That the existing systems for the delegation of functions be kept under review;
- (viii) That any matter which is beyond delegated authority is recommended to the Council by the Board;
- (ix) That charges and subsidies be recommended by the Board for approval by the Council on a yearly basis;

5. DELEGATIONS TO COMMITTEES (cont'd)

SALCOMBE HARBOUR BOARD (cont'd)

- (x) That they monitor and review all matters relating to the Harbour land and property in accordance with policies which may be laid down by the Council from time to time, for which financial and other provision has been expressly made by the Council. The Harbour's asset base is laid out in the associated plan;
- (xi) That they oversee the running of services to contract and/or to business plan on commercial lines by advising on business direction in the context of the Council's budget and policy framework;
- (xii) They monitor and analyse performance against budget, other indicators and performance plans;
- (xiii) That issues of concern are raised with officers of the Council.

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES

ASSET MANAGEMENT GROUP

- To provide advice to Members and the management teams on strategic management of the Council's assets and the performance of the Council's portfolio;
- To contribute to plans dealing with maintenance, acquisitions and disposals of land and property, and health and safety and risk assessment, so far as the Council's portfolio is concerned; and
- To recommend projects to be included in the Council's Capital Programme and to monitor of these projects.

COUNCIL TAX SETTING PANEL

The Council Tax Setting Panel has the following functions:-

- (a) To exercise delegated authority to set the level of Council Tax in accordance with the Council's agreed budget;
- (b) To undertake the task detailed in (a) above following notification from Devon County Council, the Devon and Cornwall Police Authority, Devon and Somerset Fire and Rescue Authority, and each Parish/ Town Council of their individual precepting requirements.

DESIGN & CONSERVATION PANEL

To be supplied

DEVON BUILDING CONTROL PARTNERSHIP

The responsibilities of the Partnership are:

- To agree the appointment of the Head of Partnership.
- To agree budgets, monitor performance, approve the statement of accounts and agree any distribution of surpluses/deficits in the Trading Account.
- To monitor the development and business plans of the Partnership.
- To agree the Partnership's (Action) Improvement Plan.
- To monitor service delivery, value for money and performance of the Partnership.
- To monitor the service delivery and cost effectiveness of the Host Council.

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

JOINT STAFF CONSULTATIVE FORUM

The Forum exists to undertake a CONSULTATIVE role where ideas, issues, drafts of new policies, organisational changes and legitimate employer/ employee matters can be discussed cordially. In addition to this the Forum has an important COMMUNICATION role, i.e. the two way exchange of information and ideas with Staff Representatives: being a barometer for the mood and current state of morale in the organisation. Staff concerns can be raised and responded to.

The Forum should act as a PARTNER, promoting good employee relations in areas of accreditation and assessment for National Awards and Performance Standards, particularly in Best Value and Investors in People.

The operation of, and the consideration of items by, Staff Representatives Forum does not override the Council's statutory obligations to consult and negotiate with the Trade Unions under formal legislation or any National or Provincial Council agreements. Separate arrangements exist to deal with this.

MEMBER DEVELOPMENT STEERING GROUP

Aims of Group

- To agree approaches to identify and meet learning and development needs to ensure that they are meeting both individual and corporate needs.
- To collect views from fellow councillors and to feed back on the achievement of the strategy and development plan.
- To achieve the standards required for accreditation under the SW charter for Member Development.

Key objectives

With the support of officers the Member Development Steering group will ensure that a range of development opportunities are provided which will:

- Ensure that individual learning needs are met
- Enable members to deliver the council's statutory and corporate obligations, objectives and priorities
- Fulfil the requirements of a modern council
- Be owned and valued by members of the council
- Meet with equal opportunities policies

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

MEMBER DEVELOPMENT STEERING GROUP (cont'd)

Roles and Responsibilities of Group Members

- To support the achievement of all areas of the action plan.
- To promote and champion learning and development and other supporting activities within their groups.
- To provide feedback on any learning and development needs or feedback on Member development from their groups or other Councillors.
- To advise on targeting of resources and priorities.
- To monitor strategy and policies for appropriateness, relevance and cost effectiveness.
- To recommend ways of enhancing councillors' skills, knowledge and attributes in order to fulfil their roles and responsibilities with the council and wider communities.
- To evaluate development initiatives to ensure that they meet objectives and support the achievement of priorities under the strategic plan.
- To monitor effective use and allocation of budget.
- To carry out any other activities pertinent to Member Development.

Membership Core Group

- Representative from each of the political parties
- Member with portfolio responsibility for Member Development
- Representative from Learning and Development/HR team
- Member Support Officer

Meetings

In order to establish the group, meetings will initially be monthly and then on an 'as required' basis.

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

POLITICAL STRUCTURES WORKING GROUP

To make recommendations to full Council on the decision making processes and structure of the Council.

PROGRAMMING PANEL

The Programming Panel has the following terms of reference:

- To oversee the workloads of the four bodies to ensure efficiency of the overview and scrutiny process.
- To coordinate requests for reviews referred to by the Executive or the Council which do not fall within the remit of any one group.
- To resolve any disputes between groups.
- To consider any potential future agenda items pro-forma which have been submitted by Members, town and parish councils and/or residents.

PUBLIC SPACES WORKING GROUP

The Public Spaces Working Group has the following terms of reference:

- Advising officers in relation to the allocation of funding for public open space proposals from S106 payments and external grants
- Monitoring the quality and timing of investment in public open space utilising the funding streams identified above
- Promoting the coordination of actions between grounds maintenance activity in Environment Services and the public open space 'client' role in Assets
- Providing support to the Portfolio Holders for Assets and Environment Services
- To investigate and promote opportunities to work with local communities
- Liaising with the 2015 Localism Programme Board regarding opportunities for the localisation of public open space services and asset management
- Providing Member input on reviews and future development of policy or strategy which will affect public open spaces
- The Working Group will have no decision-making powers and therefore will make recommendations to the Community Life and Housing Scrutiny Panel for subsequent consideration by the Executive

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

TREE AND HEDGE APPEAL GROUP

A. FORMAL PROCEDURE FOR DETERMINING OBJECTIONS

1. When an objection is made to the making of a Tree Preservation Order (TPO), the objector is given a choice of having the objection determined either way of written representation or by personal appearance before Members;
2. The objection(s) will be determined by a Group of Members comprising the Chairman or Vice Chairman and one other member of the Development Management Committee, one nominee of the Executive who is not a member of the Development Management Committee, and any two other Members of the Council who are not members of the Development Management Committee.

This Group is called the Tree and Hedge Appeal Group and will be referred to hereafter as the 'Group'.

3. The local Ward Member is also informed of the appeal and invited to attend and take part in the proceedings. A Ward Member who is not a member of the Group is not entitled to vote at the site inspection. If the site is located within a town or parish for which there is more than one Ward Member, all Ward Members can attend and speak. If the Ward Member is the objector, or has an interest, then a Councillor representing a neighbouring Ward (selected in consultation with the Chairman of the Appeal Group) shall attend in place of the Ward Member.
4. The quorum for meetings of the Group is to be three, not less than two, and who are not members of the Development Management Committee.
5. The Group will be appointed by the Council at its Annual meeting.
6. When a Tree and Hedge Appeal Group is convened, the Parish Council Clerk will be advised of the meeting and to appoint a council representative to attend and participate in a non voting capacity.

The following procedure is then to be followed:-

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

TREE AND HEDGE APPEAL GROUP (cont'd)

A. FORMAL PROCEDURE FOR DETERMINING OBJECTIONS (cont'd)

By Written Representations

- i. Upon receipt of the objection, the Council's Officers will, if felt necessary, ask for written clarification of grounds of objection;
- ii. Written clarification must be supplied by the objector within 14 days of the request;
- iii. Upon receipt of clarification, or at the expiration of the 14 day period, whichever is the sooner, the Council is to supply a statement giving reasons for making the Order and replying to any points raised by the objector. At this point, the Tree Officer will notify the Member Services Office using the instructing memorandum:
- iv. Upon notification of the Appeal, and circulation of the Council statement, the objector has a further 14 days from the date of publication in which to comment thereon;
- v. The Group will:
 - a. consider the relevant correspondence including the relevant part of the Tree Preservation Order;
 - b. make a site inspection;
 - c. determine the matter under Delegated matters subject to reporting back to the next Development Management Committee.

By Personal Appearance

The same procedure applies as outlined above under Written Representations (i) to (iv).

In addition the Group will:-

- a. consider the relevant correspondence including the relevant part of the TPO;
- b. be addressed by the objector at a convenient venue (see vi) below for detailed procedure of the hearing);
- c. make a site inspection;
- d. determine the matter.

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

TREE AND HEDGE APPEAL GROUP (cont'd)

A. FORMAL PROCEDURE FOR DETERMINING OBJECTIONS (cont'd)

- vi. The procedure to be followed with the objector at the hearing will be kept as informal as possible and will be as follows:-
 - a. the objector will explain his objections and call any witnesses he wishes;
 - b. any witnesses and/or the objector may ask questions of the witness and/or objector;
 - c. members of the Group may ask questions of the witness and/or objector;
 - d. the Council's Tree Officer will explain the reasons for making the Order;
 - e. the objector may ask questions of the Officer(s);
 - f. members of the Group may ask questions of the Officer(s);
 - g. the objector will make a final statement;
 - h. the appellant will be advised of the decision of the Group.

B. GUIDANCE NOTES FOR TREE AND HEDGE APPEAL GROUPS

A Tree Preservation Order (TPO) is an order made by a Local Planning Authority (LPA) in respect of trees, groups of trees or woodlands.

The principle effect of a TPO is to prohibit the cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the consent of the LPA.

The LPA may make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.

The Act does not define 'amenity', 'expedient' or 'in the interests',

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

TREE AND HEDGE APPEAL GROUP (cont'd)

B. GUIDANCE NOTES FOR TREE AND HEDGE APPEAL GROUPS (cont'd)

The criteria applied by South Hams District Council were adopted in April 1999 (Minute P.123/99). In assessing whether to serve a TPO, the following tests are assessed:

- a. Is it in the interests of amenity?
- b. Is it expedient – are the trees under threat?
- c. Barring unforeseen accidents, will the tree last longer than 10 years?
- d. Does the tree in the location show signs of having caused damage?

Once a TPO has been confirmed, an Application for Consent' must be submitted in writing to the LPA and consent issued in writing before works may proceed. There are specific situations in which prior consent is not required, and these are detailed in the Order.

Owners have the right of appeal against the making of a TPO and against refusal of consent to carry out works. In the case of refusal of consent, the appeal is dealt with by an Inspector. In the case of objections against the service and confirmation of an order, the appeal is considered by the LPA itself.

The Process

Following service of an order, the owner has 28 days in which to submit an objection.

The Tree Officer will normally negotiate with the objector, and seek to resolve the objection.

If the matter cannot be resolved, the Tree Officer may then seek further written clarification of the points of objection.

The Tree Officer then would provide a written statement of reasons for serving the order and the objector would then have the opportunity to make a further written response.

Once the statement of reasons has been produced, it is sent to the Member Services Officer who will convene the Appeal Hearing and send the statement out to the members of the Tree and Hedge Appeal Group and interested parties.

The objector may decide whether to elect to rely upon the written submissions or to make an oral presentation to members on site. These procedures are detailed in Section A above entitled 'Formal Procedure for Determining Objections'. It is important that whilst maintaining an informal approach, this procedure is followed carefully.

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

TREE AND HEDGE APPEAL GROUP (cont'd)

B. GUIDANCE NOTES FOR TREE AND HEDGE APPEAL GROUPS (cont'd)

Points to Note

1. To ensure objectivity, members of the Group will only travel to the site on their own accord or will travel with the Member Services representative. It is not considered appropriate for the Tree Officer to travel to the site in the same vehicle as the members of the Group.
2. It is helpful to assess the amenity significance of the tree(s) by viewing them from a number of locations before carrying out a close inspection.
3. It is important that members of the Group focus on the tree(s) and its/their worthiness for protection within the provisions of planning legislation.

It is possible that other considerations will be presented in support of the objection but not be allowed to affect the decision.

4. When a TPO exists, it then becomes a material, but not an absolute consideration, in planning decisions. The effect of the Order is to draw attention to the importance of the tree(s) and also to prevent premature work to it/them.
5. The Council, as the LPA, does not assume responsibility for the costs of management and care of trees protected by TPOs but will seek to promote and encourage positive management by owners.

5. DELEGATIONS TO COMMITTEES (cont'd)

OTHER COUNCIL BODIES (cont'd)

TREE AND HEDGE APPEAL GROUP (cont'd)

C. INSTRUCTING MEMORANDUM FOR TREE AND HEDGE APPEAL GROUPS

TREE AND HEDGE APPEAL GROUP

INSTRUCTING MEMO

To: Member Services Officer

From: Tree Officer

Date:

TOP Title:

Date of Serving:

Date of Expiry:

Name, Address and Contact Details of Interested Parties:

Objectors:

Those Making Representations:

Those in Support

Parish Council:

On receipt of this memo and attached statement, please set a date for an Appeal Group Hearing, in conjunction with availability of appropriate Members and the objector, and make all necessary arrangements. Please then send out the appropriate letters.

