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SOUTH HAMS AUDIT COMMITTEE - THURSDAY, 5TH JUNE, 2014

Agenda, Reports and Minutes for the meeting

Agenda No Item

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

2. **Reports**

Reports to Audit:

- a) Item 5 - Audit Fee Letter (Pages 3 - 6)
- b) Item 6 - Housing Benefit Subsidy Certification Work Plan for South Hams District Council (Pages 7 - 12)
- c) Item 7 - Audit Committee Update for South Hams District Council (Pages 13 - 20)
- d) Item 8 - Internal Audit - Annual Report and Opinion on the Adequacy of Internal Control 2013/14 (Pages 21 - 44)
- e) Item 9 - Review of the Effectiveness of the System of Internal Audit - 2013/14 (Pages 45 - 54)
- f) Item 10 - Revision of the Contract Procedure Rules (Pages 55 - 102)
- g) Item 11 - Code of Corporate Governance - 2013/14 Compliance Review (Pages 103 - 144)

3. **Minutes** (Pages 145 - 150)

Agenda Item 1

Please reply to: Darryl White
Service: Corporate Services
Direct Telephone: 01803 861247
E-Mail: darryl.white@southhams.gov.uk

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

Our Ref: CS/DW

cc: Cllr Tucker (lead Executive Member for Finance and Audit)
Cllr Saltern (Executive Member for Corporate Services);
Remainder of the Council;
Usual press and officer circulation.

28 May 2014

Dear Councillor

A meeting of the **Audit Committee** will be held in the **Cary Room**, Follaton House, Plymouth Road, Totnes, on **Thursday 5 June 2014 at 2.00 pm** when your attendance is requested.

Yours sincerely

Darryl White
Democratic Services Manager

**FOR ANY QUERIES ON THIS AGENDA PLEASE CONTACT DARRYL WHITE
DEMOCRATIC SERVICES MANAGER ON DIRECT LINE 01803 861247**

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 3 April 2014 (pages 1 to 8);
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 they may have, including the nature and extent of such interests, in any items to be considered at this meeting;

5. **Audit Fee Letter** – to consider a paper which sets out the details of the audit fee for the Council (pages 9 to 12);
6. **Housing Benefit Subsidy Certification Work Plan for South Hams District Council** – to consider a paper which presents the Work Plan (pages 13 to 18);
7. **Audit Committee Update for South Hams District Council** – to consider a report which presents the matters which have come to the attention of Grant Thornton, which they believe requires reporting to the Council (pages 19 to 26);
8. **Internal Audit – Annual Report and Opinion on the Adequacy of Internal Control 2013/14** – to consider a report which summarises and informs the Committee of the principal activities of the Internal Audit section of Finance & Audit during 2013/14 (pages 27 to 50);
9. **Review of the Effectiveness of the System of Internal Audit – 2013/14** – to consider a report which provides Members with assurance that the System of Internal Audit is in place and effective (pages 51 to 59);
10. **Revision of the Contract Procedure Rules** – to consider a report which enables the Committee to consider some suggested revisions to the Council's Contract Procedure Rules (pages 60 to 106);
11. **Code of Corporate Governance – 2013/14 Compliance Review** – to consider a report which informs Members of the results of the 2013/14 compliance review of the 2011 Code of Corporate Governance (pages 107 to 147).

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 Support Services in advance of the meeting if they require any information of a legal or financial nature.

* * * * *

MEMBERS ARE REQUESTED TO SIGN THE ATTENDANCE REGISTER

THIS AGENDA HAS BEEN PRINTED ON ENVIRONMENTALLY FRIENDLY PAPER

If you or someone you know would like this publication in a different format, such as large print or a language other than English, please call Darryl White on 01803 861247 or by email at: darryl.white@southhams.gov.uk

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

* * * * *



Grant Thornton

An instinct for growth™

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10 April 2014

Dear Lisa

Planned audit fee for 2014/15

The Audit Commission has set its proposed work programme and scales of fees for 2014/15. In this letter we set out details of the audit fee for the Council along with the scope and timing of our work and details of our team.

Scale fee

The Audit Commission defines the scale audit fee as “the fee required by auditors to carry out the work necessary to meet their statutory responsibilities in accordance with the Code of Audit Practice. It represents the best estimate of the fee required to complete an audit where the audited body has no significant audit risks and it has in place a sound control environment that ensures the auditor is provided with complete and materially accurate financial statements with supporting working papers within agreed timeframes.”

The Council scale fee for 2014/15 has been set by the Audit Commission at £56,972, which compares to the audit fee of 56,972 for 2013/14.

Further details of the work programme and individual scale fees for all audited bodies are set out on the Audit Commission’s website at: www.audit-commission.gov.uk/audit-regime/audit-fees/proposed-work-programme-and-scales-of-fees-201415

The audit planning process for 2014/15, including the risk assessment, will continue as the year progresses and fees will be reviewed and updated as necessary as our work progresses.

Scope of the audit fee

The scale fee covers:

- our audit of your financial statements
- our work to reach a conclusion on the economy, efficiency and effectiveness in your use of resources (the value for money conclusion)
- our work on your whole of government accounts return.

Value for Money conclusion

Under the Audit Commission Act, we must be satisfied that the Council has adequate arrangements in place to secure economy, efficiency and effectiveness in its use of resources,

focusing on the arrangements for:

- securing financial resilience; and
- prioritising resources within tighter budgets.

We undertake a risk assessment to identify any significant risks which we will need to address before reaching our value for money conclusion. We will assess the Council's financial resilience as part of our work on the VfM conclusion and a separate report of our findings will be provided.

Certification of grant claims and returns

The Council's composite indicative grant certification fee has been set by the Audit Commission at £9,770.

Billing schedule

Fees will be billed as follows:

Main Audit fee	£
September 2014	14,243
December 2014	14,243
March 2015	14,243
June 2015	14,243
	56,972
Grant Certification	
December 2015	9,770
Total	66,742

Outline audit timetable

We will undertake our audit planning and interim audit procedures in January 2015. Upon completion of this phase of our work we will issue a detailed audit plan setting out our findings and details of our audit approach. Our final accounts audit and work on the VfM conclusion will be completed in September 2015 and work on the whole of government accounts return in September 2015.

Phase of work	Timing	Outputs	Comments
Audit planning and interim audit	Jan to March 2015	Audit plan	The plan summarises the findings of our audit planning and our approach to the audit of the Council's accounts and VfM.
Final accounts audit	July to Sept 2015	Audit Findings (Report to those charged with governance)	This report sets out the findings of our accounts audit and VfM work for the consideration of those charged with governance.
VfM conclusion	Jan to Sept 2015	Audit Findings (Report to those charged with governance)	As above
Financial resilience	Jan to Sept 2015	Financial resilience report	Report summarising the outcome of our work.
Whole of government accounts	September 2015	Opinion on the WGA return	This work will be completed alongside the accounts audit.
Annual audit letter	October 2015	Annual audit letter to the Council	The letter will summarise the findings of all aspects of our work.
Grant certification	June to December 2015	Grant certification report	A report summarising the findings of our grant certification work

Our team

The key members of the audit team for 2014/15 are:

	Name	Phone Number	E-mail
Engagement Lead	Barrie Morris *	0117 305 7708	barrie.morris@uk.gt.com
Engagement Manager	Steve Johnson	07880 456134	steve.p.johnson@uk.gt.com
Audit Executive	Toby Bundy	0117 305 7836	toby.bundy@uk.gt.com

* As 2013/14 is the seventh and final year that an Engagement Lead can serve continuously, the EL will change before the commencement of the 2014/15 audit.

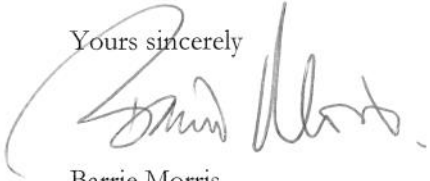
Additional work

The scale fee excludes any work requested by the Council that we may agree to undertake outside of our Code audit. Each additional piece of work will be separately agreed and a detailed project specification and fee agreed with the Council

Quality assurance

We are committed to providing you with a high quality service. If you are in any way dissatisfied, or would like to discuss how we can improve our service, please contact me in the first instance. Alternatively you may wish to contact John Golding, our Public Sector Assurance regional lead partner (john.golding@uk.gt.com) .

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barrie Morris', written over a large, light-colored circular scribble.

Barrie Morris
For Grant Thornton UK LLP

Housing Benefit Subsidy certification work plan for South Hams District Council

Year ended 31 March 2014

5 June 2014

Page 7

Barrie Morris

Engagement Lead

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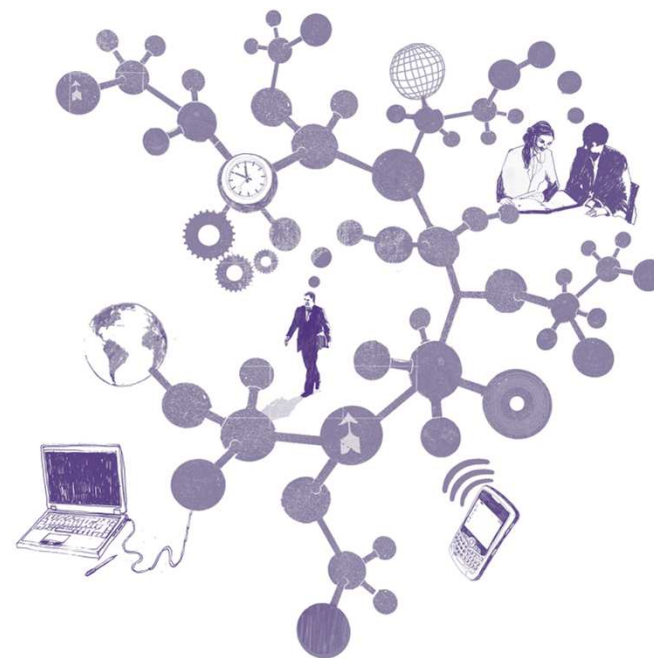
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Contents

Section	Page
1. Our approach to Housing Benefit Subsidy certification work	3

Our approach to Housing Benefit Subsidy certification work

Introduction

As the Council's appointed external auditor, we undertake grant certification work acting as an agent of the Audit Commission. The only claim which requires certification at South Hams District Council for 2013/14 is the Housing Benefit Subsidy claim.

The Department for Work and Pensions (DWP) requires external certification of the Housing Benefit Subsidy claim each year. The Audit Commission agrees certification arrangements with the DWP and issues a certification instruction. The arrangements include the deadline for submission of each claim by authorities (30/4/2014) and the deadline for certification by auditors (30/11/2014).

Role of all parties

The table below summarises the respective roles and responsibilities of the parties involved in the certification process.

Party	Role & responsibility
DWP	Sets conditions of subsidy and deadline for submission for pre-certified and certified claims
Audit Commission	Issues certification instruction ('BEN01') for auditor work
Council	Submits claim for certification to the Appointed Auditor within DWP submission deadlines
Appointed Auditor	Certifies claim in accordance with Audit Commission certification instruction and within certification deadline

The Council's role is set out in more detail below:

- the Head of Finance and Audit is responsible for ensuring that supporting accounting records are sufficient to document the transactions for which claims are made. These records should be maintained in accordance with proper practices and kept up to date, including records of income and expenditure in relation to the Housing Benefit Subsidy claim
- the Council should ascertain the requirements of schemes at an early stage to allow those responsible for incurring eligible expenditure to assess whether it falls within the scheme rules and to advise those responsible for compiling claims and returns to confirm any entitlement
- the Council should ensure all deadlines for interim and final claims are met to avoid sanctions and penalties from grant paying bodies
- the DWP requires the Council's certificate to be given by an appropriate senior officer. This is typically the Head of Finance and Audit or an officer authorised by written delegated powers
- the Council should monitor arrangements with any third parties involved in the certification process.

Claims history

The most significant claims and returns in 2012/13 were:

- housing and council tax benefits scheme; and
- national non-domestic rates return

Due to changes in government funding, there are a number of schemes that either finished in 2012/13 or where funding is no longer ring-fenced. For the Council this means that there will be no certification under the Audit Commission regime of the following schemes this year:

- council tax benefit (previously part of the housing and council tax benefits scheme); and
- national non-domestic rates return

Our certificate

Following our work on each claim or return, we issue our certificate. The wording of this states that the claim is fairly stated and in accordance with the relevant terms and conditions. Our certificate also states that the claim has been certified:

- without qualification
- without qualification but with agreed amendments incorporated by the Council or
- with a qualification letter (with or without agreed amendments incorporated by the Council).

Where a claim is qualified because the Council has not complied with the strict requirements set out in the DWP's terms and conditions, there is a risk that the DWP will retain funding claimed by the Council or claw back funding which has already been provided or has not been returned.

In addition, where the claim requires amendment or is qualified, this increases the time taken to undertake this work, which may impact on the certification fee.

Certification work fees

The Audit Commission sets an indicative fee for grant claim certification based on the 2011/12 actual certification fees for each council. The indicative fee for the Council is £9,328. The fee is based on the following assumptions:

- there will be no change in the scope of our work due to the control environment in place during the year
- the Council provides adequate working papers to support each entry in the claim
- the Council's staff are available to deal with our queries in a timely manner and provide such explanations and supporting evidence necessary to support entries.

Where there is any significant variation from these assumptions, we will discuss a variation to the indicative scale fee with the Council and the Audit Commission.

The Fee has been reduced from that quoted in our original fee letter dated 10 April 2014 of £10,302. The reduction reflects the reduced testing required to certify the Housing benefit claim. This results from changes to the Council Tax Benefit arrangements.

Administration

When the claim is completed, a copy of the signed claim should be sent to Steve Johnson at the following address:

Grant Thornton UK LLP

Room B2.07

Carrick House

Pydar Street

TRURO

Cornwall. TR1 1DP

The original claim should be retained by the Council.

Managing the certification process – our role

- We intend to certify the Housing Benefit Subsidy claim in accordance with the deadlines set by the Audit Commission. If we receive the claim after the Council's submission deadline, we will endeavour to certify it within the Audit Commission deadline but, where this is not possible, within three months from receipt
- A copy of the certified claim will be sent to the relevant named contact when the certification process is complete, along with a copy of the qualification letter, where applicable
- Copies of the certification instruction can be provided on request
- We expect to complete the certification work by 30/11/2014 and will issue a grant certification report highlighting any issues that need to be brought to the Council's attention.