The Tree and Hedge Appeal Group Hearing should be **at least 14 days from the date of publication of the statement, and no later than the above date of expiry.**

My available dates for attendance at a Hearing are as follows:

6. DELEGATIONS TO SENIOR OFFICERS

Matters reserved for Council, Executive or Committee

6.1 Subject to urgent items (see paragraph 2 below), the following matters shall be referred to the Executive, or relevant Committee, or Council, where appropriate.


Any matter which:

- (a) is reserved to Council
- (b) is reserved to the Executive or Portfolio holders
- (c) is strategic in nature (as determined by Senior Management Team); or
- (d) requires a new policy; or
- (e) requires an alteration to an existing policy (other than a minor amendment); or
- (f) would be contrary to the Policy Framework; or
- (g) involves expenditure, or a reduction in income, for which there is no sufficient budgetary provision; or
- (h) is an issue of principle as determined by Senior Management Team; or
- (i) in the opinion of the Chief Executive or Monitoring Officer, cannot in law or in accordance with the Constitution be decided by an Officer; or
- (j) upon which a Committee has requested a report; or
- (k) in the opinion of the officer concerned, should be determined by a Committee; or
- (l) is reserved to the Development Management Committee, the Licensing Committee or the Salcombe Harbour Board.

Urgent Items

6.2 Matters of urgency, as determined by the Chief Executive (or in his absence another Senior Officer) shall be delegated to the relevant officer in consultation with the Leader and Deputy Leader or the Chairman and Vice Chairman of the relevant Committee, subject to a report being made to the next meeting of the Executive or the appropriate Committee.

Delegations to Specific Senior Officers

- 6.3 Subject to those matters which are reserved for Committee (see paragraph 1 above) all Senior Officers shall be responsible and shall have delegated authority for the day-to-day operation and management of their department and of the Services and land for which they are responsible.
- 6.4 Any matter not reserved for Committee (i.e. any matter falling outside the criteria contained in paragraph 1 above) shall be regarded as falling within the day-to-day operation and management of the relevant department and shall be delegated to the appropriate Senior Officer and shall be exercised in accordance with the principles of delegation.
- 6.5 All Senior Officers are appointed across both South Hams District Council and West Devon Borough Council, and in respect of South Hams District Council they shall have authority to:
- issue written authorisation to individual officers to act as the Council's authorised officers in the performance of their statutory or other duties (provided that any written authority to enter upon the land or premises shall be in pursuance of a statutory power of entry or inspection) 
 - to nominate officers to deputise in their absence
 - call for and accept tenders within the Contract Procedure Rules
 - to act as Proper Officer for their service
- (** to be recorded in a separate record held by the relevant Head of Service)
- 6.6 Delegations to Senior Officers in respect of financial matters are set out in the Financial Procedure Rules (Part 4 of the Constitution).
- 6.7 Delegations to Senior Officers in relation to the letting of contracts are set out in the Contract Procedure Rules (Part 4 of the Constitution).
- 6.8 Delegations to Senior Officers in respect of land and premises are set out in the Financial Procedure Rules (Part 4 of the Constitution).
- 6.9 The Council's Solicitor shall be responsible for signing all the Council's Official Notices and other documents and for sealing Council documents. In his or her absence, any other solicitor employed by the Council may carry out these functions.
- 6.10 The Chief Executive shall be the Proper Officer for any function of the Council in the absence of any other appointment as specified within this Delegation Scheme.
- 6.11 Where the Council is required to institute or defend legal proceedings, authority must be first obtained from the Monitoring Officer.

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Delegation to the Chief Executive

The Chief Executive shall have delegated authority for the following:

- Responsibilities of the Head of Paid Service
- Responsibilities of Returning Officer and Electoral Registration Officer
- Shared Services

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Delegation to the Corporate Directors

• The Corporate Directors shall have delegated authority in respect of all of the powers of Chief Executive to act in his absence (except Returning Officer).

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- Shared Services

Delegation to the Monitoring Officer

The Monitoring Officer shall have delegated authority for the following:

- * Monitoring Officer issues (including those matters set out in Article 9)
- * Conduct of legal proceedings on behalf of the Council as its solicitor

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Delegation to the Heads of Service

Please also cross-refer to the remit of the Executive and appropriate committee.

Delegation to the Head of Assets (Corporate Property Officer)

The Head of Assets shall have delegated authority for the following Services:

- * Building Control and Services
- * Engineering (including drainage)
- * Facilities Management
- * Leisure & recreation
- * Land and Property
- * Dartmouth Lower Ferry
- * Natural Environment, open spaces, AONB
- * Rural Development & Countryside Services
- * Salcombe Harbour

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Delegation to Head of Corporate Services

The Head of Corporate Services shall have delegated authority for the following:

- Committee / Member Services
- Communications and Media
- Data Protection
- Elections
- Freedom of Information
- Human Resources
- Legal
- Ombudsman
- Payroll
- Print Services

Delegation to Head of Environment Services

The Head of Environment Services shall have delegated authority for the following:

- Car Parking and Civil Enforcement
- Dog fouling and stray dogs
- Grounds and Graveyard Maintenance and Green Space
- Public Conveniences
- Recycling and Waste Collection
- Refuse & Vehicle Disposal
- Street Scene and enforcement (including litter and waste)

Delegation to Head of Environmental Health & Housing

The Head of Environmental Health & Housing shall have delegated authority for the following:

- Housing:
 - Strategy
 - Private Sector
 - Enabling
 - Grants / Loans
 - Home energy conservation
- Environmental Protection
- Public Health
- Emergency Planning
- Health & Safety
- Community Safety and antisocial behaviour
- Licensing

To act as the Proper Officer in respect of the signing of all appointments and authorisations of authorised officers or Inspectors appointed under legislation relevant to environmental health, food safety , health and safety, housing and licensing and also the signing of authorisations of other persons to accompany authorised officers or Inspectors (including Consultants) and to be given discretion to specify which powers under the relevant legislation are to be exercised by particular authorised officers or Inspectors.

Delegation to Head of Finance & Audit

The Head of Finance & Audit (Chief Finance Officer and S151 Officer) shall have delegated authority for the following:

- Finance
- Audit
- Matters set out in the Financial Procedure Rules

The Head of Finance is authorised to act as the Proper Officer relating to financial matters in the Local Government Act and Finance Acts.

Delegation to Head of ICT & Customer Services

The Head of ICT & Customer Services shall have delegated authority for the following:

- Customer Services
- Information and Communications Technology and Design
- Performance and Improvement
 - Performance
 - Projects
 - Corporate Priorities
 - Policy
- Revenues and Benefits:
 - Council Tax and Non-domestic Rates
 - Housing and Council Tax Benefit
- Housing (homelessness, advice)
- Post Room

Delegation to the Head of Planning, Economy and Community

The Head of Planning, Economy and Community shall have delegated authority for the following Services:

- Arts and Leisure Services
- Children & Youth
- Community Grants & Transport
- Community Delivery (Community Planning & Development, Connect Partnership (formerly LSP))
- * Conservation & Historic Buildings
- * Corporate Planning
- * Development Management and Enforcement & Prosecution (as set out in the remit of the Development Management Committee)
- * Protection of Trees & Landscaping
- * Economic Prosperity (regeneration, development and tourism)
- * Land Charges
- * Strategic Planning (Conservation & Historic Buildings, Local Development Framework, Planning & Development Policies)
- Street Naming & Numbering

Delegation to the Devon Building Control Partnership Manager

The Devon Building Control Partnership Manager has delegated authority to exercise on behalf of the Council such statutory duties or powers conferred on the Council by the following enactments and any enactments amending or replacing them and also any regulations, orders, bylaws and other subsidiary legislation made under the following enactments.

For the avoidance of doubt the functions conferred by this scheme of delegation shall include:

- Appointment and/or authorisation of officers to exercise statutory functions
- Undertaking of inspections, investigations, interviews, service of notices, notifications, consultation responses, and legal proceedings under the legislation applicable thereto set out below, and to exercise all other relevant powers, including powers of entry provided under such legislation.
- Determination of applications, service of notice, exercise of powers in default and recovery of expenses.
- The institution of legal proceedings including the issuing of formal cautions.
- Exercise of powers of entry.
- The production and operation of a Scale of Building Regulation Charges that will comply with the Building (Local Authority Charges) Regulations 1998.
- Setting of fees and charges which it has discretion to levy.

List of Enactments:

- The Building Act 1984 and regulations made under that Act, including the Building Regulations 1991 (as amended), the Building Regulations 2000 together with the Fire Precautions Act 1971
- Local Government (Miscellaneous Provisions) Act 1982
- Town Improvement Clauses Act 1847 and the Public Health Act 1925
- Town and Country Planning Act 1990
- The Fire Safety and Places of Sport Act 1987
- Licensing Act 2003
- Party Wall etc Act 1996
- The Building (Local Authority Charges) Regulations 1998
- The Building (Approved Inspectors etc) Regulations 1985 and The Building (Approved Inspectors etc) Regulations 2000

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Rules of Procedure

Council Procedure Rules

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in ~~March, April or~~ May.

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The annual meeting will:

- (i) elect a person to preside if the Chairman of the Council is not present;
- (ii) elect the Chairman of the Council;
- (iii) elect the Vice Chairman of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Chairman of the Council and/or Head of Paid Service;
- (vi) elect the Leader of the Council;
- (vii) agree and appoint members of the Executive;
- (viii) appoint Scrutiny Panels and such other bodies as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- (ix) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree as set out in Part 3 of this Constitution;
- (x) approve a programme of ordinary meetings of the Council for the year; and
- (xi) consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Bodies of the Council and Outside Bodies

At the annual meeting, the council meeting will:

- (i) decide which bodies to establish for the municipal year;
- (ii) decide the terms of reference for those bodies;

Changes to 1.2(i) and (ii) shall be subject to Article 15.

- (iii) decide the size of those bodies;
- (iv) decide the allocation of seats to political groups in accordance with the political balance rules;

1.2 **Selection of Councillors on Bodies of the Council and Outside Bodies (cont'd)**

- (v) receive nominations of councillors to serve on each Council body and outside body; and
- (vi) appoint to those bodies and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

2. **ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice Chairman of the Council are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from councillors;
- (iv) deal with any business from the last Council meeting;
- (v) receive reports from the Executive and all other relevant bodies and receive questions and answers on any of those reports;
- (vi) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (vii) consider motions; and
- (viii) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and reports of Scrutiny Panels and any other relevant bodies of the Council for debate.

3. **EXTRAORDINARY MEETINGS**

3.1 **Calling extraordinary meetings**

Those listed below may request the Head of Paid Service to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;
- ii) the Chairman of the Council;
- iii) any of the statutory officers; and
- iv) any five councillors of the Council if they have signed a requisition presented to the Chairman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4. TIME AND PLACE OF MEETINGS

The time and place of meetings will be notified in the summons.

5. NOTICE OF AND SUMMONS TO MEETINGS

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. At least five clear working days before a meeting, the Head of Paid Service (or for bodies other than Council where no other officer is required to do so, the Monitoring Officer (or Democratic Services Manager in his/her absence)) will send a summons signed by post or electronic means to every councillor of the Council or relevant body or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. CHAIRMAN OF MEETING

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

7. QUORUM

- 7.1 The quorum of a Council meeting will be one quarter of the whole number of councillors.
- 7.2 The quorum of any other relevant body of the Council will be as set out in the appropriate section of this constitution.
- 7.3 During any meeting if the chairman counts the number of councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
- 7.4 For the avoidance of doubt where a councillor would have been present for the duration of a meeting but for the fact that he or she was prevented or restricted from participating in any business of that meeting by virtue of the code of conduct of the Council, that councillor shall not be regarded as being present at that meeting for the purposes of calculating whether the meeting is quorate (except in particular circumstances eg in the event of being granted a dispensation).

8. QUESTIONS BY COUNCILLORS

8.1 On reports of the Executive

A councillor of the Council may ask the Leader of the Council any question without notice upon an item of the report of the Executive when that item is being received or under consideration by the Council. Unless the chairman decides otherwise no statements will be made other than those which are strictly essential to define the question. A councillor who has put such a question may also put one supplementary question but only if the supplementary question arises directly out of the reply given. The chairman may reject any question from any councillor if in his or her opinion the question is substantially the same as a question which has already been put to that meeting or a meeting of Council in the past three months.

8.2 Questions on notice at full Council

Subject to Rule 8.3, a councillor of the Council may ask:

- the Chairman;
- a member of the Executive; or
- the chairman of any body

a question on any matter in relation to which the Council has powers or duties or which affects the area.

8.3 Notice of questions

A councillor may only ask a question under Rule 8.2 if either:

- (a) they have given at least 7 working days in writing of the question to the Democratic Services Manager (i.e., by the Tuesday in the week preceding the week of the meeting of Council. For the purposes of this Procedure Rule, receipt of any such questions via electronic means is considered acceptable; or
- (b) the question relates to urgent matters, they have the consent of the person to whom the question is to be put and the content of the question is given to the Monitoring Officer (or Democratic Services Manager in his/her absence) by 10.00 am on the day of the meeting (if the meeting is scheduled for the afternoon) or by 2.00 pm on the preceding day (if the meeting is scheduled for the morning).

8.4 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- (d) a brief oral answer supplemented by a written answer circulated later to the questioner.

8.5 Supplementary question

A councillor asking a question under Rule 8.2 may ask one supplementary question without notice of the councillor to whom the first question was asked. The supplemental question must arise directly out of the reply.

9. MOTIONS, AMENDMENTS OR ALTERATIONS OR WITHDRAWALS OF MOTIONS – GENERAL PROVISIONS

The rules which follow in this part of the constitution in relation to the moving, amendment or alteration or withdrawal of motions shall in no way operate at any time to avoid or circumvent compliance with paragraph 2.1(e) of the Budget and Policy Framework Rules and the rules which follow therefore shall be construed accordingly.

10. MOTIONS ON NOTICE

10.1 Notice

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least 2 councillors, must be delivered to the Democratic Services Manager not later than seven working days before the date of the meeting (i.e. by the Tuesday in the week preceding the week of the meeting of Council). ~~These will be entered in a book open to public inspection.~~ For the purposes of this Procedure Rule, receipt of any such motions via electronic means is considered acceptable.

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10.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the councillor giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

10.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the area of the South Hams. Where the motion will have resource implications for the Council, the proposer should seek guidance from the relevant officers prior to the debate. Where this information is not available, the motion will stand deferred until the next meeting of the Council or until such time as the information becomes available.

11. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a member or officer working group arising from an item on the summons for the meeting;
- (f) to receive reports or adopt recommendations of bodies of the Council or officers 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 put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule except those specified in Rule 22;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

12. RULES OF DEBATE

12.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

12.2 Right to require motion in writing

Unless notice of the motion has already been given, the chairman may require it to be written down and handed to him/her before it is discussed.

12.3 Secunder's speech

When seconding a motion or amendment, a councillor may reserve their speech until later in the debate.

12.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Unless in the opinion of the chairman it would not be desirable or appropriate to time limit speeches on any topic to be discussed having regard to its nature complexity or importance, no speech may exceed five minutes.

12.5 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 he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order.

12. RULES OF DEBATE (cont'd)

12.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either 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 insert or add others; or
 - (iv) to insert or add words.
- as long as the effect of (ii) to (iv) 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 is none, put it to the vote.

12.7 Alteration of motion

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

12.8 Withdrawal of motion

A councillor may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

12. RULES OF DEBATE (cont'd)

12.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

12.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules;
- (h) to not hear further a councillor named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

12.11 Closure motions

- (a) A councillor may move, without comment, the following motions at the end of a speech of another councillor:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

12.11 Closure motions (cont'd)

- (c) If a motion that the question be now put is seconded and the chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

12.12 Point of order

A councillor may raise a point of order at any time. The chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The councillor must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the chairman on the matter will be final.

12.13 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.

13. STATE OF THE SOUTH HAMS DEBATE

13.1 Calling of debate

The Leader of the Council may call a state of the South Hams debate annually on a date and in a form to be decided by him or her in consultation with the chairman.

13.2 Form of debate

The will decide the form of the debate with the aim of enabling public involvement and publicity. This may include holding workshops and other events prior to or during the state of the South Hams debate.

13.3 Chairing of debate

The debate will be chaired by the chairman or his/her nominee.

13. STATE OF THE SOUTH HAMS DEBATE (cont'd)

13.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader of the Council in proposing the budget and by the Leader of the Council and appropriate others in proposing the policy framework to the Council for the coming year.

14. PREVIOUS DECISIONS AND MOTIONS

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14.1 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting within the past six months cannot be moved unless the notice of motion is signed by at least one third of the members of the relevant body.

14.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of members of the relevant body.

Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months

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14.3 Reference up of Decisions

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Notwithstanding that a matter is delegated, the Executive or another Committee can refer, by way of recommendation, a matter to Council for a decision.

Where the decision has been requested for referral to Council under this rule, the matter is classed as 'unresolved' and stands referred to the next ordinary meeting of Council for a decision or to an extraordinary meeting called for that purpose.

15. VOTING

15.1 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 was put.

15.2 Chairman's casting vote

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

15.3 Show of hands

Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5, the chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

15. VOTING (cont'd)

15.4 Ballots

The vote will take place by ballot if one third of the members present at the meeting demand it. The chairman will announce the numerical result of the ballot immediately the result is known.

15.5 Recorded vote

If five members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

15.6 Right to require individual vote to be recorded

Where any councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

15.7 Voting on appointments

If there are more than two people nominated for any one 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. Where a vote is required to fill multiple vacancies on a body and the number of nominations exceed the number of vacancies, voting shall take place by the use of ballot papers. Vacancies will be allocated to those councillors attracting the highest number of votes until all vacancies have been filled. The chairman shall have absolute discretion on the method to be employed to resolve situations where a tie in voting occurs.

16. MINUTES

16.1 Signing the minutes

The chairman will sign the minutes of the proceedings at the next suitable meeting. The chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

16.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

16. MINUTES (cont'd)

16.3 Form of minutes

Minutes will contain all motions and amendments upon which a formal vote has been taken in the exact form and order the chairman put them.

17. RECORD OF ATTENDANCE

All councillors present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

18. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

19. COUNCILLORS' CONDUCT

19.1 Standing to speak

When a councillor speaks at full Council they must stand and address the meeting through the Chairman of the Council. If more than one councillor stands, the Chairman of the Council will ask one to speak and the others must sit. Other councillors must remain seated whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

19.2 Chairman standing

When the Chairman of the Council stands during a debate, any councillor speaking at the time must stop and sit down. The meeting must be silent.

19.3 Councillor not to be heard further

If a councillor persistently disregards the ruling of the chairman by

behaving improperly or offensively or deliberately obstructs business, the chairman may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

19.4 Councillor to leave the meeting

If the councillor continues to behave improperly after such a motion is carried, the chairman may move that either the councillor leaves the meeting room or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

19. COUNCILLORS' CONDUCT (cont'd)

19.5 General disturbance

If there is a general disturbance making orderly business impossible, the chairman may adjourn the meeting for as long as he/she thinks necessary.

20. DISTURBANCE BY PUBLIC

20.1 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 will order their removal from the meeting room.

20.2 Clearance of part of meeting room

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

21. USE OF RECORDING EQUIPMENT AT MEETINGS OF THE COUNCIL

That members of the public shall be permitted to record the proceedings of any meeting in sound and pictures and broadcast them whether by electronic means or otherwise, subject to receiving the prior approval of the Chairman of that meeting, in consultation with the Chief Executive (or Monitoring Officer in his/her absence).

22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

22.1 Suspension

All of these Council Rules of Procedure except Rules 9, 15.6, 16.2 and 17 may be suspended by motion on notice or without notice if at least one half of the whole number of councillors of the Council are present. Suspension can only be for the duration of the meeting.

22.2 Amendment

Any motion to add to, vary or revoke the Rules of Procedure of all bodies of the Council or of Council itself will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

23. INTERPRETATION OF PROCEDURE RULES

The ruling of the chairman of any body of the Council or Council itself as to the construction or application of these procedure rules, or as to any proceedings of the Council or relevant body, shall not be challenged at any meeting.

24. APPROVED DUTIES

The definition of approved duty for the purposes of payment to councillors of travelling and subsistence allowances as discussed in the Council's Scheme of Members' Allowances as contained within Part 6 of this constitution when the Council or one of its bodies or the Head of Paid Service or other chief officer authorises a councillor's attendance at a meeting or event.

25. LEGAL PROCEEDINGS

The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

26. AUTHENTICATION OF DOCUMENTS

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Corporate Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £20,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

27. COMMON SEAL OF THE COUNCIL

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by him/her.

28. APPLICATION TO OTHER BODIES OF THE COUNCIL

Rules 22.2 and 24 – 27 inclusive are of general application. All of the remaining Council Rules of Procedure (except Rule 7.2) apply to meetings of full Council. None of the rules applies to meetings of the Executive. Only Rule 4-6, 7 (except 7.1), 12 (except 12.4 and 12.5), 14, 15 (except 15.5), 16 – 18, 19 (except 19.1 and 19.2), 20, 21, 22 and 23 apply to meetings of other bodies. When a body is acting in the opinion of the Monitoring Officer as a tribunal or in a quasi judicial capacity (such as hearing appeals) only Rule 20 shall apply and the rules which additionally shall then apply shall be those appropriate to the matter under consideration or as are required by law.

Overview and Scrutiny Procedure Rules

1. **General arrangements**

- 1.1 The Council will have three Scrutiny Panels as set out in Article 6 and will appoint to them as it considers appropriate from time to time.
- 1.2 These Panels may appoint working groups which shall be time limited. The membership of such groups will not be restricted to any one Panel to ensure that appointments can be made based upon skills, experience and/or interest in the subject area.
- 1.3 The number of Members of each Scrutiny Panel shall be determined at the annual council meeting.
- 1.4 Scrutiny Panels shall be convened in conformity with the Council's Procedure Rules and the Access to Information Rules. Working groups will meet informally, to help inform the Overview and Scrutiny process and may submit reports to either of the Scrutiny Panels.

2. **Programming Panel**

- 2.1 The Programming Panel, comprising the Chairmen of the Executive and Scrutiny Panels and the Vice Chairman of the Corporate Performance and Resources Scrutiny Panel will coordinate the forward programme of these four bodies. However, the Scrutiny Panels will have the primary responsibility for setting their own agenda.
- 2.2 The Programming Panel shall have the following terms of reference:
 - i) To oversee the workloads of the four bodies to ensure efficiency of the overview and scrutiny process;
 - ii) To coordinate requests for reviews referred to by the Executive or the Council which do not fall within the remit of any one group;
 - iii) To resolve any disputes between groups;
 - iv) To consider any potential future agenda items pro-forma which have been submitted by Members, town/parish councils and/or residents.

The Panel shall not have the power of call in.

- 2.3 The Panel will normally meet between two to four times per year when necessary, at the request of the Chairman of one of the Scrutiny Panels, the Leader of the Council or Head of Paid Service. The Chairman will be elected by the meeting from within its membership.

3. **Scrutiny Panels**

The terms of reference of the Scrutiny Panels will be:

- i) the performance of all Scrutiny functions as defined in Article 6 on behalf of the Council;
- ii) the appointment of such time limited working groups as it considers appropriate to fulfil those functions;
- iii) to approve a work programme;
- iv) to refer those matters which fall within the remit of more than one of the Scrutiny Panels, to the Programming Panel for allocation;
- v) to review the system of referrals from Scrutiny to the Executive to ensure that these are managed efficiently and do not exceed reasonable limits as set out in this Constitution;
- vi) to respond to reasonable requests from the Executive to develop or review policy not within their remit;
- vii) in the event of reports to the Executive exceeding reasonable limits, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business, at the request of the Executive, to make decisions about the priority of referrals made;
- viii) To monitor and review effectiveness and progress made against the adopted Priority Delivery Plans within their respective remits;
- ix) to encourage and enhance community participation in the development of policy options and general decision making.

4. **Who may sit on the Scrutiny Panels?**

All councillors, except Members of the Executive, will be Members of one of the Scrutiny Panels.

5. **Co-optees**

Scrutiny Panels shall each be entitled to co-opt up to two people at any time (including members of the public). The appointment of co-optees shall be time limited and at the discretion of the respective Panel. Co-optees will not be able to vote.

6. Scrutiny Panels Meetings

~~6.1 There shall be at least six meetings of the Corporate Performance and Resources Scrutiny Panel in each year. In addition, provision for up to a further six extraordinary meetings shall be made which may be called when appropriate and specifically where there is a need to call in an Executive decision.~~

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~~6.2 There shall be at least four ordinary meetings of each Scrutiny Panelthe Economy and Environment Scrutiny Panel and Community Life and Housing Scrutiny Panel in each year. This will not prevent the ability to convene additional meetings and other informal sessions as necessary to deliver the pre-agreed work programme. However, the frequency and number of meetings and informal sessions shall not overstretch the resource of the CouncilThere shall normally be a further two meetings and other informal sessions shall be held as necessary to deliver the pre-agreed work programme. Meetings shall be called by the Head of Paid Service.~~

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~~6.3 An extraordinary meeting of a the Corporate Performance and Resources Scrutiny Panel may also be called by the Chairman of the Panel, by any four members of the Panel or by the Monitoring Officer if he/she considers it necessary or appropriate.~~

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6.4 Cancellation of any meeting shall be with the agreement of the appropriate Chairman.