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Audit Committee Update for South Hams District Council

Year ended 31 March 2014

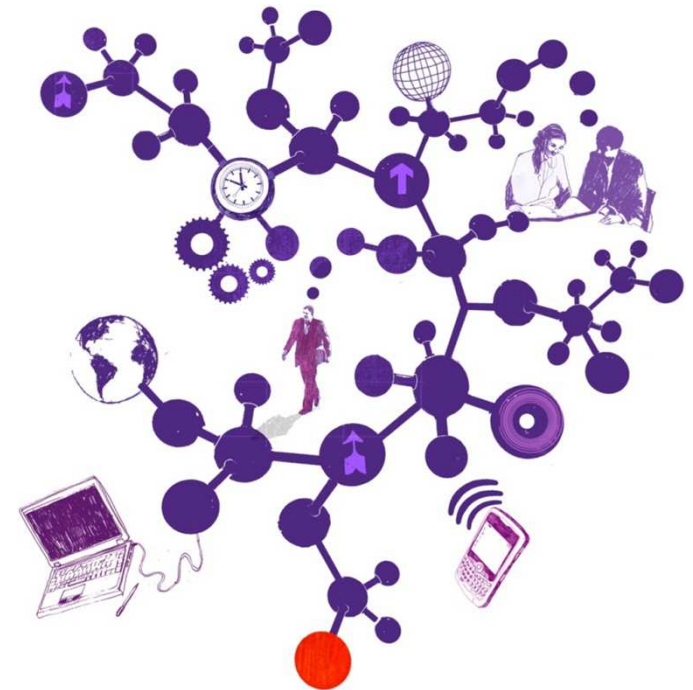
5 June 2014

Page 13

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Agenda Item 2c

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 your business 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	Page
Introduction	4
Progress as at 23 May 2014	5
Emerging issues and developments	
Grant Thornton	7

Introduction

This paper provides the Audit Committee with a report on progress in delivering our responsibilities as your external auditors. The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a Council
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider.

Members of the Audit Committee can find further useful material on our website www.grant-thornton.co.uk, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications.

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Audit Manager.

Barrie Morris	Engagement Lead	T 0117 305 7708	barrie.morris@uk.gt.com
Steve Johnson	Audit Manager	M 07880 456134	steve.p.johnson@uk.gt.com

Progress at 23 May 2014

Work	Planned date	Complete?	Comments
<p>2013-14 Accounts Audit Plan We are required to issue a detailed accounts audit plan to the Council setting out our proposed approach in order to give an opinion on the Council's 2013-14 financial statements.</p>	March 2014	Yes	Audit plan presented at the April meeting.
<p>Interim accounts audit Our interim fieldwork visit includes:</p> <ul style="list-style-type: none"> • updating our review of the Council's control environment • updating our understanding of financial systems • review of Internal Audit reports on core financial systems • early work on emerging accounting issues • early substantive testing • proposed Value for Money conclusion. 	Spring 2014	Yes	<p>Work is complete.</p> <p>The results of the audit were included in the Audit plan.</p>
<p>2013-14 final accounts audit Including:</p> <ul style="list-style-type: none"> • audit of the 2013-14 financial statements • proposed opinion on the Council 's accounts • proposed Value for Money conclusion. 	21 July 2014	No	The opinion on the Council's statement of accounts and VfM conclusion will be given at the Audit committee meeting on 18 September 2014.

Progress at 23 May 2014

Work	Planned date	Complete?	Comments
<p>Value for Money (VfM) conclusion</p> <p>We are required to give our VfM conclusion based on the following two criteria specified by the Audit Commission which support our reporting responsibilities under the Code, that:</p> <ul style="list-style-type: none"> • The Council has proper arrangements in place for securing financial resilience. The Council has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future. • The Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness. The Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity. 	<p>February to September 2014</p>	<p>No</p>	<p>The Interim risk assessment has been undertaken. The only significant matter, as in 2012/13, is the Financial Resilience of the Council's finances. The detailed risk assessment work is on-going. Our VfM conclusion and the Financial resilience report will be presented to the 18 September Audit Committee.</p>
<p>Other areas of work</p> <p>Certify the Council's WGA accounts</p> <p>Grant claims and certification. We anticipate that the only claim that will require certification for 2013/14 will be the Housing benefit and council tax subsidy.</p>	<p>September 2014</p> <p>June 2014 October 2014</p>	<p>No</p>	<p>Assurance on the Council's WGA submission required by 3 October 2014</p> <p>We will undertake our audit of these claims in conjunction with the Certification Plan which is to be presented at this Audit Committee.</p>

Emerging issues and developments

Grant Thornton

A guide to local authority accounts.

This guide is designed to help members of audit committees discharge their responsibilities for the financial statements. It aims to help them understand and challenge the accounts, supporting notes and other statements.

Local authority audit committee members are not expected to be financial experts, but they are responsible for approving and issuing the authority's financial statements. They also play a key role in ensuring accountability and value for money are demonstrated to the public.

However, local authority financial statements are complex and can be difficult to understand: they must comply with CIPFA's Local Authority Code of Practice, which is based on International Financial Reporting Standards (IFRS), and also the requirements of accounting and financing regulations of central government. IFRS provides a comprehensive framework (over 3,000 pages of mandatory requirements) for the production of financial statements in the public and private sector. This framework is continually being refined.

We have prepared this guide for members to use as part of their review of the financial statements. It explains the key features of the primary statements and notes that make up a set of financial statements. It also includes key challenge questions to help members assess whether the financial statements show a true and fair view of their authority's financial performance and financial position.

Challenge question

Has your Head of Finance and Audit made the Audit Committee aware of the guide?

Is training planned to help the Audit Committee understand the statement of accounts?

Head of Finance and audit response

A training session for Members is planned for early July and copies of the local authority accounts guide will be issued to members at the Audit Committee meeting.



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NAME OF COMMITTEE	Audit Committee
DATE	5 June 2014
REPORT TITLE	INTERNAL AUDIT – ANNUAL REPORT and OPINION ON THE ADEQUACY OF INTERNAL CONTROL 2013/14
Report of	Chief Internal Auditor
WARDS AFFECTED	All/Corporate

Summary of report:

The purpose of this report is to summarise and inform members of the principal activities of the Internal Audit section of Finance & Audit during 2013/14, by:

- Showing the progress made by the section against the 2013/14 audit plan reviewed by members in April 2013;
- Providing an Opinion on the adequacy of the Council’s control environment;
- Outlining any significant findings and the action taken by managers to address the recommendations; and
- Providing a summary of the main issues raised by individual audits.

The report links with the separate report to this Committee on the Effectiveness of the System of Internal Audit, and the three previous quarterly reports for 2013/14 on progress against the audit plan.

Financial implications:

None, within existing budgets.

RECOMMENDATIONS:

It is recommended that the Audit Committee note this report and the Chief Internal Auditor’s Opinion on the Adequacy of Internal Control.

Officer contact:

Allan Goodman, Chief Internal Auditor
 Email: allan.goodman@southhams.gov.uk
 Telephone: 01803 861375

1. BACKGROUND

- 1.1 The Terms of Reference (Charter) for Internal Audit were presented to the Audit Committee in April 2013 (Minute reference A.28/12) and covers:

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 2013/14 and was approved by the Audit Committee in April 2013 (Minute reference A.28/12 refers). It covers:

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

Public Sector Internal Audit Standards (PSIAS)

- 1.3 At the September 2013 Audit Committee members accepted the view that the above documents remained fit for purpose and will be brought strictly into line with the new Public Sector Internal Audit Standards for 2014/15 (Agenda Item 10: Minute reference A.17/13 refers).

Annual Governance Statement (AGS)

- 1.4 As part of the system required to allow the AGS to be signed by the most senior member and officer of the Council, reviewed by the Audit Committee (separate report to the Audit Committee of 18th July 2013) and approved by the Council, the head of internal audit must include an opinion of the adequacy and effectiveness of the control environment.
- 1.4 Details of any weaknesses that qualify this opinion and issues relevant to the preparation of the AGS must also be disclosed.
- 1.5 An annual Review of the Effectiveness of the System of Internal Audit must also support this Opinion. The Effectiveness of the System of Internal Audit has been reviewed and reported to this Committee under separate cover. The satisfactory result provides assurance for the Chief Internal Auditor's Opinion.

Chief Internal Auditor's Opinion on the Adequacy of Internal Control

The Chief Internal Auditor has concluded that the Council's overall control environment is adequate and effective for the purposes of the 2013/14 Annual Governance Statement.

This opinion is based on the work done and opinions as set out in Appendix A, further details of which are included in Appendices B, and C of this report.

Appendix A shows that of 41 reports were issued carrying **43 Opinions: 1 was graded Excellent; 35 Good, 7 Fair and 0 Poor.** (Two reports carried two opinions – see Appendix A)

This excludes the reports to Audit Committee on the Council’s counter fraud arrangements ‘Protecting the Public Purse’ and the Review of the Code of Corporate Governance, which also contribute.

2. PROVISION OF INTERNAL AUDIT AND PROGRESS – 2013/14

Audit Plan 2013/14

2.1 The 2013/14 audit plan (Appendix A) was presented and accepted by the Audit Committee at their meeting of April 2013 (A.29/12 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 either through the contingency days or by changes to the plan, depending on the significance.

2.3 There has been one amendment to the Plan accepted at the September 2013 Committee:

Audit	Plan Days 2013/14	Plan Days Update	Reason for Change
Leisure Contract (Management of)	0	9	The Chief Internal Auditor has accepted the Corporate Risk Management Group’s request to revisit this high profile contract. Last audited in 2011/12.
Allocation of HQ Costs	4	0	Low priority audit: in part covered by shared services recharge audit, and lesser coverage in the Main Accounting System.
Council Tax Collection	5	0	Low priority audit: can receive lesser coverage in the Council Tax audit if time allows.

2.4 As reflected in the report to this Committee on the Effectiveness of the System of Internal Audit, 100% of the overall revised audit plan (100% at West Devon, 100% South Hams) has been completed.

Progress against the Plan

2.5 The 2013/14 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.

- 2.6 **Appendix B** 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.
- 2.7 **Appendix C** 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 Contract or Financial Procedure Rules

- 2.8 There are no significant issues to bring to the attention of the Committee for 2013/14.

Fraud, Corruption or Bribery and Whistle Blowing

- 2.9 No actual, suspected or allegations of fraud, corruption or bribery have been identified during 2013/14, outside of benefit fraud.
- 2.10 We are unaware of any whistle blowing reports in 2013/14.
- 2.11 The Council's arrangements for countering fraud were reported to members at the April 2014 Audit Committee using the Audit Commission's checklist 'Protecting the Public Purse'.
- 2.12 The Council also informed the Audit Commission in their annual fraud survey that for 2013/14 there were 14 cases of sanctioned benefit fraud, with a total value of £86,388. Four of these cases were prosecuted. To put this in context the Council has 6,617 live housing benefit claims with a total value paid in 2013/14 of £23.7 million.
- 2.13 The investigative work by service teams on the data matches highlighted by the Audit Commission's *National Fraud Initiative* (NFI) should now be completed. We will review the work done and the actions taken as part of our counter fraud work in the coming weeks and report the results to the September Audit Committee.

3. ISSUES from APRIL 2014 AUDIT COMMITTEE

- 3.1 The Committee requested further information on several topics, namely:

3.2 Future of Local Audit (Agenda Item 8)

The Chief Internal Auditor promised to update members on the guidelines, but at the time of writing this report the guidelines were not yet available. If possible members will be given an oral update with a written report to a future Audit Committee meeting.

3.3 Update on Follow Up for Specific Audits (Agenda Item 11)

Members asked to be kept informed on the progress being made on the action plan for the following audits:

Contract Management

Following the audit a comprehensive list of the contracts that the Council has entered into has been completed by the Legal team. The list links to the contracts held in the secure 'Deeds Room' and any expired contracts stored have been disposed as allowed by the Document Retention policy.

In addition the Contract Procedure Rules have been further clarified to ensure that service managers send the original copy to the Legal team of any contract entered into. Managers have been reminded of this requirement.

S.106 Agreements

The related audit report is currently being formally followed up in line with Internal Audit's follow up procedures. The results will be fed back to the Audit Committee in the first Internal Audit progress report for 2014/15 at the September 2014 meeting.

3.4 Housing Tenancy Fraud (Agenda Item 12)

The Chief internal Auditor reported that the Devon Social Housing Fraud team was being set up to investigate cases of possible housing tenancy fraud on participating Devon Home Choice participating partner landlords. Members asked whether two of the three posts that were subject to recruitment had been filled. It has been confirmed that appointments were made and the officers commenced duties in mid April 2014.

Members also asked the Chief Internal Auditor to establish the Council's responsibilities for tenancy fraud under the Devon Home Choice Partnership Agreement – the Agreement doesn't impose any responsibility on the Council for tenancy fraud. However the Council has always supported landlords in the scheme on anti fraud matters e.g. a declaration on the Devon Home Choice application form warns applicants of the potential implications of tenancy fraud. The Partnership Agreement is currently being reviewed.

An information sharing agreement is being introduced, following review by the Council's Legal section, which commits the Council to informing the Devon Social Housing Fraud team of any suspicions.

4. LEGAL IMPLICATIONS

4.1 Statutory Powers: **Accounts and Audit Regulations 2011**

5. FINANCIAL IMPLICATIONS

5.1 None, within existing budgets.

6. RISK MANAGEMENT

6.1 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:	There are 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:	There are no specific crime and disorder issues arising from this report.
Background papers:	CIPFA Local Government Application Note for the united Kingdom Public Sector internal Audit Standards 2013; SHDC 5-year Audit Plan 2010/11 to 2014/15.
Appendices attached:	Appendix A: Audit Plan 2013/14 – Final Position Exempt Appendix B: Planned Audit 2013/14 – Final Reports: Summary of Results Exempt Appendix C: Unplanned Audit 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 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 gaining no assurance from 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 2013/14 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	■	■	■	■		■			Summary to Audit Committee - June 2014
Creditor Payments	11	■	■	■	■		■			Summary to Audit Committee - June 2014
Payroll	10	■	■	■	■		■			Summary to Audit Committee - January 2014
Council Tax	14	■	■	■	■		■			Summary to Audit Committee - April 2014
Business Rates (NDR)	12	■	■	■	■		■			Summary to Audit Committee - April 2014
Benefits	15	■	■	■	■			■		Summary to Audit Committee - June 2014
Benefits Debtors	5	■	■	■	■		■			Summary to Audit Committee - April 2014
Debtors	10	■	■	■	■		■			Summary to Audit Committee - June 2014
Treasury Management	7	■	■	■	■	■				Summary to Audit Committee - April 2014
Capital Expenditure	10	■	■	■	■		■			Summary to Audit Committee - June 2014
Fundamental Systems	107									
Salcombe Harbour	10	■	■	■	■		■			Summary to Audit Committee - April 2014
Dartmouth Lower Ferry	9	■	■	■	■		■			Summary to Audit Committee - April 2014
Street Scene - Car and Boat Parking	9	■	■	■	■		■			Summary to Audit Committee - June 2014
Private Sector Housing Renewal	8	■	■	■	■		■			Summary to Audit Committee - January 2014
Data Quality & Performance Indicators	5	■	■	■	■		■			Summary to Audit Committee - April 2014
Use of Email & Internet	10	■	■	■	■		■			Summary to Audit Committee - January 2014
Computer Audit	26	■	■	■	■	-	-	-	-	See summary below
Grants - RDPE Rural Community LAGs – Accountable Body	50	56.9 days used	-	-	-	-	-	-	-	125 - Project claims audited; plus 35 - Management & Admin invoices.