~~6.5 The frequency and number of meetings and informal sessions shall not overstretch the resource of the Council.~~

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6.6 In addition, there will also be a joint annual meeting of the Panels each January to consider the draft Budget proposals. The Chairman of this meeting will be elected by the meeting from within its membership.

7. Quorum

7.1 The quorum for Scrutiny Panels shall be one half of the total membership plus one, normally including the Chairman or Vice Chairman or any five (or seven for the Economy and Environment and Community Life and Housing Scrutiny Panel) councillors in circumstances considered to be exceptional by any two of the statutory officers.

7.2 During any meeting, if the Chairman counts the number of Members present and declares that there is not a quorum present, then the meeting will adjourn immediately. Any remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. Who chairs meetings?

The Chairmen and Vice-Chairmen of the Scrutiny Panels shall be appointed by the Council. Without limiting the discretion of the Council, consideration shall be given to the selection of a Chairman on ability and expertise without reference to party political affiliation.

9. **Production of work programmes**

The Overview and Scrutiny function will, early in each Municipal Year, coordinate the production of a work programme for the scrutiny bodies for that year. Each Panel will keep their respective programme under review during the course of the year. The work programme will be devised having regard to the resources available, time constraints of Members and officers and the interests of the local community.

The views of all non-Executive Members will be taken into account when agreeing the work programme, including the views of the Members who are not Members of the largest political group on the Council. Executive Members may also be consulted on issues included within the work programme.

In determining which matters to review, regard will be given to the Policy Development and Review Programme, the Executive Forward Plan, other reports and any other relevant persons or bodies (including the Joint Local Strategic Partnership).

The Work Programme must be flexible enough to take account of changing circumstances throughout the Municipal Year. This flexibility will also allow for those recently implemented decisions of the Executive to be monitored and scrutinised.

All Members of the Council will have access to the published Executive Forward Plan. Each scrutiny body will be entitled to give its views to the Executive as part of the consultation process in relation to any key decision even where an item has not been the subject of detailed consideration by a scrutiny body during a scrutiny review.

10. **Agenda items : Scrutiny**

10.1 Any member of a Scrutiny Panel shall be entitled to give notice to the Head of Corporate Services that he/she wishes an item relevant to its functions to be included on the agenda for the next available meeting. On receipt of such a request, the Head of Corporate Services will ensure that it is included on the next reasonably available agenda.

10.2 In addition, any four councillors of the Council who are not members of the Executive may give written notice to the Head of Corporate Services that they wish an item to be included on the agenda of a Scrutiny Panel. If the Head of Corporate Services receives such a notification, then he/she will include the item on the first reasonably available agenda.

10.3 Scrutiny Panels shall also respond, as soon as work programmes permit, to requests from the Council and, if it considers it appropriate, the Executive to review particular areas of Council activity. Where it

does so, Scrutiny Panels shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Scrutiny Panel within one month of it being submitted to the Head of Corporate Services or at the next available meeting thereafter.

11. Policy review and development

- 11.1 The role of the Scrutiny Panels, in relation to the development of the Council's budget and policy framework, is set out in detail in the Budget and Policy Framework Procedure Rules.
- 11.2 In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Scrutiny Panels may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- 11.3 Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research, and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

12. Reports on policy proposals

- 12.1 Once they have formed recommendations on proposals for policy development, Scrutiny Panels will prepare a formal report and submit it to the Head of Paid Service for consideration by the Executive, or to the Council as appropriate (eg, if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- 12.2 If a Scrutiny Panel cannot agree on one single final report to the Council or Executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- 12.3 The Council or Executive shall consider such report(s) of the Scrutiny Panels within two months of being submitted to the Head of Paid Service.

13. Rights of Scrutiny Members to documents

- 13.1 In addition to their rights as Councillors, Members of Scrutiny Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 13.2 Nothing in this paragraph prevents more detailed liaison between the Executive and Scrutiny as appropriate depending on the

particular matter under consideration.

14. Councillors and Officers giving account

14.1 Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation in fulfilling the overview and scrutiny role, it may require a Member of the Executive, assisted by the Head of Paid Service and/or any senior officer, to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions which have either been taken already or are to be taken in due course;
- ii) the extent to which the actions taken implement Council policy; or
- iii) their performance,

and it is the duty of those persons to attend if so required.

14.2 Where any councillor or officer is required to attend a Scrutiny Panel under this provision, the Chairman will inform the Head of Paid Service. The Head of Paid Service shall inform the councillor or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced. Where the account to be given to the Scrutiny Panel will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.

14.3 Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, then the Scrutiny Panel shall in consultation with the councillor or officer arrange an alternative date for attendance.

14.4 ~~A Non-Executive Members may attend. Indeed, any~~ Member of Council (who is not a Member of the Group or Panel) may attend and partake, subject to prior notice being given to the respective Chairman.

15. Attendance by others

15.1 Scrutiny Panels may also invite people, other than those people referred to in paragraph 16 above, to address them, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and councillors and officers in other parts of the public sector and shall invite such people to attend.

15.2 Members of the public may make written submissions on agenda items under consideration by 5.00pm 10.00 am three working days before the meeting (i.e. the Monday before a Thursday meeting). The relevant chairman can subsequently choose to invite the person.

16. **Call-in**

Call-in by a Scrutiny Panel should only be used in exceptional circumstances. These are where non-Executive Members have evidence which suggests that the Executive did not take a decision in accordance with the principles set out in Article 13 (Decision Making).

- (a) The operation of the provisions relating to call-in and urgency shall be monitored regularly, and a report submitted to Council with proposals for review if necessary.
- (b) The process begins with the distribution of the Executive agenda which will give all councillors the opportunity to examine items for discussion and clarify issues before meetings.
- (c) When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means and shall be available at the main offices of the Council normally within three working days of being made. Decisions will be sent to all councillors within the same timescale.
- (d) The decisions will indicate the date on which decisions will come into effect unless:
 - i) called-in;
 - ii) they are adjudged to be not in accordance with the Council policy or budget framework (see Policy and Budget Framework Procedure Rules – paragraphs 3, 4 and 5) and the decision falls to be referred to Council or is urgent and otherwise satisfies paragraph 4 of the Policy and Budget Framework Procedure Rules or where paragraph 7 of those Rules has been triggered.
- (e) A decision will normally come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless a Scrutiny Panel objects to it and calls it in (except in cases of urgency and special urgency as defined in the Access to Information Procedure Rules).
- (f) During that period, the Head of Paid Service shall call-in a decision for the relevant Scrutiny Panel if so requested by its Chairman or any three Members of that Panel or four other Members of the Council, and shall then notify the decision-taker of the call-in. Members who wish to call-in a decision are required to seek guidance from the Monitoring Officer on the veracity of their stated grounds for the call-in and demonstrate that they have been mindful of the advice they have received when deciding whether or not to proceed. The Head of Paid Service shall refer the matter to the next available meeting of Scrutiny.
- (g) Those councillors calling-in will need to specify the reasons for the call-in.

- (h) When the relevant Executive minutes are put before the Scrutiny Panel, together with the advice from the Monitoring Officer on the grounds for the call-in, the councillors who called in the decision shall have the right to attend and speak. The Leader of the Council and/or relevant Executive Members shall be invited to attend to explain the basis for the decision but may then be asked to leave. They may choose also to make submissions in writing. Relevant officers shall also be invited to attend.
- (i) If, having considered the decision, the Scrutiny Panel is still concerned about it, then it may refer it back to the decision making person or body for reconsideration setting out in writing the nature of its concerns or refer the matter to the next full Council meeting or, if urgent, to a Special Council meeting. If referred to the decision maker they shall then reconsider within a further ten working days, amending the decision or not, before adopting a final decision.
- (j) If following an objection to the decision, the Scrutiny Panel meets but does not refer the matter back to the decision making person or body or refer it to full Council, the decision shall take effect on the date of the Scrutiny Panel meeting whichever is the earlier.
- (k) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision, unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive, a meeting will be convened to reconsider within fifteen working days of the Council request.
- (l) If Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.
- (m) The call-in procedure set out above shall not apply where the decision being taken is urgent as defined in the Access to Information Procedure Rules. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

17. The party whip

There is a presumption that a party whip shall not be applied to matters considered by non executive members when engaged in processes of the Overview and Scrutiny function.

18. **Procedure at Scrutiny Panels**

Scrutiny Panels shall consider the following business:

- i) minutes of the last meeting;
- ii) declarations of interest;
- iii) public forum;
- iv) the most recently published Executive Forward Plan;
- v) its future agenda items work programme;
- vi) consideration of any matter referred to Scrutiny for a decision in relation to call in of a decision;
- vii) updates on the progress made by working groups within its remit;
- viii) responses of the Executive or Council where relevant to reports of the Panel;
- ix) requests from the Executive for policy development work;
- x) the business otherwise set out on the agenda for the meeting.

19. **Conduct towards invitees to Scrutiny Panel meetings**

19.1 Where Scrutiny Panels conduct investigations and ask people to attend to give evidence at meetings, these are to be conducted in accordance with the following principles:

- i) that the investigation be conducted fairly and all councillors be given the opportunity to ask questions of attendees, and to contribute and speak;
- ii) that those assisting by giving evidence be treated with respect and courtesy; and
- iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

19.2 Following any investigation or review, Scrutiny Panels shall prepare a report for submission to the Executive and/or Council as appropriate, and shall make its report and findings public.

Protocol on Councillor/Officer Relations



Introduction

1. This Protocol is primarily based on the model prepared by Birmingham City Council and which was referred to in the Nolan Committee report¹ as an example of good practice.
2. The purpose of this Protocol is to guide Councillors and Officers in their dealings with one another. The protocol applies equally to co-opted members of council bodies in their relationship with officers where appropriate.
3. Given the variety and complexity of such relationships, this Protocol does not seek to cover everything or to be prescriptive in its application. Guidance is offered on some of the issues that most commonly arise.
4. This protocol seeks to reflect the principles underlying the respective codes of conduct which apply to councillors (including co-opted members) and officers. The shared objective of these codes is to maintain and enhance the integrity (real and perceived) of Local Government and they therefore demand very high standards of personal conduct by all parties.
5. The Protocol seeks to encourage best practice and to promote greater clarity and certainty about the relationships between the Council's members and its officers.
 - If a councillor is unsure about any matter s/he should contact the relevant Group Leader or the Monitoring Officer for appropriate advice and assistance.
 - If an officer is unsure about any matter s/he should contact their Head of Service or the Monitoring Officer.
 - If there is any disagreement in the interpretation of this Protocol the opinion of the Chief Executive and/or the Monitoring Officer will prevail.

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Legal and Audit Considerations

¹ "Standards in Public Life", the report of the Nolan Committee can be accessed at: <http://www.archive.official-documents.co.uk/document/parlment/nolan2/nolan.htm>

6. Councillors must abide by the Council's Members' Code of Conduct. As elected members councillors do not have any special immunity from civil or criminal wrongs that they may commit against fellow councillors, officers or members of the public. During the course of their normal council duties, councillors have only qualified (and not absolute) privilege against prosecution or civil action.

7. Councillors must not pressurise any officer to change his/her professional opinion on any Council business or do any thing that compromises the impartiality of officers. It is also very important that councillors are very clear about their roles and the roles of officers so as to avoid (for example) becoming involved in internal office management, discipline or other employment related issues, except where provided for in the Constitution in relation to the specific role of certain Executive Members.

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Roles of Councillors and Officers ²

8. The "National Code of Local Government Conduct" (which preceded the current mandatory Code of Conduct for councillors) stated:

"Both Councillors and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their Committees and sub-committees.

"Mutual respect between Councillors and Officers is essential to good local government. Close personal relationships between individual Councillors and Officers can damage this relationship and prove embarrassing to other councillors and Officers."

9. The Council's Constitution sets out the clear distinction between the roles of councillors and officers:

- a. Councillors are responsible to the electorate and are responsible for setting policy and ensuring that services and policies are delivered.
- b. Officers are accountable to the Council and their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, its Executive and its Committees.

² The Code of Conduct for members, and the introduction of a code for employees, is under review by the Department of Communities and Local Government. Consultation closed on 28th December 2008. See <http://www.communities.gov.uk/documents/localgovernment/pdf/981962.pdf>

- c. Officers implement the policy and deliver the services set by the Council. Councillors should not get involved in the day to day management of services. Officers should not get involved in politics.
- d. Councillors must respect the impartiality and integrity of all the Council's Officers. Similarly, Officers must respect the role of Councillors as elected representatives. All should treat the others with courtesy at all times.
- e. It is important that any dealings between Councillors and Officers should observe proper standards of courtesy and that neither party should seek to take unfair advantage of their position.

Officer conduct or capability issues

10. On occasions, Councillors may have reason to complain about the conduct or performance of an Officer. All such complaints should be made personally to the Monitoring Officer, Head of Service, Strategic Director or Chief Executive as appropriate. It is particularly important that complaints are made in this way and are not raised on any other occasion, such as at a public meeting of the Council or Committee, as an Officer has no means of responding to criticisms made in public. To complain in public could be characterised as bullying an officer, and that, and seeking to get him or her to change a professional opinion, is contrary to the Members' Code of Conduct³.
11. Similarly, if an Officer has concerns about the conduct or performance of a Councillor, such concerns should be expressed personally to the Chief Executive or the Monitoring Officer. They may be able to resolve any misunderstanding and avoid a formal complaint being made.
12. Exceptions to the above are where complaints express concern about possible discriminatory attitudes when the Corporate Equality Scheme will apply. Copies of the Corporate Equality Scheme are available on the intranet or from the Head of HR.
13. If a relationship exists between Councillors and officers which could give the appearance of bias, advice should be sought from the Chief Executive or from the Monitoring Officer.
14. Although relationships should be declared on application forms, a situation may arise where a relative or close friend becomes a councillor of the Council after the appointment of the officer. In such cases the councillor and officer should make the circumstances known to the Chief Executive.

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Officer/Leader/Executive/Chairmen Relationships

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³ South Hams Code of Conduct for Members, 2007, paragraph 3 (2)

15. It is important that there should be close working relationship between Senior Officers and the Leader, Deputy Leader and Chairmen of committees. However, such relationships should never be allowed to become so close (or appear to be so close) as to bring into question the officers' ability to deal impartially with other councillors.

16. Whilst the Leader/**Executive Leads** and chairmen may be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations a senior officer will be under a duty to submit a report on a particular matter. An Officer will always be fully responsible for the contents of any report submitted in his/her name. Any disagreement arising between a councillor and an Officer on what should, or should not, be included on an agenda should be referred to the Chief Executive or the Monitoring Officer for resolution.

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17. In relation to action between meetings, it is important to remember that the law allows decisions relating to the discharge of any of the Council's functions to be taken only by the Council, **Executive Committee, Executive Lead under restricted delegation or an Officer, Committees, or an Officer**. The law does not allow for such decisions to be made by an individual Councillor. The Scheme of Delegation (Part 3 of the Constitution) contains the procedure for the relevant Officer to make urgent decisions in consultation with the Leader or a member of the Executive, a Committee Chairman or a ward councillor as circumstances require.

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18. The Council gives delegated powers to Senior Officers to act on the Council's behalf (Scheme of Delegation: see Part 3 of the Constitution). The terms of that authority may require officers to consult certain Councillors (e.g. **the Executive Lead**, the Chairman of a Committee). In other cases, the Officer should decide whether to consult as a matter of courtesy or to keep the Members informed. If a matter relates solely to a particular Ward the appropriate Ward Member(s) will be consulted.

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19. It must be remembered that an officer is accountable to his/her Line Manager and that whilst Officers should always try and assist a councillor they must not go beyond the bounds of whatever authority they have been given by their Line Manager. In the case of uncertainty, the Officer should always check with his/her Line Manager.

Political Groups and officer advice

20. Councillors must at all times respect the political impartiality of officers and not expect or encourage officers to give a political view on any matter.

21. In discharging their duties, officers serve the Council as a whole and not any particular political group or individual councillors.

Use of Council resources

22. The only basis upon which the Council can lawfully provide facilities and support services (e.g. computers, stationery, typing, printing, photocopying, transport etc) to Councillors is to assist them in discharging their role as members of the Council. Such support services must, therefore, only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.
23. The Code of Recommended Practice on Local Authority Publicity issued under the Local Government Act 1986 prohibits Councils from publishing material which appears to be designed to affect public support for a political party. To this end Members must not attach blog or web links on their email correspondence⁴.

Access to Information – “need to know”

24. The Council believes in open government. It wishes to conduct its affairs as openly as possible and to give Councillors maximum access to information and documents to enable them to discharge their role as Councillors.
25. Councillors are free to approach any Council department for such information, explanation, and advice as they may reasonably need in order to help them to discharge their role as Councillors. Requests may be for general information about some aspect of the Council's work, or specific requests for information on behalf of a member of the public. Such requests for information or advice should normally be made to the relevant Head of Service or, if about a planning matter, to the Case Officer.
26. The **legal rights** of Councillors to inspect Council documents are partly set out in statute (the Local Government Acts, Data Protection Act, and Freedom of Information Act) and partly by common law.
27. Councillors have a **statutory right** to inspect any Council document and have access to other Council information that contains material in relation to any business that is to be transacted at a Council, Executive, committee or sub-committee meeting. This right applies irrespective of whether the Councillor is a member of the committee concerned and extends not only to reports which are to be submitted to the meeting but to all relevant background papers.
28. This right does not, however, extend to documents relating to items that may appear in Part II (or the “exempt” part) of the Agenda for meetings. The items in question are those which contain “exempt information” as contained in Schedule 12A to the Local Government Act 1972 (see ‘Access to Information’ in Part 4(2) of the Constitution). These may concern employees, occupiers of Council property, applicants for grants and other services, contract and industrial

⁴ Note: the present Publicity Code is currently the subject of consultation by the Dept for Communities and Local Government: see <http://www.communities.gov.uk/documents/localgovernment/pdf/1100762.pdf>.

relations negotiations, advice from Counsel, criminal investigations, matters which are confidential or involve national security, or complaints in relation to standards before the Standards Committee.

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29. Information considered to be exempt under these provisions may also be exempt from disclosure under the Freedom of Information Act.

30. The **common law right** of Councillors is much broader. It is based on the principle that any Councillor has a right to inspect Council documents so far as his/her access to the document/information is reasonably necessary to enable the Councillor properly to perform his/her duties as a member of the Council. This is commonly referred to as the “need to know” principle.

31. The proper exercise of this common law right depends upon an individual Councillor being able to show that s/he has the necessary “need to know”. The Courts have held that Councillors have no right to a “roving commission” to go and examine documents. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. This right will be considered on a case by case basis and will not last indefinitely. Where a question on the “need to know” arises the following procedure will apply:

- The question will be initially determined by the relevant Head of Service (in consultation with the Monitoring Officer or the case solicitor).
- If it is considered that the request is reasonably in furtherance of the Councillor’s need to know, then the document/information will be produced for the Councillor’s inspection. Where the documents contain personal information about third parties, the Councillor will be expected to justify the request in specific terms.
- A Councillor may be refused the right to inspect a document or have access to other information if the Chief Executive believes that there is a good reason why inspection or access to the document/information should be refused. S/he may refuse if :
 - The cost of providing the access is unreasonably high; or
 - The giving of access would unreasonably disrupt the work of the Council.

- In the event of a dispute, the matter will be determined by the Monitoring Officer Standards Committee.

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32. Whilst the term “Council document” is very broad and includes for example any document produced with Council resources, it is accepted by convention that a Member will not have a “need to know” (and therefore a right to inspect) the

Comment [DJ1]: Paragraph deleted repeats what is said above

contents of a document which forms part of the internal workings of a political group of which s/he is not a member.

Confidentiality

33. A Councillor must only use any Council information provided to him/her for the purposes for which it was provided, i.e. in connection with the proper performance of the Councillor's duties as a Member of the Council. Care should be taken with such things as an early draft Committee report/briefing paper as this will usually not be suitable for public disclosure and should not be used other than for the purpose for which it was supplied. A Councillor should never disclose or use confidential information for the personal advantage of himself/herself or of anyone known to him/her or to the disadvantage or discredit of the Council or anyone else. Doing so can be a breach of the Code of Conduct⁵.

Confidentiality of Reports

34. All Officers have a duty to satisfy themselves that Committee reports are only classified as "exempt information" when the statutory criteria for exemption⁶ are met, and when the consequences of publication justify taking advantage of the exemption (Please see "Access to Meetings" in Part 4(2) of the Constitution) . The Chief Executive and the Monitoring Officer have overriding responsibility to determine this compliance.

35. Once a report has been issued within Part II of the Agenda for a meeting, and especially once it has been resolved that is exempt from disclosure to the press and public, Councillors and Officers must respect the "exempt" status of the report and not disclose it to a third party. Should the Committee decide the report (or part of it) may be discussed in the presence of the press and public, it will lose its exempt status in respect of the whole or the part released.

36. It does not follow that all the contents of the report must be regarded as secret. It may be only certain items of information or terms of negotiations which justify the inclusion of that report in Part II. Other aspects of the report may already be within the public domain or otherwise outside the definition of "exempt". A Councillor may accordingly refer to these aspects in discussion with third parties but must exercise proper care and judgement not to reveal those elements of the document which are protected. It will always be prudent to consult the Monitoring Officer or a council solicitor before doing so.

37. Any unauthorised disclosure of confidential information by Councillors constitutes a breach of paragraph 4(a) of the Members' Code of Conduct⁷.

⁵ South Hams Code of Conduct for Members, 2007, paragraph 4

⁶ Set out in Schedule 12A to the Local Government Act 1972. "Exempt" means exempt from public disclosure. Please note that under the 1972 Act the term "confidential" applies only to documents so denoted by HM Government.

⁷ Standards for England has now issued guidance on "Disclosing Confidential Information": see <http://www.standardsforengland.gov.uk/Guidance/TheCodeofConduct/Guidance/Quickguides/DisclosingConfidentialInformation/>

Correspondence

38. Correspondence between an individual councillor and an officer should not be copied by the officer to another councillor unless there is a "need to know" or it falls within a category where the Executive should be aware of it.
39. Where correspondence is justifiably copied to another Councillor or Officer, this should be made clear to the original Councillor/Officer. 'Silent' or 'blind' copies should not normally be used.
40. The use of email will be central to the officer delivery of information. Where an e-mail is initially sent to a large group of people outside the Council, blind copies should be used to avoid publishing e-mail addresses. (Please also see the Council's E-mail Policy which is available on the Intranet).
41. Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer rather than in the name of a Councillor. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to be sent out in the name of a Councillor, but this should be the exception rather than the rule. Letters that, for example, create obligations or give instructions on behalf of the Council should never be sent in the name of a Councillor, because an executive act cannot be delegated to an individual Councillor. However, councillors are of course entitled to write to the Council and to members of their community in their capacity as ward or community representatives.

Involvement of Ward Councillors

Public meetings

42. Wherever a public meeting is organised by the Council to consider a local issue, Officers should invite all relevant Ward Councillors to attend the meeting as a matter of course. Where a Councillor arranges a public meeting s/he should advise the responsible Officer or Head of Service and invite him/her to attend.

Consultation on Local Issues

43. Whenever the Council undertakes any form of consultation exercise on a local issue, the Ward Councillor(s) should be notified at the outset of the exercise. Where such consultation exercise encompasses the whole District, all Councillors must be advised.
44. Where a member of the Executive is considering something in another member's ward they should liaise with the local member(s).

Attendance at meetings arranged by Officers

45. Within the Council, Councillors are free at any time to meet Officers to discuss aspects of the Council's business and to ask Officers to set up local meetings to resolve specific issues.

46. Officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Council or to action its decisions. Councillors will not be present at these meetings but will be advised either informally or through reports to Committees of any relevant discussions and/or outcomes.
47. Officers have a duty to keep councillors informed about issues which may be of particular interest to their ward. It is important to ensure that ward councillors, chairmen and vice-chairmen are given early notice of something which is likely to be reported in the media and in which they will probably have an interest. Officers should try to avoid Councillors first learning about something that affects them through the media.
48. In a multi member ward, any case work raised by an individual member should not normally be disclosed by officers to other members in that ward unless either all the ward members agree, or it requires an Executive decision when it can be communicated to other members in that ward as part of the consultation, if appropriate.

Public Relations issues

49. The Council's Communications Manager is responsible for dealing with press and other media organisations on behalf of the Council. It is important therefore that all press releases and other official communications relating to the Council (but not party political or private matters) are dealt with via the Communications Manager so as to ensure proactive and effective management of the Council's public relations.
50. Further guidance (which takes into account the Government's Code of Recommended Practice on Local Authority Publicity) is set out in the Council's Media Protocol which is available on the Council's Intranet.

Publicity During Elections

51. During elections, special rules apply with regard to local authority publicity. These rules are set out in the Government's "Code of Recommended Practice on Local Authority Publicity" which is available from the Council's Communications Manager.
52. Any proactive work by existing members leading up to an election should be suspended. During the election period, i.e. the date from the publication of the Notice of Election to the Election itself, any requests from Councillors for new work in a ward should be referred to the appropriate Strategic Director for determination.