Progress Against the 2013/14 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	
Coastal Communities Fund – Accountable Body	-	6.7 days used	-	-	-	-	-	-	-	Minute reference E.28/12 refers
Follow Up of Previous Year's Audits	6	-	-	-	-	-	-	-	-	Follow up completed
Contingency (Unplanned)	55	60.3 days used	-	-	-	-	-	-	-	See Appendix C. Includes 13.6 days T18 work, 50% recharged under year end procedures.
Corporate Governance	8	■	■	■	■	-	-	-	-	Report to Audit Committee - June 2014, under separate cover and specific agenda item.
Exemptions to Contract or Financial Procedure Rules	5	5.6 days used	-	-	-	-	-	-	-	20 Exemption applications received and processed April 2013 to March 2014, of which 19 accepted.
System of Internal Control (SIC) & Annual Governance Statement (AGS)	6	■	■	■	■	-	-	-	-	Report to the July and September 2013 Audit Committees for recommendation to Council of Annual Governance Statement. Approved and published.
Risk Management / Business Continuity	5	■	■	■	■	-	■	-	-	Summary to Audit Committee - June 2014
West Devon Borough Council	105	-	-	-	-	-	-	-	-	Separate report to WDBC Audit Committee.
Other Essential	317									
Beach and Water Safety	4	■	■	■	■	-	■	-	-	Summary to Audit Committee - September 2013
Countryside Recreation and Management	5	■	■	■	■	-	■	-	-	Summary to Audit Committee - January 2014
Outdoor Sports and Recreation	8	■	■	■	■	-	■	-	-	Summary to Audit Committee - January 2014
Emergency Planning and Business Continuity	8	■	■	■	■	-	EP ■	BC ■	-	Summary to Audit Committee - January 2014
Food Safety	8	■	■	■	■	-	■	-	-	Summary to Audit Committee - January 2014
Licensing	8	■	■	■	■	-	■	-	-	Summary to Audit Committee - September 2013
Pollution Reduction	8	■	■	■	■	-	■	-	-	Summary to Audit Committee - September 2013
<i>Allocation of HQ Costs</i>	<i>4 - 4</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>Suspended in favour of Leisure Management.</i>
<i>Council Tax Collection</i>	<i>5 - 5</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>X</i>	<i>Suspended in favour of Leisure Management.</i>
Leisure Contract (Management of)	9	■	■	■	■	-	■	-	-	Summary to Audit Committee - January 2014

Progress Against the 2013/14 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	
Planning Policy including S.106 Agreements	8	■	■	■	■			■		Summary to Audit Committee - January 2014
Community Development including Grants and Loans	8	■	■	■	■		■			Summary to Audit Committee - September 2013
Advice to RM/ Information Compliance/Other Groups	3	-	-	-	-	-	-	-	-	Advice completed for 2013/14.
Contract Management	6	■	■	■	■			■		Summary to Audit Committee - September 2013
Freedom of Information and Data Protection	8	■	■	■	■		FOI ■	DP ■		Summary to Audit Committee - January 2014
Partnership Management	8	■	■	■	■			■		Summary to Audit Committee - September 2013
Safeguarding Children	5	■	■	■	■		■			Summary to Audit Committee - January 2014
Shared Services	5	■	■	■	■		■			Summary to Audit Committee - September 2013
Use of Agency Staff	5	■	■	■	■			■		Summary to Audit Committee - January 2014
Counter Fraud Work	10	■	■	■	■		■			Summary to Audit Committee - April 2014
Other	124									
Audit Administration	20	25 days used	-	-	-	-	-	-	-	
Audit Management, including Audit Planning	20	18.8 days used	-	-	-	-	-	-	-	
Audit Monitoring against the Plan, including Reports to Management and Audit Committee.	15	14.2 days used	-	-	-	-	-	-	-	
Training	15	3.3 days used	-	-	-	-	-	-	-	
Miscellaneous e.g. Financial Regulations etc.	5	1.7 days used	-	-	-	-	-	-	-	
Other	75	63 days total								
Overall Total	620									

Computer Audit Plan 2013/14

Included above:										
Projects Agreed in the Audit Plan	Planned Number of Days	Fieldwork Commenced	Draft Report	Management Comments Received	Finalised	Opinion (finalised reports only)				Comments
Installation & Healthcheck	7	■	■	■	■		■			Summary to Audit Committee - June 2014
Security and Strategy	6	■	■	■	■		■			Summary to Audit Committee - June 2014
E Commerce	6	■	■	■	■		■			Summary to Audit Committee - June 2014
Other Reviews including Telecommunications Network	7	■	■	■	■		■			Summary to Audit Committee - June 2014
Computer Audit	26									

Planned Audit 2013/14 – 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.

September 2013 Audit Committee

Beach and Water Safety Issued 30th May 2013 **Good**
Building Control (Follow Up of 2013/14) Issued 16th July 2013 **Unchanged at Good.**
Partnership Management Issued 6th June 2013 **Fair**
Shared Service Recharges Issued 17th July 2013 **Good**
Pollution Reduction Issued 17th July 2013 **Good**
Community Grants and Loans Issued 18th July 2013 **Good**
Sherford (Follow Up of 2013/14) Issued 25th July 2013 **Unchanged at Good.**
Purchase Cards (Unplanned) Issued 25th July 2013
Licensing Issued 31st July 2013 **Good**
Contract Management Issued 8th August 2013 **Fair**

Planned Audit 2013/14 – Final Reports Issued

January 2014 Audit Committee

Emergency Planning and Business Continuity Planning Issued 12.08.2013 **Emergency Planning – Good: Business Continuity – Fair**
Use of Agency Staff Issued 16.08.2013 **Fair**
Use of Internet and Email Issued 06.09.2013 **Good**
Food Safety Issued 30.08.2013 **Good**
Countryside Recreation and Management Issued 26.09.2013 **Good**
Outdoor Sports and Recreation Issued 26.09.2013 **Good**
Planning Policy including S.106 Agreements Issued 21.10.2013 **Fair**
Data Protection & Freedom of Information Issued 23.10.2013 - **Data Protection - Fair; Freedom of Information - Good**
Private Sector Housing Renewal Issued 29.10.2013 **Good**
Leisure Contract (Management of) Issued 08.11.2013 **Good**
Safeguarding Children Issued 25.11.2013 **Good**
Payroll Issued 27.11.2013 **Good**

Page 34

April 2014 Audit Committee

Treasury Management Issued 09.12.2013 **Excellent**
Counter Fraud Work Issued 06.01.2014 **Good**
Salcombe Harbour Issued 03.12.2013 **Good**
Data Quality and Performance Indicators Issued 17.12.2013 **Good**
Dartmouth Ferry Issued 19.12.2013 **Good**
Council Tax Issued 12.02.2014 **Good**
NDR (Business Rates) Issued 26.02.2014 **Good**
Housing Benefits Debtors Issued 27.02.2014 **Good**

June 2014 Audit Committee

Overleaf.

The recommendations made within our reports have regard to both 'business as usual' and the T18 Transformation Programme.

Planned Audit 2013/14 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
<p>Capital Expenditure and Receipts Issued 12.03.2014</p>	<p>Expenditure: Good, and, Receipts: Good</p> <p>A system is in place and generally operating satisfactorily to control capital expenditure.</p> <p>A number of more minor issues were also noted, mostly relating to record-keeping.</p> <p>An issue outstanding due to other work pressures relates to the use of Letters of Intent by the Head of Assets.</p> <p>Controls are in place and operating over the disposal of assets, this being demonstrated by the one property disposal during the year.</p>	<p>Action plan agreed</p> <p>Agreed that each Letter of Intent should be reviewed and approved by Legal prior to signature and issue. The Contract Procedure Rules will be updated to reflect controls over the use of 'Letters of Intent'.</p>
<p>Risk Management Issued 03.04.2014</p>	<p>Good</p> <p>Management of strategic risks over the two Councils has never been stronger, with the Director (AR) leading and supported by the Senior Management Team. These officers have identified, assessed, recorded, and are regularly monitoring the Councils' key strategic risks which are also reported to the Audit Committee.</p> <p>The formal recording of operational risks has deteriorated. Indeed the formal Operational Risk Register within Covalent has been rendered inactive because it was not being used, with reliance on Blueprint risk registers in some areas.</p>	<p>The Risk and Health & Safety Advisor requested and received the Councils' suspended operational risk registers from Covalent.</p> <p>It is proposed to align the operational risk registers and confirm their status with the responsible officers and update Covalent.</p>

Planned Audit 2013/14 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
<p>Benefits Issued 02.04.2014</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 36</p>	<p>Fair The benefits system ensures that the right people are paid the right amount of benefit at the right time.</p> <p>However, there remain some outstanding issues that will further strengthen the controls over the management of Benefits, the most significant of which are:</p> <ul style="list-style-type: none"> • Users access to the system needs to be reviewed, particularly in light of a number of staffing restructures that mean leavers and officers changing services still have access; • We have identified issues in the area of assessment of benefit claims relating to verification and review; <ul style="list-style-type: none"> • Due to the issues identified with regard to the recovery of overpayments we have recommended that a full review should be undertaken of claims with overpayments to confirm that recovery is appropriately actioned; • We have strengthened our recommendations that the Benefits Team Manager should review a sample of fraud cases, and that a clear policy on the issuing of sanctions is introduced and that fraud is publicised more widely. 	<p>We have now reviewed user's access and suspended inappropriate users on the system, however there is an issue that they cannot be fully removed and this is being investigated by the software supplier.</p> <p>We will be undertaking more targeted reviews based on the new Risk Based Verification rating.</p> <p>Risk Based Verification (RBV) assigns a risk rating to each Housing Benefit/Council Tax Benefit claim which determines the level of verification required. It allows more intense verification activity to be targeted at those claims which are deemed to be at highest risk of involving fraud and/or error.</p> <p>The Benefit Team Leaders have been requested to review the audited claims and report back to the Benefits Team Manager with action taken. We are also planning to review all claims with overpayments to ensure that they are being effectively managed.</p> <p>We will review a sample of cases completed in 2014/15, although it should be noted that the Government proposes the creation of a single integrated fraud investigation service (SIFIS) which will combine resources across the Department for Work and Pensions, HM Revenue & Customs and local councils, including officers.</p>

Planned Audit 2013/14 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
<p>Street Scene – Car and Boat Parking Issued 03.04.2014</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 37</p>	<p>Good Improvements to systems continue to be made and the majority of last year's recommendations were implemented.</p> <p>One outstanding issue, for which responsibility to some degree lies with members, is the number of different types of parking permit which must be administered by the Council.</p> <p>When we previously reviewed parking permits in 2010/11, we recommended a review with the aim of rationalising the number of permits available. But there was little member appetite for change and only some minimal amendments were made.</p> <p>However in September 2013 the Street Scene Manager took a further report to members, again recommending rationalisation of the permits on offer and members approved a six month programme with Civil Enforcement Officers reviewing all permit use during this period.</p> <p>We have therefore repeated this issue as a reminder and some other minor administrative items have been reported.</p>	<p>Once the monitoring is complete the data will be analysed and used to review the number and types of permits which could be offered in the future.</p> <p>A report will be taken to Executive in the autumn containing the recommendations.</p> <p>Action plan agreed.</p>
<p>Main Accounting System and Budgetary Control Issued 28.04.2014</p>	<p>Good We are aware that work is under way to introduce a single shared Financial Information System for use by SHDC and WDBC by the end of the financial year.</p> <p>Once this software is in place and operating it will allow opportunity for a greater number of procedures to be aligned across the Corporate Finance teams for each authority.</p> <p>Other than using this opportunity to align procedures, there are no major issues to report relating to the main accounting system or budgetary control with the exception of the authorising of journals although a compensating control is in place.</p> <p>The Chief Accountant approves all journals over £25k, but there is insufficient resource for all journals to be authorised by a second officer due to the volume completed.</p>	<p>Alignment of procedures has commenced. Blue-printing for T18 is also contributing to this, with most areas needing to be aligned for the implementation of Phase 1a.</p> <p>The same issue was raised by the Council's external auditors and discussed at the April 2014 Audit Committee, to which the following response was given: "The Head of Finance considers that there is an adequate audit trail in place, that real controls were in place for year end and that the journals did not involve payments to third parties".</p>

Planned Audit 2013/14 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
<p>Creditor Payments Issued 28.04.2014</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 38</p>	<p>Good</p> <p>Our conclusion is that the creditors system is fulfilling the purpose for which it is intended. Invoices presented to the creditors section have been promptly processed and input for payment during 2013/14. The main issues reported are;</p> <ul style="list-style-type: none"> • That the level of expenditure incurred on purchase cards is increasing, although the amount of control and supporting evidence for transactions is limited. Transactions are not always supported by a valid invoice and VAT appropriately recovered; and • That work is under way to introduce a single shared Financial System for use by SHDC and WDBC by the end of the financial year, and this will further drive the aligning of process across the Corporate Finance teams for each authority. 	<p>A review is to be undertaken of the use of purchase cards. Users are to be reminded of the importance of obtaining purchase records and purchase card expenditure will be included on the purchase system in the future. This will provide more control of purchases and expenditure.</p> <p>We have now updated our computer system to align with West Devon and following implementation of T18 will complete our alignment of all processes.</p>
<p>Debtors Issued 28.04.2014</p>	<p>Good</p> <p>Controls are in place to limit the level of outstanding debt held by the Council in 2013/14.</p> <p>However, there are areas where further work can be undertaken to improve controls over the debtors system which include:</p> <ul style="list-style-type: none"> • Updating the process and procedures in regard to recovery which is to include a more shared approach with West Devon Borough Council; • Making the policy and recovery procedures available to customers on the internet; and • As part of the above review, a possible joint procurement of external Bailiff/Debt Collection services. 	<p>Agreed, there should be a shared policy with West Devon. The policy and related information will be included on the website and related documentation but will also be dependent on T18 changes.</p> <p>Agreed, this is something that needs to be considered in conjunction with West Devon. We will review the process in the next 6 months.</p>