Breaches of the Code of Conduct and this Protocol Code

53. Many of the points covered in this Protocol are dealt with under the Members' Code of Conduct. Any member of the public (including officers and councillors)

can complain to the Council's Monitoring Officer Standards Committee that a councillor has broken the Code of Conduct. This could lead to an investigation and ultimately sanctions being made against the councillor (including suspension or, in serious cases referred to the Adjudication Panel for England, disqualification).

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Protocol

54. More general concerns about the relationships between Councillors and Officers (or perceived breaches of the principles embodied in this Protocol) can be discussed with the Chief Executive or Monitoring Officer.

55. A complaint that this protocol has been broken by a councillor may be referred to the Standards Committee, the Monitoring Officer, the Chief Executive, and/or the relevant Group Leader.

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56. Complaints that this Protocol has been broken by an officer may be referred to the relevant Head of Service, the Chief Executive or the Monitoring Officer. Specific breaches of this Protocol may ultimately be the subject of either grievance or disciplinary procedures.

57. The procedure that will be followed where a complaint is made is laid out in the flowchart in the appendix to this Protocol.

Review

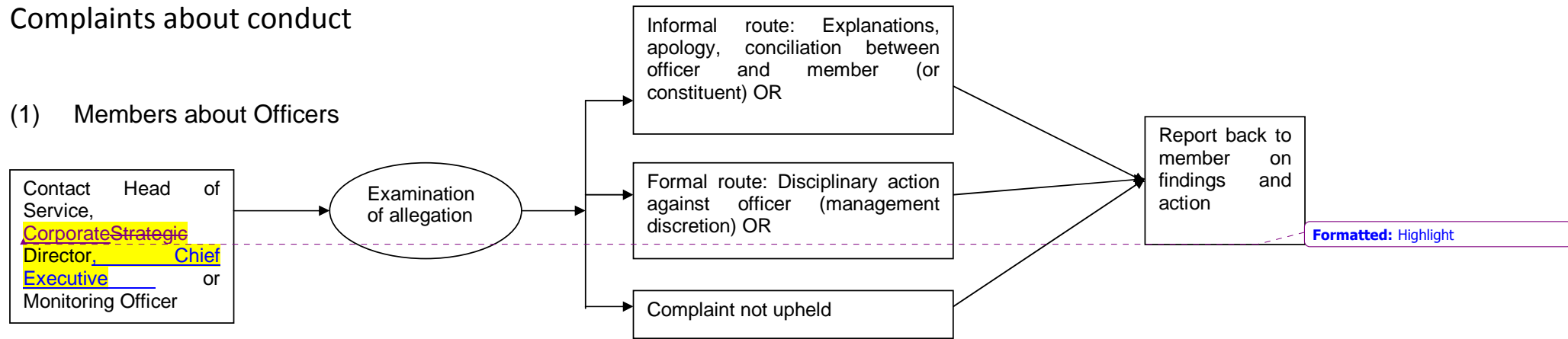
58. The Protocol will be initially reviewed by the Audit Committee for referral to Scrutiny and formal adoption by Full Council ~~Standards Committee every three years, or earlier if necessary.~~

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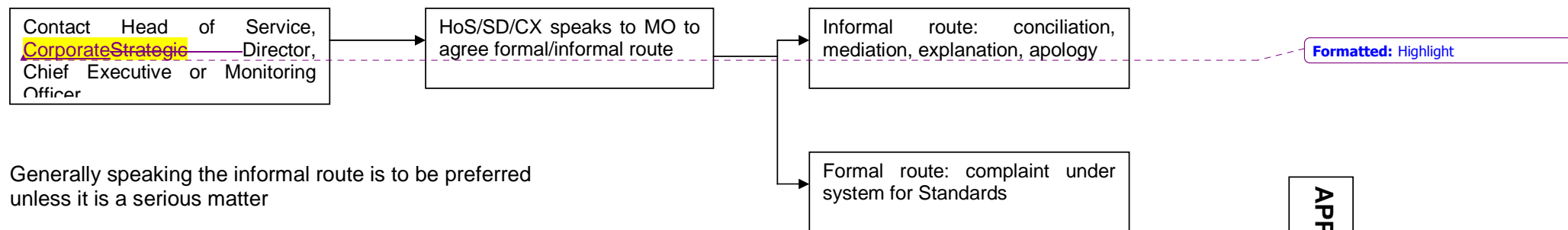
59. The Protocol was reviewed by the Standards Committee on 17th December 2009 and adopted by the Council on 17th December 2009.

Member-Officer Protocol Complaints about conduct

(1) Members about Officers



(2) Officers about Members



Generally speaking the informal route is to be preferred unless it is a serious matter

APPENDIX



The Audit Plan for South Hams District Council

This version of the report is a draft. Its contents and subject matter remain under review and its contents may change and be expanded as part of the finalisation of the report.

Year ended 31 March 2013

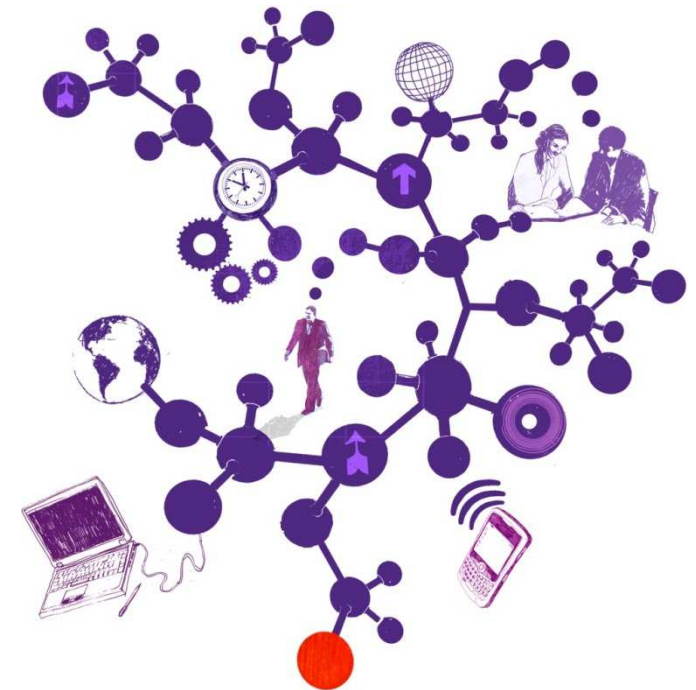
March 2013

Page 227

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Agenda Item 2g

The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or any weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

Contents

Section

1. Understanding your business
2. Developments relevant to your business and the audit
3. Our audit approach
4. An audit focused on risks
5. Significant risks identified
6. Other risks
7. Group scope and risk assessment
8. Results of interim work
9. Value for Money
10. Logistics and our team
11. Fees and independence
12. Communication of audit matters with those charged with governance

Appendices

- A. Action plan

Understanding your business

In planning our audit we need to understand the challenges and opportunities the Council is facing. We set out a summary of our understanding below.

Challenges/opportunities

1. Transformation

- The Council has achieved annual savings in excess of £600,000 through shared services with West Devon Borough Council but is now considering options for a new operating model in order to enable financial capacity to be created, allowing the two councils to continue to be flexible and respond to local priorities whilst facing financial challenges.

2. Local Government Finance Act

- From 1 April 2013 council tax benefit is being replaced with a local Council Tax Support Scheme.
- Business Rates retention is being implemented from 1 April 2013 with the Council working with other Devon authorities through a pooling arrangement.

3. Funding reductions

- The Council will receive £265,000 less through the Local Government Finance Settlement for 2013-14 placing further pressure on delivery of services.

Our response

- We will continue to review the progress of the Council's shared service arrangements and consider their impact on the arrangements in place to ensure economy, efficiency and effectiveness in the Council's use of resources.

- As part of our Value for Money work we will consider the financial planning arrangements in place to address the risks surrounding these finance changes.
- We will discuss and review the accounting impact of these changes with the finance team.

- As part of our value for money work we will consider the arrangements in place relating to financial planning and financial control to understand how the Council are planning to respond to these financial challenges.

Developments relevant to your business and the audit

In planning our audit we also consider the impact of key developments in the sector and take account of national audit requirements as set out in the Code of Audit Practice and associated guidance.

Developments and other requirements

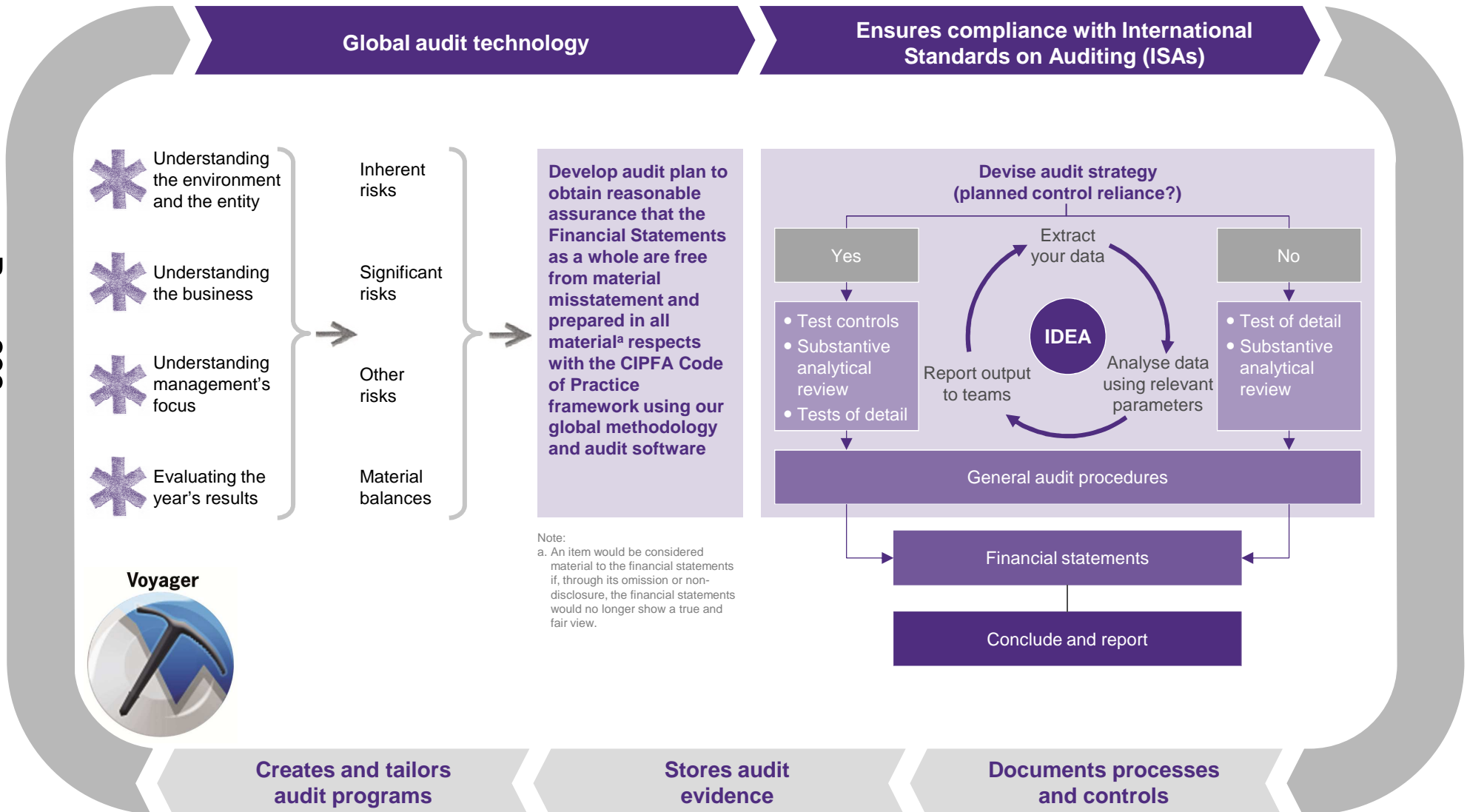
<p>1. Financial reporting</p> <ul style="list-style-type: none"> • Changes to the CIPFA Code of Practice • Recognition of grant conditions and income 	<p>2. Legislation</p> <ul style="list-style-type: none"> • Local Government Finance settlement 2012-13 • Welfare reform Act 2012 	<p>3. Corporate governance</p> <ul style="list-style-type: none"> • Annual Governance Statement (AGS) • Explanatory foreword 	<p>4. Pensions</p> <ul style="list-style-type: none"> • Planning for the impact of 2013-14 changes to the Local Government pension Scheme (LGPS) 	<p>5. Financial Pressures</p> <ul style="list-style-type: none"> • Managing service provision with less resource • Progress against savings plans 	<p>6. Other requirements</p> <ul style="list-style-type: none"> • The Council is required to submit a Whole of Government accounts pack on which we provide an audit opinion • The Council completes grant claims and returns on which audit certification is required
--	---	---	--	--	---

Our response

<p>We will ensure that</p> <ul style="list-style-type: none"> • the Council complies with the requirements of the CIPFA Code of Practice through our substantive testing • grant income is recognised in line with the correct accounting standard 	<ul style="list-style-type: none"> • We will discuss the impact of the legislative changes with the Council through our regular meetings with senior management and those charged with governance, providing a view where appropriate 	<ul style="list-style-type: none"> • We will review the arrangements the Council has in place for the production of the AGS • We will review the AGS and the explanatory foreword to consider whether they are consistent with our knowledge 	<ul style="list-style-type: none"> • We will discuss how the Council is planning to deal with the impact of the 2013-14 changes through our meetings with senior management 	<ul style="list-style-type: none"> • We will review the Council's performance against the 2012-13 budget, including consideration of performance against the savings plan • We will undertake a review of Financial Resilience as part of our VFM conclusion 	<ul style="list-style-type: none"> • We will carry out work on the WGA pack in accordance with requirements • We will certify grant claims and returns in accordance with Audit Commission requirements
--	--	--	--	--	---

Our audit approach

Page 232



An audit focused on risks

We undertake a risk based audit whereby we focus audit effort on those areas where we have identified a risk of material misstatement in the accounts. The table below shows how our audit approach focuses on the risks we have identified through our planning and review of the national risks affecting the sector. Definitions of the level of risk and associated work are given below:

Significant – Significant risks are typically non-routine transactions, areas of material judgement or those areas where there is a high underlying (inherent) risk of misstatement. We will undertake an assessment of controls (if applicable) around the risks and carry out detailed substantive testing.

Other – Other risks of material misstatement are typically those transaction cycles and balances where there are high values, large numbers of transactions and risks arising from, for example, system changes and issues identified from previous years audits. We will assess controls and undertake substantive testing, the level of which will be reduced where we can rely on controls.

None – Our risk assessment has not identified a risk of misstatement. We will undertake substantive testing of material balances. Where an item in the accounts is not material we do not carry out detailed substantive testing.

Account	Material (or potentially material) balance?	Transaction Cycle	Inherent risk	Material misstatement risk?	Description of Risk	Substantive testing?
Cost of services - operating expenses	Yes	Operating expenses	Medium	Other	Operating expenses understated	✓
Cost of services – employee remuneration	Yes	Employee remuneration	Medium	Other	Remuneration expenses understated	✓
Costs of services – Housing & council tax benefit	Yes	Welfare expenditure	Medium	Other	Welfare benefits improperly computed	✓
Cost of services – other revenues (fees & charges)	Yes	Other revenues	Low	None		✓
(Gains)/ Loss on disposal of non current assets	No	Property, Plant and Equipment	Low	None		×
Precepts and Levies	Yes	Council Tax	Low	None		✓

An audit focused on risks (continued)

Account	Material (or potentially material) balance?	Transaction Cycle	Inherent risk	Material misstatement risk?	Description of Risk	Substantive testing?
Interest payable and similar charges	No	Borrowings	Low	None		×
Pension Interest cost	Yes	Employee remuneration	Low	None		✓
Interest & investment income	No	Investments	Low	None		×
Return on Pension assets	Yes	Employee remuneration	Low	None		✓
Impairment of investments	No	Investments	Low	None		×
Investment properties: Income expenditure, valuation, changes & gain on disposal	No	Property, Plant & Equipment	Low	None		×
Income from council tax	Yes	Council Tax	Low	None		✓
NNDR Distribution	Yes	NNDR	Low	None		✓
Other Government grants	Yes	Grant Income	Low	None		✓
Capital grants & Contributions (including those received in advance)	Yes	Property, Plant & Equipment	Low	None		✓

An audit focused on risks (continued)

Account	Material (or potentially material) balance?	Transaction Cycle	Inherent risk	Material misstatement risk?	Description of Risk	Substantive testing?
(Surplus)/ Deficit on revaluation of non current assets	Yes	Property, Plant & Equipment	Low	None		✓
Actuarial (gains)/ Losses on pension fund assets & liabilities	Yes	Employee remuneration	Low	None		✓
Other comprehensive (gains)/ Losses	Yes	Revenue/ Operating expenses	Low	None		✓
Property, Plant & Equipment	Yes	Property, Plant & Equipment	Low	None		✓
Heritage assets & Investment property	No	Property, Plant & Equipment	Low	None		×
Intangible assets	No	Intangible assets	Low	None		×
Investments (long & short term)	Yes	Investments	Low	None		✓
Debtors (long & short term)	Yes	Revenue	Low	None		✓
Assets held for sale	No	Property, Plant & Equipment	Low	None		×
Inventories	No	Inventories	Low	None		×
Cash & cash Equivalents	Yes	Bank & Cash	Low	None		✓

An audit focused on risks (continued)

Account	Material (or potentially material) balance?	Transaction Cycle	Inherent risk	Material misstatement risk?	Description of Risk	Substantive testing?
Creditors (long & Short term)	Yes	Operating Expenses	Medium	Other	Creditors understated or not recorded in the correct period	✓
Provisions (long & short term)	Yes	Provisions	Low	None		✓
Pension liability	Yes	Employee remuneration	Low	None		✓
Reserves	Yes	Equity	Low	None		✓

Significant risks identified

'Significant risks often relate to significant non-routine transactions and judgmental matters. Non-routine transactions are transactions that are unusual, either due to size or nature, and that therefore occur infrequently. Judgmental matters may include the development of accounting estimates for which there is significant measurement uncertainty' (ISA 315).

In this section we outline the significant risks of material misstatement which we have identified. There are two presumed significant risks which are applicable to all audits under auditing standards (International Standards on Auditing – ISAs) which are listed below:

Significant risk	Description	Substantive audit procedures
The revenue cycle includes fraudulent transactions	Under ISA 240 there is a presumed risk that revenue may be misstated due to the improper recognition of revenue.	<p>Work completed to date:</p> <ul style="list-style-type: none"> • Review of revenue recognition policies <p>Further work planned:</p> <ul style="list-style-type: none"> • Testing of revenue recognition policies • Performance of attribute testing on material revenue streams
Management over-ride of controls	Under ISA 240 there is a presumed risk that the risk of management over-ride of controls is present in all entities.	<p>Work completed to date:</p> <ul style="list-style-type: none"> • Testing of journal entries <p>Further work planned:</p> <ul style="list-style-type: none"> • Review of accounting estimates, judgments and decisions made by management • Further testing of journal entries • Review of unusual significant transactions

Other risks

The auditor should evaluate the design and determine the implementation of the entity's controls, including relevant control activities, over those risks for which, in the auditor's judgment, it is not possible or practicable to reduce the risks of material misstatement at the assertion level to an acceptably low level with audit evidence obtained only from substantive procedures (ISA 315).

Other reasonably possible risks	Description	Work completed to date	Further work planned
Operating expenses and creditors	Creditors understated or not recorded in the correct period	<ul style="list-style-type: none"> Review of internal financial controls relating to operating expenses and creditors 	<ul style="list-style-type: none"> Testing of controls over operating expenditure Substantive testing of material expenditure streams Substantive testing of significant creditor balances Review of after date payments to ensure all liabilities identified
Employee remuneration	Remuneration expenses understated	<ul style="list-style-type: none"> Review of internal financial controls relating to employee remuneration 	<ul style="list-style-type: none"> Substantive testing of employee remuneration expenditure
Welfare Expenditure	Welfare benefits improperly computed	<ul style="list-style-type: none"> Review of internal financial controls relating to welfare expenditure 	<ul style="list-style-type: none"> Completion of housing and council tax benefits subsidy certification

Results of interim audit work

Scope

As part of the interim audit work and in advance of our final accounts audit fieldwork, we planned to consider:

- the effectiveness of the internal audit function
- internal audit's work on the Council's key financial systems
- walkthrough testing to confirm whether controls are implemented as per our understanding in areas where we have identified a risk of material misstatement
- a review of Information Technology (IT) controls

	Work performed	Conclusion/ Summary
Internal audit	We have reviewed internal audit's overall arrangements. Where the arrangements are deemed to be adequate, we can gain assurance from the overall work undertaken by internal audit and can conclude that the service itself is contributing positively to the internal control environment and overall governance arrangements within the Council.	Overall, we have concluded that the Internal Audit service continues to provide an independent and satisfactory service to the Council and that we can take assurance from their work in contributing to an effective internal control environment at the Council. We will continue to review the findings of internal audit to inform our audit planning.
Walkthrough testing	Walkthrough tests were completed in relation to the specific accounts assertion risks which we consider to present a risk of material misstatement to the financial statements. These relate to: <ul style="list-style-type: none"> • Operating expenses and creditors • Employee remuneration • Welfare expenditure 	From our work we noted that: <ul style="list-style-type: none"> • payroll policies and procedures are in place but are in need of updating • whilst checks are undertaken on benefits expenditure to ensure that entitlement to benefit is correctly determined, these have not occurred consistently throughout the year. We identified that checks have not been undertaken from mid December 2012 due to other commitments within the benefits team, although we understand that plans are now in place for these arrangements to be improved for 2013-14 expenditure. <p>All other in-year internal controls were observed to have been implemented in accordance with our documented understanding.</p>

Results of interim audit work (continued)

	Work performed	Conclusion/ Summary
Review of information technology (IT) controls	Our information systems specialist has arranged to perform a review of the general IT control environment in May 2013.	Following completion of this work, we will confirm whether there are any material weaknesses which are likely to adversely impact on the Council's financial statements.
Journal entry controls	We have reviewed the Council's journal entry policies and procedures as part of determining our journal entry testing strategy and have undertaken detailed testing on journal transactions recorded for the first ten months of the financial year, by extracting large and 'unusual' entries for further review.	<p>Our work identified that access to create journals is restricted, although the S151 officer has the ability to post journal entries. In addition, we noted that separate authorisation of journals is not required, although journals over £25,000 are subject to review by the Acting Head of Finance and Audit on a monthly basis. We recommend that journal entry controls are enhanced to ensure that there is adequate segregation of duties between input and authorisation of journals to minimise the risk of inappropriate changes being made to the financial system.</p> <p>No significant issues were noted from the testing of journal entries to date. Further work will be undertaken to test journal entries for the remainder of the 2012-13 financial year.</p>

Value for Money

Introduction

The Code of Audit Practice requires us to issue a conclusion on whether the Council has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VfM) conclusion.

2012-13 VfM conclusion

Our Value for Money conclusion will be based on two reporting criteria specified by the Audit Commission.

We will tailor our VfM work to ensure that as well as addressing high risk areas it is, wherever possible, focused on the Council's priority areas and can be used as a source of assurance members. Where we plan to undertake specific reviews to support our VfM conclusion, we will issue a Terms of Reference for each review outlining the scope, methodology and timing of the review.

The results of all our local VfM audit work and key messages will be reported in our Audit Findings report and in the Annual Audit Letter. We will agree any additional reporting to the Council on a review-by-review basis.

Code criteria

The Council has proper arrangements in place for:

- securing financial resilience
- challenging how it secures economy, efficiency and effectiveness in its use of resources

We will consider whether the Council is prioritising its resources with tighter budget

Work to be undertaken

Risk-based work focusing on arrangements relating to financial governance, strategic financial planning and financial control. Specifically we will assess the arrangements in place to ensure financial resilience.

Logistics and our team

The audit cycle



Date	Activity
December 2012	Planning meeting
February 2013	Interim site work
April 2013	The audit plan presented to Audit Committee
July 2013	Year end fieldwork commences
August 2013	Audit findings clearance meeting
September 2013	Audit Committee meeting to report our findings
September 2013	Sign financial statements and VfM conclusion
October 2013	Issue Annual Audit Letter

Our team

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Fees and independence

Fees

	2012-13	2011-12
Audit of Financial Statements	£56,972	£94,953
Grant certification*	£12,300	£18,797
Total	£69,072	£113,750

Fees for other services

Service	Fees
Review of client response to HMRC	£1,500

* Indicative fee for 2012-13

Our fee assumptions include:

- Our fees are exclusive of VAT
- Supporting schedules to all figures in the accounts are supplied by the agreed dates and in accordance with the agreed upon information request list
- The scope of the audit, and the Council and its activities have not changed significantly
- The Council will make available management and accounting staff to help us locate information and to provide explanations

Independence and ethics

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Auditing Practices Board's Ethical Standards and therefore we confirm that we are independent and are able to express an objective opinion on the financial statements.

Full details of all fees charged for audit and non-audit services will be included in our Audit Findings report at the conclusion of the audit.

We confirm that we have implemented policies and procedures to meet the requirement of the Auditing Practices Board's Ethical Standards.

Communication of audit matters with those charged with governance

International Standards on Auditing (ISA) 260, as well as other ISAs, prescribe matters which we are required to communicate with those charged with governance, and which we set out in the table opposite.