Planned Audit 2013/14 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
Computer Audit - Telecommunications Issued 29.04.2014	Good The most significant area reported is as follows: <ul style="list-style-type: none"> It was acknowledged by the ICT Service Desk team that there is a need to review the record of mobile phones and to whom they are issued, with quite a number of inaccuracies in the current records, as well as whether some individuals are on the most appropriate call plan. 	<p>The ICT Support Manager has assigned this task to an officer, but there is currently no staff resource to implement it whilst T18 blue-printing work is being completed. It is intended to complete the review before the mobile phone contract is resigned for a further year (pending re-tendering once future requirements under T18 have been determined).</p> <p>It is felt to be of limited risk as the corporate leavers process should ensure that mobile phone are recovered from staff who no longer work for the Council. There is no charge to the Council for phones which are not in use, as the £2 monthly charge is offset by a £2 credit on unused phones.</p>
Computer Audit – Commerce Issued 24.04.2014	Good The number of services which can be accessed from the Council electronically has increased, either directly or else through a third party, including Land Charge searches, planning applications, payments for harbour fees and car parking fees. The Council also continues to use electronic methods itself to make payments, including to staff, creditors and benefit claimants. There is generally a sound structure in place for the control of electronic payments and the processing of related transactions, with one known exception: The Council is not compliant with Payment Card Industry Data Security Standards (PCI DSS) because it records telephone calls where customers read out their payment card data and then stores this data for a period of time. The ICT Infrastructure Manager advised that encryption provides an acceptable compensating control, but the Council is being fined by its card merchant for non-compliance.	<p>This will be included in the specification when procuring a new telephony system to be introduced as part of Phase 1b of T18.</p>

Planned Audit 2013/14 – Final Reports Issued (continued)

Subject	Audit Findings	Management Response
<p>Computer Audit – Installation and Healthcheck Issued 07.05.2014</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 40</p>	<p>Good</p> <p>There are some areas where further improvements could be implemented which will add to the progress completed to date, the most significant of which are:</p> <p>A number of key policies and strategies need to be formally approved, or reviewed and updates issued to all staff, these include:</p> <p>A joint ICT Security Policy;</p> <ul style="list-style-type: none"> • Joint Acceptable Use Agreements; • User agreement for portable media; • Internal use of Social Media for ‘monitoring’; • Use of the internet for live television and radio; and • The shared ICT Business Continuity Plan. <p>That the transfer of electronic data is sufficiently controlled into and out of the Council by restricted use and review of data transmitted; and</p> <p>The ICT asset register on Supportworks should be updated to accurately reflect the equipment held across the two authorities, including for insurance purposes.</p>	<p>Agreed, we are involved in a joint working group with Devon wide authorities to produce a standard collection of ICT policies. These are expected later in the year and will include individual modules that will link to an overarching policy. Due to T18 and other changes it is not clear when these will be released.</p> <p>The Council intranet includes information regarding data protection and is supported by a new Records Management Policy. We are constantly reviewing users’ ability to access data on hardware issued by the Council. This will mean in the future controlling the use of data surrounding cameras and other remote devices. Revised policies will be provided to staff. Agreed, but due to resourcing issues the current list is not up to date. We are planning to update the register during the year especially as services change during T18.</p>
<p>Computer Audit – Security and Strategy Issued 07.05.2014</p>	<p>Good</p> <p>Issues reported within the ICT Healthcheck report above as some areas within these audits overlapped.</p>	<p>-</p>

Planned Audit 2013/14 – Work Complete (No Audit Report)

Subject	Comments
Exemptions to Financial Procedure Rules	See table at Appendix A.
RDPE Rural Communities – LAGs and Coastal Communities Fund	See table at Appendix A, SHDC is the 'accountable body'. Auditing in line with the approach required by the funding 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 2013 Audit Committee. The Committee recommended approval of the AGS to the Council. The AGS was published in September 2013, following an update to the Statement at the September 2013 Audit Committee agenda.

Planned Audit 2013/14 – Follow Up with 2013/14 Audits

September 2013 Audit Committee

Beach and Water Safety 2008/09 - Mainly implemented.
 Partnership Management 2012/13 and 2007/08 - Implemented.
 Shared Services Recharges 2013/14 - Mainly implemented.
 Pollution Reduction 2008/09 - Implemented.
 Community Grants and Loans 2008/09 - Mainly implemented.
 Licensing 2009/10 - Implemented.

January 2014 Audit Committee

Payroll 2013/14 - Mainly implemented.
 Private Sector Housing Renewal 2013/14 – Mainly implemented
 Use of Email & Internet 2013/14 - Mainly implemented
 Countryside Recreation and Management 2008/09 - Implemented
 Outdoor Sports and Recreation 2008/09 - Implemented
 Emergency Planning and Business Continuity 2006/07 - Mainly implemented
 Food Safety 2006/07 - Mainly implemented
 Leisure Contract (Management) 2001/12 and 2013/14 Follow Up - Mainly implemented.
 Planning Policy/S.106 Agreements 2009/10 2010/11 Follow Up - Mainly implemented
 Freedom of information and Data Protection 2007/08 - Mainly implemented

April 2014 Audit Committee

Treasury Management 2013/14 – Implemented
 Council Tax 2013/14 – Mainly implemented
 Salcombe Harbour 2013/14 – Mainly implemented
 Business Rates (NDR) 2013/14 – Mainly implemented
 Data Quality and PIs 2013/14 – Mainly implemented
 Dartmouth Lower Ferry 2013/14 – Mainly implemented.

June 2014 Audit Committee

Subject	Comments
Computer Audit – Security and Strategy – 2010/11	See Installation and Healthcheck below.

Planned Audit 2013/14 – Follow Up with 2013/14 Audits

June 2014 Audit Committee

Subject	Comments
Computer Audit: Installation and Healthcheck – 2012/13	Some implementation. 10/16 recommendations repeated mainly relating policies being worked on with Devon County and other Councils.
Computer Audit: E-Commerce– 2010/11	Some implementation. 1/3 recommendations re-reported relating to the PCI compliance.
Computer Audit: Telecommunications – 2010/11	Mainly implemented. 2/6 recommendations reported again relating to disaster recovery plan
Debtors – 2012/13	Some implementation. 8/9 recommendations repeated but relating to ongoing alignment of processes with West Devon and installation of new software.
Creditors – 2012/13	Some implementation. 4/5 recommendations repeated but relating to ongoing alignment of processes with West Devon and installation of new software.
Main Accounting and Budgetary Control - 2012/13	Mainly implemented. 2/6 recommendations reported again but relating to ongoing alignment of processes with West Devon.
Street Scene: Car and Boat Parking – 2012/13	Mainly implemented. 1/5 recommendations repeated relating to number/types of permits available
Housing Benefits – 2012/13	Some implementation. 19/30 recommendations repeated but mainly in the area of benefit fraud administration, the benefit fraud team are likely to become part of the DWP at any time from April 2014.
Risk Management – 2011/12	Mainly implemented. 5/12 recommendations reported again but relating to operational risk registers and publicising risk management.
Capital Expenditure – 2012/13	Mainly implemented. 2/13 recommendations repeated, both relating to post project reviews.
Capital Receipts – 2012/13	Implemented.

Planned Audit 2013/14 – Follow Up of Other 2012/13 Audits

Subject	Comments
ICT Project Management	Followed up with annual computer audit.
Partnership Management	Implemented.
Procurement	Mainly implemented through the update of Contract procedure Rules. One outstanding recommendation awaits the new Intranet.
Inventories	Mainly implemented. Computer inventory followed up in 2013/14 computer audit.
Insurance	Cleared.
Pannier Markets	Cleared following agreement of revised implementation dates.
Schemes with Other Organisations	Cleared.
Community Parks and Open spaces	Cleared.
ICT Cost Effectiveness	Memo sent 30/10/2013. Reminder sent but to be followed up with annual computer audit.
Capital Receipts and Grants	Cleared with 2013/14 capital Expenditure.

Planned Audit 2013/14 – Follow Up of Other 2012/13 Audits

Subject	Comments
Insurance	Memo sent 19/06/2013. Awaiting reply. Reminder sent and meeting to be arranged.
Building Maintenance	Recommendations implemented other than the known issues relating to the software which cannot be addressed in the short term. Cleared
Major Developments - Sherford	Updated and new report issued.
Building Control	Follow up with Teignbridge Internal Audit. New report issued with 3 revised implementation dates.
Corporate Management Costs	Cleared.
Travel and Subsistence (Follow Up)	All but 2 recommendations cleared; these to be followed up with the 2013/14 Payroll audit.
Corporate Management Costs	Cleared
Land Charges	Cleared
Complaints System	Cleared
Print Room	Cleared

Unplanned Audit – 2013/14

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 usage information as requested by managers; • Assistance to the external auditors on specific tests for the audit of the accounts; • Salcombe Harbour – advice and assistance; • Audit Commission fraud survey; • Contribution to update of report writing guidance; • Various Housing processes; • Various Street Scene issues; • Audit Committee Scrutiny budget review; • Benefits payment run process; • Finance team service sharing and other issues; • T18 Transformation Programme – including Process mapping and Blueprinting (12.6 days to be shared with West Devon); • Leisure Contract – Lessons Learned document • Dartmouth Ferry – advice re new system and other issues; • Audit Commission: Protecting the Public Purse 2013; • Fraud bulletins and monitoring of National Fraud Initiative; • Various Assets issues; • Assistance re HMRC inspection and advice re related issues; • Liaison re new Intranet; • Local welfare support (with brief report, no opinion); • Numerous other 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

9

SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

9

NAME OF COMMITTEE	Audit Committee
DATE	5 June 2014
REPORT TITLE	REVIEW OF THE EFFECTIVENESS OF THE SYSTEM OF INTERNAL AUDIT - 2013/14
Report of	Chief Internal Auditor
WARDS AFFECTED	All/Corporate

Summary of report:

The purpose of this report is to provide members with assurance that the System of Internal Audit is in place and effective.

Its intention is to demonstrate that the Council's internal audit section continues to reach the standards set by the Chartered Institute of Public Finance's (CIPFA) enabling the external auditor to gain assurance from the work of the section, and that the service provided to clients continues to be well received.

The internal audit section also continues to work with its partners, West Devon as a shared internal audit service and collaboration with Teignbridge, and review its own processes to ensure that the improvements of recent years are maintained in the future.

This review also aims to demonstrate that the wider System of Internal Audit is effective and therefore contributes to the assurance provided by the Chief Internal Auditor's 'Opinion on the Adequacy of Internal Control', which is provided in a separate Internal Audit annual report presented to this Committee.

Financial implications:

There are no direct financial implications of the monitoring of the Internal Audit service. The internal audit costs for the year are as budgeted.

RECOMMENDATIONS:

It is recommended that members note the findings of the Review of the Effectiveness of the System of Internal Audit set out in this report.

Officer contact: Allan Goodman, Chief Internal Auditor: 01803 861375
allan.goodman@swdevon.gov.uk

Background

- 1.1 The Terms of Reference (Charter) for Internal Audit were presented to the Audit Committee in April 2013 (Minute reference A.28/12) and covers:

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 2013/14 and was approved by the Audit Committee in April 2013 (Minute reference A.28/12 refers). It covers:

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

Review of the Effectiveness of the System of Internal Audit

- 2.1 The process to produce the Annual Governance Statement requires the Council through the Chief Internal Auditor to review the effectiveness of the system of internal audit covering:

- Compliance with the standards set out in the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Internal Audit in Local Government 2006, which was superseded during the year by the Public Sector Internal Audit Standards (PSIAS);
- Effectiveness of the Audit Committee;
- Assurance provided to the external auditor by Internal Audit;
- Client and management opinion; and
- Extent to which IA adds value and helps delivery of corporate objectives.

- 2.2 The Annual Governance Statement will be presented to the Audit Committee at the meeting of 18th July 2014.

Compliance with the CIPFA Code of Practice for Internal Audit/PSIAS

- 2.3 The Chief Internal Auditor carried out a self assessment of the Council's internal audit service against a schedule summarising the Chartered Institute for Public Finance and Accountancy's (CIPFA) Code and linked to the Public Sector Internal Audit Standards through the related assessment checklist in the CIPFA application note on PSIAS.

- 2.4 The results were satisfactory with no significant issue arising, which was expected given that a similar assessment was made each year since the end of 2007/08 and the gaps identified closed.

- 2.5 At the September 2013 Audit Committee members accepted the view that the audit process and key documents remained fit for purpose and will be brought strictly into line with the new Public Sector Internal Audit Standards for 2014/15 (Agenda Item 10: Minute reference A.17/13 refers).

This paragraph also highlighted the differences which were either addressed in 2013/14 or will be in 2014/15:

- The mandatory nature of the PSiAs;
 - Defining of the 'Board' – for South Hams District Council the Board will be the Audit Committee;
 - The role of the Monitoring Officer and Head of Paid Service in Internal Audit – the current Terms of Reference/Charter are clear in terms of anti fraud corruption and bribery, and, access by the Chief Internal Auditor if required;
 - Requirement for the Chief Audit Executive (for South Hams the Chief Internal Auditor) to hold a professional qualification;
 - Use of Computer Assisted Audit Techniques (CAATs) – to be part of the planned Counter Fraud work for 2013/14; and
 - Quality assurance programme to include an external assessment. Only when this is completed can reports carry the phrase 'conducted in conformance with PSiAs'. The Chief Internal Auditor will discuss ideas with Devon colleagues for a cost effective method of delivery of an external assessment and report the results to the next Audit Committee. The Committee will be asked to consider any proposals.
- 2.6 The annual report including the Chief Internal Auditor's 'Opinion on the Adequacy of Internal Control' 2013/14 appears on the agenda of this Committee as a separate item.

Effectiveness of the Audit Committee

- 2.7 The Audit Committee met in a 'workshop' forum in June 2013 (and has done so for a number of years prior to that) to consider a number of issues and carry out a self assessment of the effectiveness of the Audit Committee.
- 2.8 The assessment was based on a schedule from the CIPFA document 'Audit Committees: Practical Guidance for Local Authorities' and the result was satisfactory. A review of the resolutions made during the year and the actions taken as a result is also a typical agenda item.
- 2.9 A further 'workshop' is planned for June 2014 although at the date of writing this report the final details have not been completed. Among the Agenda items will be a review of the Audit Committee year past and consideration of the latest CIPFA guidance on the role of the Audit Committee.
- 2.10 There is no reason to believe that the Effectiveness of the Audit Committee has diminished during 2013/14.

External Audit - Assurance Provided by Internal Audit

2.11 Grant Thornton, the Council's external auditor, in their Audit Plan for South Hams District Council for 2013/14, which was presented to the April 2013 Audit Committee said in the *Results of Interim Audit Work*:

'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'.

Client and Management Opinion

2.12 For some years the audit team have issued a satisfaction survey electronically to the main client officers with the final audit report for each of the audits that we undertake. Completion and return is encouraged but is discretionary.

2.13 Satisfaction surveys received for 2013/14 continue to be satisfactory, with 99.4% of the 15 responses (100% from 7 at West Devon) marking us good or excellent (100% in 2012/13 from 14 returned) for the sub criteria under Audit Planning, Quality of Audit Report and Communication as shown in table 1:

Table 1: 2013/14 Satisfaction Survey Results.

Survey Criterion	Excellent	Good	Total 2013/14	Target	Total 2012/13
	%	%	%	%	%
Audit Planning - Consultation; Objectives.	68.9	31.1	100	90	100
Quality of Audit Report Clarity; Accuracy; Value; Presentation.	76.7	21.7	98.4	90	100
Communication Feedback; Helpfulness; Professionalism; Timeliness.	89.3	10.7	100	90	100
Overall %	80.0	10.4	99.4	90	100

There were no 'poor' markings and positive comments were made by 4 managers, which included the following:

- *"I found the audit process a really positive experience. It is so helpful to get fresh eyes on this broad subject and a new perspective. I have been consulted all the way and have felt my comments and challenges have been heard and responded to. Thank you very much for bringing some more clarity and focus to this ever developing area; and*
- *Always happy with the support from the internal audit team.*

- *Both myself and colleague found the auditor's advice invaluable;*
- *Very happy in all respects; and*
- *I can only congratulate the auditor on the professionalism and report presentation. There is a lot to get one's head around on this complex subject. Given that the Agency's own format was used, I now feel more confident to face their audit process should they choose to select us.*

There were no negative comments made.

2.14 We continue to learn from any comments made and are ensuring that, wherever possible, we take on board suggestions for improvement.

Extent to which Internal Audit adds value and helps delivery of corporate objectives

2.15 The customer survey results and comments help to demonstrate that Internal Audit adds value.

2.16 The Audit Plan for 2013/14 (Appendix A of the 'Annual Report and Opinion' presented separately to this Committee) is linked to the Council's Priorities and Heads of Service/service managers are invited to express areas of concern to the auditor at the commencement of each audit. Wherever possible these areas are included in the audit work of undertaken.

Internal Audit's Performance Indicators

3.1 The Internal Audit Strategy 2013/14 (April 2013 Audit Committee) sets out the performance indicators to be recorded.

Audit Reports Issued

3.2 The number of audit reports issued in 2013/14 were as follows:

Table 2: Number of audit reports issued in the past 5 years.

Audit Year	Number of Reports by Type			
	Major Systems	Other systems/ Establishments	External Bodies	Annual Total
2013/14	9	32	-	41
2012/13	9	30	-	39
2011/12	9	22	1	33
2010/11	9	24	1	34
2009/10	9	30	1	40

The total number of reports for SHDC fell in 2012/13 due to the provision of the shared service to West Devon as reported to the Audit Committee in the audit plans in April 2010 and 2011. The external bodies column does not include the shared service with WDBC

3.3 We are continuing to be alert to development in the profession of meaningful targets for the section, and monitor our performance against them and always seek to benchmark key indicators with other Devon internal audit teams whenever possible.

Other Indicators

3.4 Timeliness is an important element of audit reporting, and therefore we monitor against two targets for this:

- The timely issue of draft audit reports: within 10 working days of completing the audit work;
- The timely issue of finalised audit reports: within 10 working days of completing discussions on the draft report, and completing the action plan on recommendations.

3.5 We are also monitoring the % of the audit plan that is completed during the year. Completion is influenced mainly by the level of unplanned work carried out in the year, for which some contingency time is planned. The following table shows that Internal Audit is meeting its targets, as set out below:

Performance Indicators	Target	2013/14	2012/13
% of revised Audit Plan completed, against target for South Hams	100%	100%	99%
% of Audit Plan completed, against target for West Devon	100%	100%	100%
Overall % of Audit Plan completed	100%	99%	99%
Timeliness of reports:			
% of draft reports issued within 10 working days of the audit completion	100%	98%	100%
% of final reports issued within 10 working days of discussion on the draft	100%	100%	100%
External Audit			
Assurance provided to the Council's external auditor	Yes	Yes	Yes
Costs			
Direct cost of provision of service with oncosts/recharges (Gross)	-	£113.9k	£111.9k
Oncosts added to the above e.g. use of the building, ICT etc.	-	£10.0k	£15.7k
Recharges/income	-	(£35.1k)*	(£36.7k)*
Net cost of the service	-	£88.8k	£90.9k
Average cost per audit day:			
Average cost per audit day: Direct costs (without oncosts/recharges) and based on available days.	-	£183	£180
Average cost per chargeable audit day: direct costs with oncosts but not recharges.	-	£226	£234
Follow Up			
Percentage of audit reports where the agreed recommendations were satisfactorily actioned i.e. Implemented/Mainly implemented.	90%	83%**	80%

* above: includes income from West Devon of £25.9k, LAG recharge at £10.8k.

** above: main reason cited for non implementation was the impact of process change/new software and T18.

Resources and Skills

3.6 An allowance of 18 sickness days was originally planned for 2013/14, with 4 days actually being used (15 days 2012/13), and 2.5 days Carers Leave also granted in line with the policy (3 days 2012/13).

3.7 Training provided (3.3 days used) to members of the team during the year included:

Chief Internal Auditor

- Smartsheet Overview (Internal)
- Update re changes to Council Tax and Business Rates (NDR) (Internal)
- Audit Management Software demonstration

Senior Auditor:

- Information Security and Cybercrime (IIA Exeter)
- Update re changes to Council Tax and Business Rates (NDR) (Internal)
- Audit Management Software demonstration

Auditor:

- Smartsheet Overview (Internal)
- Update re changes to Council Tax and Business Rates (NDR) (Internal)
- Audit Management Software demonstration

Shared Services West Devon Borough and Teignbridge District Councils

West Devon Borough Council

- 4.1 The fourth year of the provision of an internal audit service to West Devon Borough Council (WDBC) has been completed, 2013/14
- 4.2 The work and findings have been reported to the WDBC Audit Committee using a similar suite of reports and with the same frequency as those received by the SHDC Audit Committee. The relevant charges have been paid by WDBC.
- 4.3 The internal auditors maintain timesheets to a quarter hour units for all work completed, which enables relatively accurate apportionment of costs to take place. The timesheets are also required for controlling and monitoring the progress on the audit plan, and an attendance/hours worked record.

Teignbridge District Council

- 4.4 The Audit Committee has been provided with frequent updates on the progress of the Shared Service arrangement with our Internal Audit colleagues at Teignbridge District Council following the decision of the Joint Steering Group (JSG) in June 2008.

4.5 The decision has never been rescinded and so the arrangement continues, to the benefit of both teams. The majority of the proposals for the extended internal audit collaboration have been completed or are continuing and include sharing of information, audit programmes, best practice, attending and feeding back on seminars etc.

4.6 The most significant arrangement is the mutual assurance of the highest priority work at both Councils with the approval of the Chairmen of the Audit Committees. This arrangement has not been required to date but remains a safeguard.

5. LEGAL IMPLICATIONS

5.1 Required under the Local Government Finance Act 1972 and subsequent Accounts and Audit Regulations – the latest being 2011.

6. FINANCIAL IMPLICATIONS

6.1 Within existing budgets. The costs of the service are highlighted at paragraph 3.5 above.

7. RISK MANAGEMENT

7.1 The risk management implications follow after the table of other considerations:

Other Considerations:

Corporate priorities engaged:	All/Corporate
Statutory powers:	Local Government Finance Act 1972 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:	CIPFA Local Government Application Note for the United Kingdom Public Sector Internal Audit Standards 2013; CIPFA Code of Practice for Internal Audit in Local Government 2006; SHDC 5-year Audit Plan 2010/11 to 2015/16. Internal Audit Plan 2013/14 and Strategy (April 2013 Audit Committee); Interim Reports to the 2013/14 Audit Committees.
Appendices attached:	None

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	Failure of the System of Internal Audit	The Council's Annual Governance Statement cannot be signed if the System of Internal Audit fails.	3	2	6	↔	<p>An annual Internal Audit Charter and Strategy reviewed by the Audit Committee at the beginning of each financial year sets out how the audit plan is to be delivered.</p> <p>A risk based Internal Audit plan is reviewed by senior managers and members, and updated to reflect emerging as appropriate through the year. The plan is linked to the Council's objectives and risks to these objectives.</p> <p>The Internal Audit approach adheres to the appropriate professional standards set by CIPFA.</p> <p>Regular monitoring of performance of Internal Audit is carried out by the S.151 Officer and the Audit Committee.</p> <p>Liaison with the external auditors ensures that duplication of scarce audit resources is avoided and that they are able to gain assurance on internal audit's work.</p> <p>Liaison with Heads of Service and managers ensures Internal Audit adds value.</p> <p>The Audit Committee reviews its effectiveness annually.</p>	S.151 Officer; Chief Internal Auditor; Audit Committee Chairman.

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AGENDA
ITEM
10

SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM
10

NAME OF COMMITTEE	Audit Committee
DATE	5 June 2014
REPORT TITLE	REVISION OF THE CONTRACT PROCEDURE RULES
Report of	S.151 Officer Monitoring Officer Chief Internal Auditor
WARDS AFFECTED	All/Corporate

Summary of report:

The purpose of this report is to allow the Audit Committee to carry out an overview of the updated Contract Procedure Rules to enable them to recommend adoption to the Council of the document and the amended rules surrounding Exemptions.

This covering report carries a summary of the main changes proposed, and the draft updated Contract Procedure Rules appear at Appendix A. All changes in the Appendix when compared with the previous version are highlighted in red.

Financial implications:

None, within existing budgets.

RECOMMENDATIONS:

That the Audit Committee review the updated version of the Council's Contract Procedure Rules (Appendix A) and RECOMMEND THAT COUNCIL approve the document and its inclusion in the Council's Constitution.

Officer contact:

Lisa Buckle, S.151 Officer and Head of Finance and Audit

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

Catherine Bowen, Monitoring Officer

1. BACKGROUND

- 1.1 The internal audit managers of South Hams and West Devon (SHDC and WDBC) and Teignbridge District Councils (TDC), the Shared *Corporate Procurement Officer*, the Monitoring Officer and Contract Solicitor, have previously worked together to deliver a set of Contract Procedure Rules, for adoption by each of the Councils.
- 1.2 This collaboration culminated in the presentation of the Contract Procedure Rules to the Council by the Audit Committee in December 2007, June 2010 and September 2011.
- 1.3 The previous versions June 2010/September 2011 were based on a model supplied free of charge by CIPFA tailored to local circumstances. The key limits and rules were aligned between South Hams, West Devon and Teignbridge Councils as far as was practical. This approach has continued.

2. THE REVISED CONTRACT PROCEDURE RULES

- 2.1 The Contract Procedure Rules amended for June 2014 have been drafted and are attached at Appendix A. Any changes to the September 2011 document are highlighted in a **red typeface**.

Key Changes in the June 2014 Contract Procedure Rules

- 2.2 The Key changes for the 2014 are as follows:

- Paragraphs 3.6 and 3.11: Changes to the Exemption Rules, adding the *Corporate Procurement Officer* as formal contact;
- Paragraph 3.12: Rules on In-house or Quasi In-house Arrangements;
- Paragraph 7.1.1: Inclusion of a supplier from within the Council's boundaries;
- Paragraph 7.3: Enhanced guidance on the use of Framework Agreements;
- Paragraph 7.4: Introduction of Dynamic Purchasing System (similar to Framework Agreements but with the opportunity to add suppliers during the life of the agreement);
- Paragraph 8.1: Enhanced competition requirements including changes to the limits for quotation and tendering, and rules relating to shared procurement;
- Paragraph 8.3: Reference to HMRC guidelines in relation to checks on the self employed status of consultants;
- Paragraph 10.1: Introduction of 'Selection Criteria' in addition to Award Criteria';
- Paragraph 23: New rules covering 'State Aid'; and

- Paragraph 24: New rules covering 'Development Agreements'.

2.3 The proposed changes to these rules have been made with regard to the progress made on the T18 Transformation Programme as it is at the time of writing the report. However, as the Programme moves into the implementation phase, and roles and responsibilities become clearer, it is highly likely that a further update will be necessary. In addition the new EU Directives being incorporated into UK legislation may also trigger an update (expected in the second half of 2014).

3. LEGAL IMPLICATIONS

3.1 It is important that the Contract Procedure Rules are reviewed regularly to make sure that they are up to date, as the procurement environment is lively.

3.2 With all services are to be shared with West Devon, and the Procurement Officer shared with Teignbridge, it has become critical that there are no differences between the Rules operating in each Council. With officers often under pressure it would be too easy to make a mistake and use the wrong Rules, with potentially serious consequences in terms of procurement impropriety, liability to disappointed or successful bidders, and consequent loss of reputation and confidence. Updating the Rules and then training relevant officers about the changes is a sensible precaution.

4. FINANCIAL IMPLICATIONS

4.1 None, within existing budgets.

5. RISK MANAGEMENT

5.1 The risk management implications follow the table below:

Corporate priorities engaged:	All/Corporate
Statutory powers:	Section 135 Local Government Act 1972; and Accounts and Audit Regulations 2011.
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:	Constitution: Contract Procedure Rules CIPFA: Contract Procedure Rules - Guidance and Template 2006
Appendices attached:	Appendix A: Contract Procedure Rules 2014.

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	Need for Contract Procedure Rules and updates.	<p>a) Risk to the business environment and potential cost to the Council if officers break procurement law.</p> <p>b) There is a risk that allowing greater flexibility in procurement may in some circumstances undermine the control environment and impact upon the budgetary performance.</p> <p>c) Risk of accusation of favouring against individual officers or the Council if procurement is not carried out in a structured way.</p>	4	2	8	↔	<p>Updated Contract Procedure Rules provide managers with a set of comprehensive rules with the flexibility to enable them to act quickly were the need arises, and remain within procurement law.</p> <p>The Rules contribute to the control environment and are regularly monitored with breaches reported to the Audit Committee.</p> <p>Use of the Rules will protect officers and the Council from accusations of impropriety from unsuccessful suppliers or others.</p>	

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			
2	Benefits of Shared Procurement	The Corporate Procurement Officer may be restricted in the benefits that she/he can bring through shared procurement arrangements. Opportunities for local suppliers to be used whilst having regard for the need NOT to favour any specific suppliers and all of the Council's procurement guidelines.	3	2	6	↔	All key procurement arrangements and limits have been brought up to date and aligned for the future benefit of any shared service agenda.	