This document, The Audit Plan, outlines our audit strategy and plan to deliver the audit, while The Audit Findings will be issued prior to approval of the financial statements and will present key issues and other matters arising from the audit, together with an explanation as to how these have been resolved.

We will communicate any adverse or unexpected findings affecting the audit on a timely basis, either informally or via a report to the Council.

Respective responsibilities

This plan has been prepared in the context of the Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission (www.audit-commission.gov.uk).

We have been appointed as the Council's independent external auditors by the Audit Commission, the body responsible for appointing external auditors to local public bodies in England. As external auditors, we have a broad remit covering finance and governance matters.

Our annual work programme is set in accordance with the Code of Audit Practice ('the Code') issued by the Audit Commission and includes nationally prescribed and locally determined work. Our work considers the Council's key risks when reaching our conclusions under the Code.

It is the responsibility of the Council to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Council is fulfilling these responsibilities.

Our communication plan	Audit plan	Audit findings
Respective responsibilities of auditor and management/those charged with governance	✓	
Overview of the planned scope and timing of the audit. Form, timing and expected general content of communications	✓	
Views about the qualitative aspects of the entity's accounting and financial reporting practices, significant matters and issue arising during the audit and written representations that have been sought		✓
Confirmation of independence and objectivity	✓	✓
A statement that we have complied with relevant ethical requirements regarding independence, relationships and other matters which might be thought to bear on independence.	✓	✓
Details of non-audit work performed by Grant Thornton UK LLP and network firms, together with fees charged.		
Details of safeguards applied to threats to independence		
Material weaknesses in internal control identified during the audit		✓
Identification or suspicion of fraud involving management and/or others which results in material misstatement of the financial statements		✓
Non compliance with laws and regulations		✓
Expected modifications to the auditor's report, or emphasis of matter		✓
Uncorrected misstatements		✓
Significant matters arising in connection with related parties		✓
Significant matters in relation to going concern		✓

Page 245

Appendices

Action plan

Priority

High - Significant effect on control system

Medium - Effect on control system

Low - Best practice

Rec No.	Recommendation	Priority	Management response	Implementation date & responsibility
1	Payroll policies and procedures should be reviewed to ensure they are up-to-date and provide adequate coverage of the activities undertaken.	Low		
2	Journal entry controls should be enhanced to ensure that there is adequate segregation of duties between input and authorisation to minimise the risk of inappropriate changes being made to the financial system.	Medium		



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MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD AT FOLLATON HOUSE, TOTNES ON 11 APRIL 2013

Members in attendance			
* Denotes attendance ∅ Denotes apology for absence			
*	Cllr I Bramble	∅	Cllr L P Jones
*	Cllr C G Bruce-Spencer (Vice Chairman)	*	Cllr J T Pennington (Chairman)
*	Cllr A S Gorman		

Other Members in attendance and participating
Cllr M J Hicks

Item No	Minute Ref No below refers	Officers and Visitors in attendance
All Items		Chief Accountant, Chief Internal Auditor, Risk and Health and Safety Advisor and Member Support Officer. Director and Engagement Lead and Audit Manager - Grant Thornton
Item 5	A.27/12	Corporate Director (AR)
Item 10	A.32/12	The Monitoring Officer and Democratic Services Manager

A.25/12 MINUTES

The minutes of the meeting held on 10 January 2013 were confirmed as a correct record and signed by the Chairman subject to the following amendment, that Cllr C Bruce-Spencer be recorded as present at the meeting.

A.26/12 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.27/12 STRATEGIC RISK ASSESSMENT – 6 MONTHLY UPDATE

The Committee considered a report which informed them on the current situation with regard to corporate strategic risk assessment and which summarised the management and mitigation of identified risk.

In light of the Committee wishing to discuss elements of the exempt appendices,

It was then:

RESOLVED

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following items of business in order to avoid the likely disclosure to them of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Act.

Members then discussed the exempt appendices, and officers responded to a number of queries that were raised.

It was then:-

RESOLVED

That the public and press be readmitted.

It was then:-

RESOLVED

That the Audit Committee notes:

1. The content of the Strategic Risk Assessment – six monthly update and has commented on it; and
2. The importance of staff training and development during significant periods of change and to minimise future strategic risks seeks assurances that adequate resources are budgeted for to ensure delivery of future staff training needs.

A.28/12 INTERNAL AUDIT TERMS OF REFERENCE (CHARTER) & STRATEGY – 2013/14

The Committee considered a report that reviewed the Internal Audit Terms of Reference (Charter) and Strategy 2013/14.

The Chief Internal Auditor informed that a review of the Terms of Reference (Charter) had last been presented to the Committee in 2010/11 and that since three years had elapsed, it had now been reviewed again.

The main changes related to the definition of Internal Audit, as set out by the Institute of Internal Auditors 2013 document 'Applying the IIA International Standards to the UK Public Sector', was combining the Terms of Reference Internal Audit Strategy in a Charter, and the requirement for Internal Audit to be independently assessed every five years.

The Internal Audit Strategy 2013/14 was a high level statement on how Internal Audit would deliver their service in accordance with the Terms of Reference and how the strategy linked with the organisations objectives and priorities.

The officer highlighted that the target for the achievement of the annual audit plan had been increased from 90% to 95% for 2013/14.

Both the Chairman and Vice Chairman thanked the Chief Internal Auditor for an excellent report.

It was then

RESOLVED

That the Internal Audit Terms of Reference (Charter) and Strategy 2013/14 be approved.

A.29/12 INTERNAL AUDIT PLAN FOR 2013/14

The Chief Internal Auditor presented a report that provided Members with the opportunity to review and comment upon the Internal Audit Plan 2013/14 which had been developed from the five year Audit Plan 2010/11 to 2014/15. The key deviations from the five year Audit Plan were:

The removal of:

- Car loans – 6 days
- Dartmouth Town Council – 5 days
- Performance Indicators - 25 days
- Sustainability – 10 days

And the addition of:

- West Devon Borough Council – additional 25 days
- Specific Counter Fraud Activities – 10 days
- Data Protection and Freedom of Information – 8 days

It was then

RESOLVED

That the Audit Committee has reviewed and commented upon the Internal Audit Plan 2013/14 and linked the 2013/14 Computer Audit Plan.

A.30/12

**CHECKLIST FROM THE AUDIT COMMISSION DOCUMENT:
PROTECTING THE PUBLIC PURSE 2012 (FIGHTING FRAUD
AGAINST LOCAL GOVERNMENT)**

The Committee considered the report which informed it of the position of the Council against the Checklist included in the Audit Commission publication 'Protecting the Public Purse 2012 (Fighting Fraud against Local Government)' (November 2012). The report also drew attention to previous checklists which had been presented to Members, and the National Fraud Authority's strategy 'Fighting Fraud Locally' and the Audit Commission's publication 'The National Fraud Initiative' (Audit Committee September 2012).

The officer reminded the Committee of the intention to combine the checklists into one. This would be done for the Committee meeting in April 2014, by which time it would be clear whether a Protecting the Public Purse 2013 would be available or if the National Fraud Authority's strategy 'Fighting Fraud Locally' would be the sole checklist

Members were reminded that the Council had issued a Press Release relating to its involvement in a partnership of Devon local authorities who were setting up a project to investigate and tackle social housing fraud (paragraph 18 of Appendix A to the presented agenda report refers).

It was then

RESOLVED

That the position of the Council against the Checklist included in the Audit Commission's publication 'Protecting the Public Purse 2012 (Fighting Fraud against Local Government) (November 2012) has been considered.

A.31/12

PROGRESS AGAINST THE 2012/13 INTERNAL AUDIT PLAN.

The Chief Internal Auditor presented a report that informed Members of the principal activities and findings of the Council's Internal Audit Team for 2012/13 to 28 February 2013.

The officer informed that there were no significant issues in relation to non-compliance with financial procedure rules, nor had there been any actual or suspected incidences of fraud, corruption or bribery.

In terms of progress against the plan, 85% had been completed by the 28 February 2013 but the projected completion figure for the year was 98% as work would continue into April.

The Committee then discussed the Planned Audits 2012/13 – Final Reports issued set out in Appendix C of the published agenda report.

During the discussion, the following points were raised:

Planned Audits 2012/13 – Final Reports Issued:

Members noted that the audit opinion for most of the reports was either fair or good, with one stated as excellent. Members emphasised their aspiration to see more opinions rated as Excellent.

A Member remarked that the audit was designed to add value and improve an organisation and expressed concern that a number of the recommendations had not been progressed. The Member sought assurances that work was being undertaken to implement recommendations so that they were not re presented.

It was suggested that the role of the Audit Committee in supporting the follow up procedures be discussed at the Audit Committee's Annual Workshop to ensure that future audit recommendations are implemented.

Data Quality and Performance Indicators:

It was highlighted that with regard to Green House Gas (GHG) Emissions out turn, National returns had shown that 40% of local authorities never made any returns. Members supported that enquiries be made to establish what penalties might be incurred for not submitting this data.

Non- Domestic Rates:

Members expressed concern at the issues raised in relation to the non-domestic rates and the limited resources explanation for non implementation of previous recommendations, and it was asked if there was a need to recruit additional temporary resources.

The Committee was informed that a number of issues had impacted on the Revenue & Benefits Service, these being the transition to shared services, followed by the implementation of new shared software which had diverted resources from the day to day work. However, going forward it was expected that there would be activity on progressing the recommendations.

It was then

RESOLVED

That the Audit Committee:

1. has considered the progress made against the 2012/13 Internal Audit Plan and has commented on the summary of the issues arising;
2. supports that enquiries be made to establish the necessity for collecting GHG emission data and what penalties might be incurred for the non-submission of this data; and

3. that the Audit Committee's role in the follow up procedures are discussed at the Annual Audit Committee Workshop.

A.32/12 **ANNUAL REVIEW OF THE COUNCIL'S CONSTITUTION**

The Monitoring Officer and Democratic Services Manager presented a report that set out the amendments to the constitution as a result of the annual review of the constitution.

The Chairman thanked the officers for the excellent and detailed review.

It was then

RECOMMENDED

That the Council be **RECOMMENDED** to approve the amendments to the South Hams District Council Constitution 2013 (as summarised in paragraph 2.2 of the report).

A.33/12 **(DRAFT) EXTERNAL AUDIT 2012/13 AUDIT PLAN**

The Director and Engagement Lead (Grant Thornton) presented the (Draft) Audit Plan (year ended 31 March 2013). He informed the Committee that they had identified three key areas of challenge that the Council was facing, these being:

- the Transformation project to consider options for a new operating model;
- the implications of the Local Government Finance Act in relation to the development of the local Council tax support scheme and the retention of Business Rates; and
- the reduction in the Local Government Finance Settlement for 2013/14 by £265,000

The Director highlighted that as the Authority had progressed a long way down the shared services route there was now less room to make further savings.

During the discussion, the following points were raised:

Welfare Reform Act: It was noted that the Welfare Reform Act would have an impact on how the Council's resources would be allocated in the future, and that this was a very complex area with potential for unintended consequences. The Director (GT) said they would be monitoring very closely how the Council was responding to the risks presented by this challenge;

Corporate Governance: Members were informed that there was an opportunity for the Council to review how it presented its accounts to enhance public engagement;

Risk Based Audit: Members were informed that the external auditors would always consider processes involving cash, senior officer remuneration and transaction cycles. When a risk was identified they undertook substantive testing. They also considered national risks and undertook specific testing in relation to capital expenditure.

Members were informed that that the Grant Thornton approach to audit testing was more targeted with a greater emphasis on risk compared to the methodology adopted by the Audit Commission, which tended to be more wide ranging.

Pension Fund Arrangements: The Committee was informed that whilst the pension fund was administered by a third party, the Council had its own specific disclosure requirements which were examined by External Audit. Grant Thornton would also liaise with the auditor of the Devon County Council Pension Fund to enable a review of the information flows between South Hams District Council and the Pension Fund and an assessment of the assumptions used to be undertaken.

There were a number of sub-assurances that should be undertaken and the external auditors ensured that these processes were being undertaken before they gave their own assurance. In particular, the control environment of the Pension Fund systems was assessed.

Draft Interim Audit Report: Members were informed that arising from walkthrough testing, two areas had been identified for possible improvement: these being the updating of Payroll Policies and Procedures and the frequency of benefit entitlement spot checks. The responsible officers would provide a response to these audit findings in due course.

Grant Thornton had also reviewed Internal Audit's arrangements as part of their interim audit work.

The Vice-Chairman expressed her thanks to the Internal Audit Team for the effective service they were providing.
It was then

RESOLVED

That the Audit Committee notes the (draft) external audit 2012-13 audit plan and has commented upon it.

(Meeting commenced at 10.00 a.m. and finished at 12.15p.m.)

Chairman

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