Direction of travel symbols ↓ ↑ ↔



**South Hams
District Council**



**West Devon
Borough
Council**

**CONSTITUTION PART 4
CONTRACT PROCEDURE RULES (JOINT)**

CONTENTS

A BRIEF GUIDE TO CONTRACT PROCEDURE RULES and DEFINITIONS

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

Para

1	BASIC PRINCIPLES
2	OFFICER RESPONSIBILITIES
3	EXEMPTIONS
3. 11	COLLABORATIVE & E-PROCUREMENT ARRANGEMENTS
4	RELEVANT CONTRACTS

SECTION 2: COMMON REQUIREMENTS

Para

5	STEPS PRIOR TO PURCHASE
6	RECORDS
7	ADVERTISING AND FRAMEWORK AGREEMENTS

SECTION 3: CONDUCTING PURCHASE

Para

8	COMPETITION REQUIREMENTS FOR PURCHASE AND PARTNERSHIP ARRANGEMENTS
9	PRE-TENDER MARKET RESEARCH AND CONSULTATION
10	STANDARDS AND SELECTION & AWARD CRITERIA
11	PROCUREMENT DOCUMENTATION
12	SHORTLISTING
13	SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS
14	CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION
15	EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING SUPPLIERS

SECTION 4: CONTRACT AND OTHER FORMALITIES

Para

16	CONTRACT DOCUMENTS
17	BONDS AND PARENT COMPANY GUARANTEES
18	PREVENTION OF CORRUPTION & ANTI COMPETITIVE BEHAVIOUR
19	DECLARATION OF INTERESTS

SECTION 5: CONTRACT MANAGEMENT

Para

20	MANAGING CONTRACTS
21	RISK ASSESSMENT AND CONTINGENCY PLANNING
22	CONTRACT MONITORING, EVALUATION AND REVIEW

SECTION 6: OTHER RELEVANT CONSIDERATIONS

Para

23	STATE AID
24	DEVELOPMENT AGREEMENTS

A BRIEF GUIDE TO CONTRACT PROCEDURE RULES

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good procurement practice and public accountability and deter corruption.

Adherence to consistent and comprehensive Rules helps protect the Council against challenges that it has acted unlawfully or fraudulently.

Officers responsible for purchasing must comply with these Contract Procedure Rules. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail (or other e-communication systems e.g. e-tendering) fax transmissions as well as hard copy.

- Follow the rules whenever you purchase goods or services or order building work.
- Take all necessary **procurement**, legal, financial and professional advice.
- Declare any personal financial interest in a *Contract*. Corruption is a criminal offence.
- Conduct any *Value for Money* review and appraise the purchasing need.
- Check whether there is an existing *Contract* or **framework agreement** in place open to the Council that you can make use of before undergoing a competitive process
- Normally allow at least four weeks for submission of bids (not to be submitted by **hard copy**, fax or e-mail).
- Keep bids confidential.
- Complete a written *Contract* or Council order before the supply or works begin.
- Identify a contract manager with responsibility for ensuring the *Contract* delivers as intended.
- Keep records of dealings with suppliers.
- Assess each *Contract* afterwards to see how well it met the quality of delivery and *Value for Money* requirements.

In accordance with the *Constitution*, the *S.151 Officer* shall have the power to make amendments from time to time to these Contract Procedure Rules after consultation with the *Monitoring Officer*, Internal Audit and the *Corporate Procurement Officer*. Proposed amendments must be submitted to the Audit Committee for recommendation to the Council of approval, where appropriate.

Terms in *italics* are defined in the Definitions Appendix.

Acknowledgements: CIPFA

Contributors:

Corporate Procurement Officer (Shared)

Internal Audit: South Hams and West Devon Councils (Shared)

Internal Audit: Teignbridge District Council

Legal team: South Hams and West Devon Councils (Shared)

S.151 Officer and Monitoring Officer

DEFINITIONS

Term	Definition
Agent	A person or organisation acting on behalf of the Council or on behalf of another organisation.
Award Criteria	The criteria by which the <i>Contract is to be awarded to the successful Tenderer</i> (see further Rules 10 and 11.2e).
Award Procedure	The procedure for awarding a <i>Contract</i> as specified in Rules 8, 10 and 15.
Bid	<i>A Supplier's proposal submitted in response to the Procurement Documentation</i>
Bond	An insurance policy: if the contractor does not do what it has promised under a <i>Contract</i> with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the <i>Contract</i> value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.
Code of Conduct (Officers)	The code regulating conduct of Officers, available on the Council's Intranet.
Code of Conduct (Members)	As set out in the Constitution – Part 5.
Concession Contracts	<i>Shall mean a public contract under which Supplier/s are given the (exclusive) right to exploit the works or services provided for their own gain and where the Supplier's income is generated solely from third parties or as a combination of revenue streams from both third parties and the Council</i>
Constitution	The constitutional document approved by the Council which: <ul style="list-style-type: none"> • Allocates powers and responsibility within the Council and between it and others • Delegates authority to act to the Executive/Committees, Other Member Bodies and Officers; regulates the behaviour of individuals and groups through rules of procedure, codes and protocols. • Available on the Internet
Consultant/ Consultancy	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.
Contract	<i>Is a legally binding agreement concluded in writing for consideration (whatever the nature of the consideration, whether by payment or some other form of reward) under which a contracting authority engages a person or organisation to provide goods, works or services.</i>
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> • Withdrawal of <i>Invitation to Tender</i> • Whom to invite to submit a <i>Quotation</i> or <i>Tender</i> • <i>Shortlisting</i> • Award of <i>Contract</i> • Any decision to terminate a <i>Contract</i> • <i>Any decision to extend or vary a Contract.</i>

DEFINITIONS

Term	Definition
Contract Notice	An advertisement placed in the Official Journal of the European Union, which is a legal requirement for all procurements that exceed the <i>EU Threshold</i> .
Corporate Contract	A <i>Contract</i> let by the <i>Corporate Procurement Officer</i> to support the Council's aim of achieving <i>Value for Money</i> to include Contracts let by the Council and/or Contracts or Framework Agreements let by other organisations to which the Council has access.
Corporate Procurement Officer	The Council's procurement officer charged with providing strategic direction and advice to secure <i>Value for Money</i> in the Council's procurement activities.
Dynamic Purchasing System	A completely electronic system of limited duration which is— (a) established by a contracting authority to purchase commonly used goods, work, works or services; and (b) open throughout its duration for the admission of economic operators which satisfy the selection criteria specified by the contracting authority; and (c) submit an indicative <i>Tender</i> to the contracting authority or person operating the system on its behalf which complies with the specification required by that contracting authority or person.
Electronic Auction	Is a means of seeking the <i>Supplier's</i> pricing in an electronic format in a live competitive environment, the aim of which is to achieve greater <i>Value for Money</i> than traditional tendering
Executive/ Committees	The Council's Executive/Committees as defined in the <i>Constitution</i> .
EU Procedure	The procedure required by the EU where the <i>Total Value</i> exceeds the <i>EU Threshold</i> .
EU Threshold	The value at which the EU public procurement directives apply.
European Economic Area	The members of the European Union, and Norway, Iceland and Liechtenstein.
Financial Procedure Rules	The Financial Procedure Rules outlining <i>Officer</i> responsibilities for financial matters issued by the <i>S.151 Officer</i> in accordance with the <i>Constitution</i> (Financial Procedure Rules).
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the <i>European Economic Area</i> are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
Head of Service/Director	The officers defined as such in the <i>Constitution</i> .
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.

DEFINITIONS

Term	Definition
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the <i>EU Threshold</i> values.
Interests	<p>Is a connection to another person or organisation that meets any of the following criteria:</p> <ul style="list-style-type: none"> (a) Ownership of shares in a Supplier or any other financial interest in a Supplier whether held by the relevant individual or by a close relative of the Individual or by any corporate entity in which the individual has an interest; and/or (b) Employment by a Supplier of the individual or a close relative of the Individual; and/or (c) Provision of services to a Supplier by the Individual or by the firm the individual is associated with, and/or (d) Connection with, whether prejudicial or otherwise, any person/s said to be affected by the outcome of a procurement process.
Invitation to Tender (ITT)	<i>Invitation to Tender</i> documents in the form required by these Contract Procedure Rules.
Key Decision	Decisions that are defined as key decisions in the <i>Constitution</i> .
Monitoring Officer	As identified in the Constitution. The Monitoring Officer or the Monitoring Officer's formally nominated deputy
Nominated Suppliers	Those persons specified in a main <i>Contract</i> for the discharge of any part of that <i>Contract</i> .
Non-commercial Considerations	<ul style="list-style-type: none"> (a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters'). (b) Whether the terms on which contractors <i>Contract</i> with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only. (c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy. (d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes'). (e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors. (f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees. (g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support. <p><i>Continued overleaf.</i></p>

DEFINITIONS

Term	Definition
Non-commercial Considerations (Continued)	(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best <i>Value</i> ; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (<i>TUPE</i>) may apply
Officer	The officer designated by the <i>Head of Service</i> to deal with the <i>Contract</i> in question.
Parent Company Guarantee	A <i>Contract</i> which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a <i>Contract</i> with the Council, the Council can require the parent company to do so instead.
Portfolio Holder	A member of the <i>Executive/Committees</i> to whom political responsibility is allocated in respect of specified functions.
Pre-Qualification Questionnaire (PQQ)	The <i>PQQ</i> is a questionnaire issued to ascertain the suitability of potential suppliers to provide goods, services or works as identified in the tender advertisement / contract notice.
Priority Services	Those services required to be tendered as defined in the EU public procurement directives.
Procurement Documentation	Shall mean the documents dispatched to <i>Suppliers</i> as part of procurement process; comprised of the instructions and information to applicants, contract information, specification, pricing schedule and certificates for signature.
Procurement Strategy	The document setting out the Council's approach to procurement and key priorities for-a specified period of time.
Purchasing Guidance	The suite of guidance documents, together with a number of standard documents and forms, which supports the implementation of these Contract Procedure Rules. The guidance is available on the Council's intranet and Procurement Tool .
Quotation	A quotation of price and any other relevant matter (without the formal issue of an <i>Invitation to Tender</i>). Definition - A formal statement of promise (submitted usually in response to a request for quotation) by a potential supplier to supply the goods or services required by a buyer (the Council), at specified prices, and within a specified period. A quotation may also contain terms of sale and payment, and warranties. Acceptance of quotation by the buyer constitutes an agreement binding on both parties.
Relevant Contract	Contracts to which these Contract Procedure Rules apply (see Rule 4).
S.151 Officer	The officer as may be designated S.151 Officer by the Council in line with the Constitution, including the appointed Deputy S.151 Officer.
Selection Criteria	The Authority's minimum requirements by which the Tenderer is to be assessed as being suitable to proceed with the <i>Tender</i> process

DEFINITIONS

Term	Definition
Service Manager	The <i>Officer's</i> immediate superior or the <i>Officer</i> designated by the <i>Head of Service</i> to exercise the role reserved to the Service Manager by these Contract Procedure Rules.
Shortlisting	The process of selecting <i>Suppliers</i> who are to be invited to quote or bid or to proceed to final evaluation.
Standstill	Shall mean the period between notification of the intention to award a <i>Contract</i> in accordance with the <i>EU Procedure</i> and the formal award of said <i>Contract</i>
Sub-Contractors	Those persons specified in a main <i>Contract</i> for the discharge of any part of that <i>Contract</i> .
Supplier	Any person who asks or is invited to submit a <i>Quotation</i> or <i>Tender</i> .
Teckal	An exception to the Public Contracts Regulations 2006 that means a <i>Contract</i> let by a public body will not be deemed to be a <i>Contract</i> for the purposes of the public procurement regime, provided that certain criteria are met
Tender	A <i>Supplier's</i> proposal submitted in response to the <i>Invitation to Tender</i>
Tender Register Pro Forma	The log kept by the <i>Monitoring Officer</i> to record details of <i>Tenders</i> (see Rule 13.5).
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase, <i>Contract</i> calculated as follows:</p> <p>(a) Where the <i>Contract</i> is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period, including any permitted extensions</p> <p>(b) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months.</p> <p>(c) Where the <i>Contract</i> is for an uncertain duration, by multiplying the monthly payment by 48</p> <p>(d) Where a single requirement for goods or services or for the carrying out of a work or works and a number of contracts have been entered into or are to be entered into to fulfill that requirement</p> <p>(e) Where the <i>Contract</i> is to be executed over a period for goods or services and</p> <ul style="list-style-type: none"> • a series of contracts; or • a <i>Contract</i> which under its terms is renewable <p>is entered into</p> <p>(f) Where there are a number of requirements over a given period for contracts that have similar requirements or are for the same type of goods and service</p> <p>(g) For feasibility studies, the value of the scheme or contracts which may be awarded as a result</p> <p>(h) For <i>Nominated Suppliers and Sub-contractors</i>, the <i>Total Value</i> shall be the value of that part of the main <i>Contract</i> to be fulfilled by the <i>Nominated Supplier or Sub-contractor</i></p> <p><i>Continued overleaf</i></p>

DEFINITIONS

Term	Definition
Total Value (Continued)	<p>(i) The <i>Total Value</i> of all contracts expected to be placed under a <i>Framework Agreement</i></p> <p>(j) The <i>Total Value</i> of all contracts expected to be placed under a <i>Dynamic Purchasing System</i></p> <p>(k) The <i>Total Value</i> of the requirement where more than one (1) organisation will purchase under the same <i>Contract</i></p>
TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)	<p>Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business</p>
Value for Money	<p>Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.</p>

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

All purchasing procedures and **the letting of Concession Contracts** must:

- **Comply with these Contract Procedure Rules and Financial Procedure Rules (both at Part 4 of the Constitution)**
- Achieve Value for Money for public money spent
- Be consistent with the highest standards of integrity, having regard to the Council's Anti Fraud, Corruption and Bribery Policy and Strategy, and the Office of Fair Trading guidance on Anti Competitive Behaviour.
- Ensure fairness in allocating public contracts
- Comply with all legal and financial requirements
- Ensure that Non-commercial Considerations do not influence any Contracting Decision
- Support the Council's corporate and departmental aims and policies
- Comply with the Council's **Procurement Strategies**
- Be followed by **Officers** of the Council in all procurement activities including circumstances where there has been any challenge by the community.

2. OFFICER RESPONSIBILITIES

2.1 Officers

2.1.1 Officers responsible for purchasing must comply with these Contract Procedure Rules, Financial Procedure Rules, the Code of Conduct and with all UK and European Union binding legal requirements. Officers must ensure that any Agents, Consultants and contractual partners acting on their behalf also comply.

2.1.2 Officers must:

- Comply with the Basic Principles as above
- Have regard to the Council's Purchasing and Contract Guidance
- Ensure that the appropriate approved budgetary provision is in place
- Check whether a suitable Corporate Contract exists before seeking to let another *Contract*; where a suitable Corporate Contract exists, this must be used unless there is an auditable reason not to
- **For contracts with a *Total Value* above £50,000, take a report to the Executive/Committees at least 6 months before the *Contract* is due to end to consider whether it is appropriate to tender on the same basis as the existing arrangement**
- Keep the records required by Rule 6

2.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal advice before proceeding with inviting **Tenders** or **Quotations**.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

2.2 Heads of Service

2.2.1 Heads of Service must:

- Comply with the Basic Principles as above
- Ensure that their staff comply with Rule 2.1
- Ensure that Exemptions are recorded under Rule 3.2 detailing the nature and value of the *Contract*, parties to the *Contract*, and the circumstances justifying the Exemption and send original exemption to *Monitoring Officer*
- Ensure that the originals of all contracts are given to the *Monitoring Officer* who shall maintain the Contracts Register lodge all documentation securely in the Legal safe.

3. EXEMPTIONS TO THESE RULES

Principles

- 3.1 The Council and its *Executive/Committees* have power to authorise exemptions from the requirement to seek quotations or invite *Tenders* for specific projects, and for South Hams any such decision may be a *Key Decision*.
- 3.2 Where necessary because of exceptional circumstances the *Officer or Head of Service* may seek an exemption with the approval of the officers and members set out in the table below. **The exemption process must not be used as a method of avoiding the use of these Contract Procedure Rules.**
- 3.3 The circumstances where an exemption may be sought are:
- **Life or Death** – Is there a significant chance that the life or health of officers, members or the public will be put at real risk?
 - **Increased Costs/Loss of Income** – Will the Council incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service or the Council)?
 - **Limited Markets** – Would the Council be wasting its time obtaining quotations as supply of the product or service is demonstrably restricted to one or a few businesses? (Evidence that the market has been tested must be available)
 - **Risk to Reputation** – Would the Council be criticised for failing to act promptly?
- 3.4 **No exemption** can be used if the **EU Procurement Rules** apply. The latest EU procurement limits are available from either the *Corporate Procurement Officer* or *Internal Audit*.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

Process

- 3.5 Pro-formas must be used and are available on the Council's Intranet or from the *Monitoring Officer* or Internal Audit.
- 3.6 Exemptions from compliance with the Contract Procedure Rules may be granted with the original signatures of:

Total Value (excl. VAT)	Exemption Authorised By
£7,500–£50,000	<i>Internal Audit</i> <i>Monitoring Officer</i> <i>S.151 Officer</i>
£50,001–EU Threshold	<i>Corporate Procurement Officer (Internal Audit in his/her absence)</i> <i>Monitoring Officer</i> <i>S.151 Officer</i> South Hams - Leader or Deputy Leader West Devon - Chairman or Vice Chairman of the relevant Committee.
Above <i>EU Threshold</i>	No exemption permitted

- 3.7 **Total Value** is discussed at Paragraph 8 and the **Definitions Prefix**, which says that to obtain the estimated value of the *Contract*, the *Officer* must calculate the *Total Value* (excluding VAT) for the period of the *Contract*. **For example, a *Contract* let for 5 years at an estimated £20,000 per year, excluding VAT, has a *Total Value* of £100,000. The procurement must be based on £100,000 NOT the annual amount.**
- 3.8 Forms supported by the evidence that the exemption criteria have been met, must be sent to the *Monitoring Officer* or *Internal Audit*, **and the *Corporate Procurement Officer***, in the first instance.
- 3.9 The original copy of the fully completed form must be sent to the *Monitoring Officer*, with a copy to Internal Audit.
- 3.10 The number of approved Exemptions will be reported to the Audit Committee by Internal Audit.
- 3.11 **In exceptional circumstances an Exemption may be deemed necessary that is outside of the four criteria at 3.3. Any such Exemption can only be granted by the relevant member body on receipt of a joint report of the applicant and the *Corporate Procurement Officer*.**

In-House or 'Quasi' In-House Arrangements

- 3.12 Where the Council seeks to provide goods, works or services through its own internal resources it may do so without triggering a procurement exercise (links to Financial Procedure Rules).
- 3.13 Where the Council seeks to provide goods, works or services by entering in to a formal arrangement with another public sector body over which it has some

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

ownership or control it may do so without triggering a procurement exercise where it can be demonstrated that two limited conditions are met, that:

- The Council must exercise over the body to be awarded the *Contract* “a control which is similar to that which it exercises over its own departments”; meaning that the Council must have a power of decisive influence over both strategic objectives and significant decisions of the body awarded the *Contract*; and
- The body awarded the *Contract* carries out “the essential part” of its activities for the Council; meaning that the body must do little or no other work besides fulfilling the *Contract* on behalf of the Council.

This is known as the ‘Teckal’ exception.

3.14 *Officers* must proceed with caution when invoking Teckal exception, and advice must be sought from the *Corporate Procurement Officer*, as a number of factors are capable of eroding the exception, including:

- Any private sector funding and/or involvement in the body awarded the *Contract*, whether at the inception or during its life;
- Any market participating by the body awarded the *Contract* to include trading its goods, works or services elsewhere;
- Where joint ownership of the body awarded the *Contract* reduces the amount of control exercised by the Council.

COLLABORATIVE & E-PROCUREMENT ARRANGEMENTS

3.15 The *Corporate Procurement Officer* must be consulted prior to commencing a procurement process using any consortia contracts e.g. **Crown Commercial Services (CCS)**. The terms and conditions of *Contract* applicable to any consortia arrangement, including the requirement to undertake competition between providers, must be fully complied with.

3.16 In order to secure *Value for Money*, the authority may enter into collaborative procurement arrangements. The *Officer* must consult the *Corporate Procurement Officer* where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.

3.17 All purchases made via a consortium are deemed to comply with these Contract Procedure Rules and no exemption is required.

3.18 However, purchases above the EU Threshold must be let under the EU Procedure, unless the consortium has demonstrated that it has satisfied this requirement already by letting their *Contract* in accordance with the EU Procedures on behalf of the authority and other consortium members.

3.19 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

is required. However, **advice must be sought from the *Corporate Procurement Officer*.**

- 3.20 The use of e-procurement technology enhances the administrative process for tendering (audit trails etc.) but does not negate the requirement to comply with all elements of these Contract Procedure Rules, particularly those relating to competition and Value for Money.

4. RELEVANT CONTRACTS

- 4.1 All *Relevant Contracts* must comply with these Contract Procedure Rules. A *Relevant Contract* is any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- The supply of goods (for disposal of goods and assets see the *Financial Procedure Rules*)
- The hire, rental or lease of goods or equipment
- The delivery of services, including (but not limited to) those related to:
 - the recruitment of staff
 - financial, *legal* and *Consultancy* services
- *Development Agreements under certain circumstances (see Section 24 for further details)*
- *Concession Contracts*

and where the *Supplier* is:

- *Another public sector organisation, to include a town and/or parish council*
- *A third sector organisation, to include social enterprises, not-for-profit organisations or charities.*

- 4.2 *Relevant Contracts do not include:*

- Contracts of employment which make an individual a direct employee of the authority; or
- Agreements regarding the acquisition, disposal, or transfer of land and buildings (for which Financial Procedure Rules shall apply), *subject to the detail provided at section 24;* or
- *S.151 Officer* dealing in the money market or obtaining finance for the Council; or
- Contracts made by the *Monitoring Officer* for the appointment of counsel.

SECTION 2: COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

5.1 The *Officer* must appraise the purchase, in a manner commensurate with its complexity and value and taking into account any *purchasing guidance*, by:

- Ensuring the Social Value (Public Services) Act 2012 is complied with for all service contracts where the Total Value exceeds the EU Threshold
- Taking into account the requirements from any relevant Value for Money review and the views of the community where appropriate and in line with related Council guidance
- Appraising the need for the expenditure and its priority, including the position of any existing *Contract* or *Framework Agreement* in terms of end date/required notice
- Defining the objectives of the purchase and consider whether it is appropriate to tender on the same basis as the existing arrangement (see also Rule 2.1.2)
- Assessing the risks associated with the purchase and how to manage them
- Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium
- Consulting users as appropriate about the proposed procurement method, *Contract* standards and performance and user satisfaction monitoring
- Ensuring that the appropriate terms and conditions are used to apply to the proposed *Contract* (if other than the Council's standard terms and conditions, the advice of the *Corporate Procurement Officer*, the *Council's Solicitor* and/or *Monitoring Officer* must be sought)
- Setting out these matters in writing if the *Total Value* of the purchase exceeds £7,500.

5.2 The *Officer* must also confirm that:

- There is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the Constitution
- South Hams - If the purchase is a Key Decision (as defined in the Constitution), all appropriate steps have been taken.
- In the case of expenditure on an asset (particularly property), that the asset is the Council's responsibility.

6. RECORDS

6.1 Where the ***Total Value*** is less than **£50,000**, the following records must be kept:

- Invitations to quote and Quotations

SECTION 2: COMMON REQUIREMENTS

- A record:
 - of any exemptions and the reasons for them
 - of the reason if the lowest price is not accepted (To accept a *Quotation* other than the lowest, the *Officer* must be satisfied that the *Tender* represents the most economically advantageous bid and best value for money. The *Award Criteria* for this should have been set out in advance and evaluation records must be retained. See 10.4 Award Criteria).
- Written (including electronic) records of communications with the successful contractor.

6.2 Where the **Total Value exceeds £50,000** the following records must be kept:

- Pre-tender market research
- Any exemption under Rule 3 together with the reasons for it
- The method for obtaining bids (see Rule 8.1)
- **The Selection Criteria in descending order of importance**
- The **Award Criteria** in descending order of importance
- **Invitation to Tender** documents sent to and received from **Suppliers**
- Clarification and post-tender negotiation (to include minutes of meetings)
- Any Contracting Decision and the reasons for it
- Legal advice
- The **Contract** documents and **any variations or extensions**
- Post-contract evaluation and monitoring
- Communications with **Suppliers** and with the successful contractor throughout the period of the **Contract**;
- **Ongoing checking of the financial position of the successful contractor throughout the period of the Contract.** (see also Section 5 Contract Management).

6.3 Records required by this rule must be kept for six years after the end of the *Contract*.

6.4 Documents which relate to unsuccessful Suppliers must be destroyed after 12 months has elapsed from the date of the award of successful *Contract*, provided there is no dispute about the award.

7. ADVERTISING AND FRAMEWORK AGREEMENTS

7.1 Identifying and Assessing Potential Suppliers

Identifying

7.1.1 Wherever practicable *Officers* shall ensure that where the *Total Value* of the proposed *Contract* does not exceed £50,000 they shall invite a minimum of three suppliers, one of whom must have a head office which is registered within the Council's boundaries. *Officers* shall be seen to alternate the *Suppliers* to whom quotation documentation is sent so as to ensure fair competition within the market.

SECTION 2: COMMON REQUIREMENTS

7.1.2 *Officers* shall ensure that, where proposed contracts, irrespective of their *Total Value*, might be of interest to potential *Suppliers* located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the *Contract* to potential bidders from other member states, the wider the coverage of the advertisement should be. Examples of where such advertisements may be placed include:

- The Council's website
- **The Council's electronic tendering system**
- National official journals, or
- The Official Journal of the European Union (OJEU)/E Notices/Tenders Electronic Daily (TED) (even if there is no requirement within the EU Procedure).

7.1.3 **For proposed contracts that are expected to exceed £50,000, assessment and selection will be in conjunction with the Corporate Procurement Officer.**

Assessing

7.1.4 *Officers* are responsible for ensuring that all *Suppliers* for a *Relevant Contract* are suitably assessed. The assessment process shall establish that the potential *Suppliers* have sound:

- Economic and financial standing
- Technical ability and capacity

to fulfil the requirements of the authority.

7.1.5 This shall be achieved in respect of proposed contracts that are expected to **exceed £50,000** by selecting firms from shortlists assessed from expressions of interest in a particular *Contract* submitted in response to a public advertisement.

7.2 Approved Lists

7.2.1 *Approved Lists* will not be maintained. This is because of the cost of proper administration and the need to ensure that competition is maximised.

7.2.2 *Suppliers* interested in doing business with the Council must register on the Council's **electronic** tendering system, which is **available at** www.supplyingthesouthwest.org.uk

7.2.3 A register of pre-qualified contractors and *Consultants* maintained by or on behalf of central government (e.g. Constructionline, Accredited) will be not be deemed to be an *Approved List* for the purpose of these Contract Procedure Rules and therefore can be used after having sought the advice of the *Corporate Procurement Officer*.

SECTION 2: COMMON REQUIREMENTS

7.3 Framework Agreements

7.3.1 A *Framework Agreement* is an arrangement of one or more **contracting authorities** with one or more suppliers in order to establish the terms governing the contracts awarded during a given period.

In setting up a *Framework Agreement* the term of must not exceed four years. There must be one (a **single-provider framework**), or more than two (2) (**multi-provider framework**) *Suppliers* within an agreement under EU procurement law. The Council's *Corporate Procurement Officer* must always be consulted before any action is taken.

New framework suppliers may not be added during the life of a *Framework Agreement*.

The *Total Value of the Framework Agreement* must be the total of all contracts that are anticipated to be awarded under the agreement and as such it is recommended that a realistic range be provided within the Contract Notice or tender advertisement.

7.3.2 Contracts based on *Framework Agreements* may be awarded by either:

- Applying the terms laid down in the *Framework Agreement* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition (also known as a *direct award*), or
- Where the terms laid down in the *Framework Agreement* are not precise enough or complete for the particular call off by holding a further competition in accordance with the following procedure:
 - inviting the organisations within the *Framework Agreement* that are capable of executing the subject of the *Contract* to submit written **Tenders**
 - fixing a time limit which is sufficiently long to allow **Tenders** for each specific *Contract* to be submitted, taking into account factors such as the complexity of the subject of the *Contract*
 - awarding **the Contract** to the tenderer who has submitted the best *Tender* on the basis of the *Award Criteria* set out in the specifications of the *Framework Agreement*.

When a *Framework Agreement* has been selected for use only the *Suppliers* that appear on the agreement may be approached to provide the *Contract*. Multiple *Framework Agreements* may not be selected for use to procure one single *Contract*.

Contracts may be awarded beyond the life of a *Framework Agreement* provided that such contracts are not awarded improperly or in a way that seeks to distort competition. As an example it would serve to distort competition to award a *Contract* that significantly exceeded the life of the *Framework Agreement* where it was not common practice or expected by the market to do so.

SECTION 2: COMMON REQUIREMENTS

A *Contract* procured under a *Framework Agreement* by another user may not be used by way of avoiding running a further competition, unless expressly permitted by the terms of the *Framework Agreement* or resultant call-off contract.

The *Standstill* obligations need only be applied to contracts awarded against a *Framework Agreement* that will exceed the *EU Threshold*.

7.4 Dynamic Purchasing System

7.4.1 A *Dynamic Purchasing System* is similar to a *Framework Agreement* insofar as it is an arrangement of one or more contracting authorities with one or more suppliers in order to establish the terms governing the contracts awarded during a given period, the term must not exceed four years and its *Total Value* must be the total of all contracts that are anticipated to be awarded under it.

The way in which the *Dynamic Purchasing System* is different to a *Framework Agreement* is that additional *Suppliers* can be added throughout the life of the arrangement.

7.4.2 In opening up access to *Suppliers* to the *Dynamic Purchasing System* the *Officer* must:

- Offer unrestricted, direct and full access to the procurement documents by electronic means at all times throughout the life of the *Dynamic Purchasing System*;
- Allow new applications to be submitted throughout the life of the *Dynamic Purchasing System*;
- Complete the evaluation of a newly submitted application within fifteen days of its receipt;
- Admit to the *Dynamic Purchasing System* all new *Suppliers* that satisfy the *Selection criteria*; and
- Notify *Suppliers* of their admission to the *Dynamic Purchasing System* or rejection of their application.

7.4.3 In awarding a *Contract* under the *Dynamic Purchasing System* the *Officer* must:

- Place an advertisement against the *Dynamic Purchasing System* to notify *Suppliers* of the requirement to award a *Contract*. Where the *Dynamic Purchasing System* has been established in accordance with the EU procurement rules, i.e. where the *Total Value* exceeds the *EU Threshold*, this must take the form of a simplified *Contract Notice*;
- Evaluate any new applications in response to the advertisement prior to issuing *Invitations to Tender* under the *Dynamic Purchasing System*;

All *Suppliers* admitted to the *Dynamic Purchasing System* must be given an opportunity to respond to the *Invitation to Tender*,

SECTION 2: COMMON REQUIREMENTS

The *Contract* shall be awarded to the *Supplier* that submits the best bid in accordance with the *Selection and Award Criteria* set out in the original advertisement or *Contract Notice*.

- 7.4.4 The Council's *Corporate Procurement Officer* must always be consulted before any action is taken to establish a *Dynamic Purchasing System*.

SECTION 3: CONDUCTING PURCHASES

8. COMPETITION REQUIREMENTS FOR PURCHASE AND PARTNERSHIP ARRANGEMENTS

8.1 Purchasing: Competition Requirements to Obtain Quotations or Tenders

8.1.1 The **Total Value** is defined within these Contract Procedure Rules as the whole of the value or estimated value (in money or equivalent value) for a single purchase, *Contract* calculated as follows:

- (a) Where the *Contract* is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period, including any permitted extensions
- (b) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months.
- (c) Where the *Contract* is for an uncertain duration, by multiplying the monthly payment by 48
- (d) Where a single requirement for goods or services or for the carrying out of a work or works and a number of contracts have been entered into or are to be entered into to fulfill that requirement
- (e) Where the *Contract* is to be executed over a period for goods or services and
 - a series of contracts; or
 - a *Contract* which under its terms is renewable is entered into
- (f) Where there are a number of requirements over a given period for contracts that have similar requirements or are for the same type of goods and service
- (g) For feasibility studies, the value of the scheme or contracts which may be awarded as a result
- (h) For *Nominated Suppliers and Sub-contractors*, the *Total Value* shall be the value of that part of the main *Contract* to be fulfilled by the *Nominated Supplier or Sub-contractor*
- (i) The *Total Value* of all contracts expected to be placed under a *Framework Agreement*
- (j) The *Total Value* of all contracts expected to be placed under a *Dynamic Purchasing System*.

The following procedures apply where there are no other procedures which take precedence (such as agency agreements with government). If in doubt, *Officers* must seek the advice of the *Corporate Procurement Officer*.

Where the *Total Value* for a purchase is within the values in the first column below, the Award Procedure in the second column must be followed. Short listing shall be done by the persons specified in the third column.

SECTION 3: CONDUCTING PURCHASES

Total Value (excl. VAT)	Award Procedure	Short listing
(Up to £7,500)	A minimum of one <i>Quotation</i> , but good practice to seek most favourable prices and terms, having regard to the Council's Procurement Strategy.	<i>Officer</i> - See also Financial Procedure Rules
(£7,501 - £50,000)	A minimum of three written <i>Quotations</i>	<i>Officer</i> and <i>Service Manager</i>
(£50,001 – EU Threshold)	<i>Invitation to Tender</i> by advertisement	<i>Officer</i> and <i>Head of Service</i> in consultation with the <i>Corporate Procurement Officer</i>
Above EU Threshold	EU Procedure or, where this does not apply, <i>Invitation to Tender</i> by advertisement	<i>Officer</i> , <i>Service Manager</i> and <i>Head of Service</i> in consultation with the <i>Corporate Procurement Officer</i>
£50,000 – EU Threshold	All purchases made via a local authority purchasing and distribution consortium are deemed to comply with these <i>Contract Procedure Rules</i> and no waiver is required e.g. Devon Procurement Services. However, purchases above the <i>EU Threshold</i> must be let under the EU Procedure, unless the consortium has satisfied this requirement already.	See paragraph 3.7.
All values. Collaborative Contracts	The <i>Corporate Procurement Officer</i> must be consulted prior to commencing any procurement process using collaborative contracts. The terms and conditions of <i>Contract</i> applicable to any collaborative <i>Contract</i> , including the requirement to undertake competition between providers, must be fully complied with.	See paragraph 3.6.
All values. ICT	All system developments and purchases of computer equipment or software must be approved by ICT team and awarded in line with these Rules.	<i>Officer</i> , <i>Business Manager</i> and (TBC) in consultation with the <i>Corporate Procurement Officer</i>

8.1.2 Where it can be demonstrated that there are insufficient suitably qualified *Suppliers* to meet the competition requirement, all suitably qualified *Suppliers* must be invited to quote and *Tender* and the *Corporate Procurement Officer* informed. If it can be clearly demonstrated that less than the required

SECTION 3: CONDUCTING PURCHASES

quotations are available, then an Exemption form in line with paragraph 3.3 must be completed.

8.1.3 An *Officer* must not enter into separate contracts nor select a method of calculating the *Total Value* in order to minimise the application of these Contract Procedure Rules or EU procurement rules.

8.1.4 Where the *EU Procedure* is required, the *Officer* shall also consult the *Corporate Procurement Officer*, as appropriate, to determine the method of conducting the purchase. See table at Rule 8.1.

8.1.5 Where the Council procures on behalf of itself and other partners (acting as lead authority, the *Total Value* will be the overall value of the *Contract* and not the element of cost that applies to the Council itself.

8.1.6 Where procurement is for a service to be shared between authorities, it must be stated in advance both how the costs are to be apportioned between the partners and where the ownership of any assets falls.

8.2 Collaborative and Partnership Arrangements

8.2.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these Contract Procedure Rules (Rule 3). If in doubt, *Officers* must seek the advice of the *Monitoring Officer* and the *Corporate Procurement Officer*. See table at Rule 8.1.

8.3 The Appointment of Consultants to Provide Services

8.3.1 *Construction Consultants*, to include architects, engineers and surveyors, *financial and management Consultants*, legal advisors and *Consultants* and any other professional persons considered *Consultants* as per the definition provided shall be selected and commissions awarded in accordance with the limits and procedures detailed within these Contract Procedure Rules and as outlined at Rule 8.1.1.

8.3.2 The engagement of a *Consultant* shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or *Contract* of appointment to be in the form agreed by the *Monitoring Officer*.

8.3.3 Records of consultancy appointments shall be maintained in accordance with Rule 6.

8.3.4 *Consultants* shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the Council's Insurance Officer for the periods specified in the respective agreement.

8.3.5 *Officers* must be aware of the Council's duty to assess the employment status of individuals and to assess whether they will be working for the Council in an "employed capacity" or "self employed". The **HM Revenue and Customs**

SECTION 3: CONDUCTING PURCHASES

checklist must be used in the assessment of status and if the individual could be deemed as employed, the Council's recruitment and payroll procedures must be followed (Guidance is on the Intranet which also links to Financial Procedure Rules).

8.4 Assets - Disposal

8.4.1 The disposal of assets must be made in line with the requirements of *Financial Procedure Rules* and the Delegation Scheme.

8.5 Contracts to Provide Services to External Purchasers

8.5.1 The *Monitoring Officer*, *Corporate Procurement Officer* and *Financial Procedure Rules* must be consulted where contracts to work for organisations other than the authority are contemplated.

9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

9.1 The *Officer* responsible for the purchase: may, prior to the issue of the *Invitation to Tender/Quotation*, consult potential suppliers in general terms about the nature, level and standard of the supply, *Contract* packaging and other relevant matters, provided this does not prejudice any potential *Supplier*.

9.2 The *Officer* must not seek or accept technical advice on the preparation of an *Invitation to Tender* or *Quotation* from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential *Suppliers* or distort competition, and should seek advice from the *Monitoring Officer* and the *Corporate Procurement Officer*.

9.3 For service contracts where the *Total Value* will exceed the *EU Threshold* the *Officer* must give due consideration to the Social Value (Public Services) Act 2012 prior to the commencement of the procurement process.

10. STANDARDS AND SELECTION & AWARD CRITERIA

10.1 The *Officer* must define the *Selection Criteria* that are related and proportionate to the subject matter of the *Contract*. These shall form a stage one assessment of whether a Tenderer may progress with a tender process, whether from the *Pre-Qualification Questionnaire (PQQ)* to *Tender* stage or from the *Selection* stage evaluation to the *Award* stage evaluation in an open *Tender*. The criteria to be assessed against may be chosen from the following:

- Criteria for the rejection of the *Supplier*; such as prior criminal convictions, evidence of corruption, bribery, fraud, bankruptcy, grave professional misconduct, tax evasion, etc. (this list is not exhaustive)
- Information as to economic and financial standing; such as banker's statements, insurances, statements of accounts, statements of turnover, etc. (this list is not exhaustive)
- Information as to technical or professional ability; such as

SECTION 3: CONDUCTING PURCHASES

- the *Supplier's* technical ability, taking into account in particular that economic operator's skills, efficiency, experience and reliability;
- a list of works carried out over the past 5 years;
- a statement of the goods sold or services provided by the supplier or the services provider in the past 3 years;
- a statement of the resources available to complete the *Contract*;
- a statement of the *Supplier's* technical capacity to provide the *Contract*;
- environmental management measures;
- average annual number of staff and managerial staff over the previous 3 years;
- any samples, descriptions and photographs of the goods to be purchased or hired; and
- certification by official quality control institutes. (this list is not exhaustive)

The Corporate Procurement Officer must be consulted where the Total Value of the Contract is likely to exceed the EU Threshold.

10.2 *Selection Criteria* must not include:

- *Award Criteria*;
- *Non-commercial Considerations* (See Definitions Appendix);
- *Criteria that is not related and proportionate to the subject matter of the Contract.*

10.3 The *Officer* must ascertain what are the relevant British or equivalent European or international standards which apply to the subject matter of the *Contract*. The *Officer* must include those standards which are necessary properly to describe the required quality. This includes sustainability, **environmental and health and safety** standards. The *Monitoring Officer* and *Corporate Procurement Officer* must be consulted if it is proposed to use standards other than European standards.

10.4 The *Officer* must define *Award Criteria* that are appropriate to the purchase and designed to secure an outcome giving *Value for Money* for the authority. The basic criteria shall be:

- 'Most economically advantageous', where considerations in addition to price also apply.
- 'Lowest price' where payment is to be made by the authority when the *Award Criteria* is price alone; or
- 'Highest price' if payment is to be received (See Financial Procedure Rules on disposal of assets)

If the **former** criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any

SECTION 3: CONDUCTING PURCHASES

other relevant matters. *Award Criteria* must be accompanied by the relative weightings ranked in order of importance to the Council in the context of the specific procurement.

10.5 *Award Criteria* must not include:

- *Selection Criteria;*
- *Non-commercial Considerations* (See Definitions Appendix);
- Matters which discriminate against suppliers, irrespective of size, from the European Economic Area or signatories to the Government Procurement Agreement
- *Criteria that is not related and proportionate to the subject matter of the Contract.*

11. PROCUREMENT DOCUMENTATION

11.1 *Council Officers* must prepare their *Procurement Documentation* using the Council's standard templates, which are available on the Council's Intranet site or via the *Corporate Procurement Officer*.

11.2 The *Procurement Documentation* shall state that no *Bid* will be considered unless it is received by the date and time stipulated. No *Bid* delivered in contravention of this clause shall be considered under any circumstances.

11.3 The *Procurement Documentation* shall include the following:

- (a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers.
- (b) A requirement for *Suppliers* to declare that the *Bid* content, price or any other figure or particulars concerning the *Bid* have not been disclosed by the *Supplier* to any other party (except where such a disclosure is made in confidence for a necessary purpose).
- (c) A requirement for *Suppliers* to complete fully and sign all *Bid* documents including a Form of *Tender* and certificates relating to canvassing and non-collusion.
- (d) Notification that *Bids* are submitted to the Council on the basis that they are compiled at the *Supplier's* expense.
- (e) A description of the *Award Procedure* and a definition of the *Award Criteria* (including any scoring mechanism or sub criteria) or in objective terms and if possible in descending order of importance.
- (f) Notification that no *Bid* will be considered unless it is submitted via the Council's electronic tendering system.
- (g) A stipulation that any *Bids* submitted by fax or e-mail shall not be considered, see Rule 13.3 re electronic tendering.
- (h) The method by which any arithmetical errors discovered in the submitted *Bids* is to be dealt with. In particular, whether the overall price prevails over the rates in the *Tender* or vice versa.

SECTION 3: CONDUCTING PURCHASES

- (i) Instructions to *Suppliers* concerning the procurement process and *Procurement Documentation* and information concerning the contract opportunity.
- (j) The pricing schedule, schedule of rates, whole life costing schedule or other such appropriate pro-forma for gathering the *Supplier's* pricing.
- 11.4 All *Suppliers* invited to *Bid* must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.
- 11.5 All *Procurement Documentation* must specify the goods, service or works that are required, together with the terms and conditions of *Contract* that will apply (see Rule 16).
- 11.6 The *Procurement Documentation* must state that the Council is not bound to accept any *Quotation* or *Tender*, either as a whole or in part.

12. SHORTLISTING

- 12.1 Any *Shortlisting* must be done in accordance with the permitted *Selection Criteria*. Where the *Total Value* of the *Contract* will exceed the *EU Threshold*, the *Officer* must contact the *Corporate Procurement Officer* for advice.
- 12.2 Evaluation criteria must be transparent and sub-criteria specified. *Shortlisting* records must be kept and held for the period specified in the Council's Document Retention Policy and Rule 6.
- 12.3 The *Officers* responsible for *Shortlisting* are specified in Rule 8.1.1.

13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/ QUOTATIONS

- 13.1 *Suppliers* must be given an adequate period in which to prepare and submit a proper *Quotation* or *Tender*, consistent with the complexity of the *Contract* requirement. Normally at least four weeks should be allowed for submission of *Tenders*. The *EU Procedure* lays down specific time periods (see the Council's *purchasing guidance on the Council's Intranet*).
- 13.2 All *Tenders* must be submitted through the Council's approved and secure electronic tendering system.
- 13.3 *Tenders* received by fax or other electronic means (e.g. email) must be rejected.
- 13.4 Each *Tender* must be:
- Suitably recorded so as to subsequently verify the date and precise time it was received
 - Adequately protected immediately on receipt to guard against amendment of its contents

SECTION 3: CONDUCTING PURCHASES

- Recorded immediately on receipt in the Tender Register Pro-Forma.

13.5 *Tenders received after the set date and time must not be accepted and the Corporate Procurement Officer informed of late submissions. For the purposes of these rules the time will be deemed to be at the first stroke e.g. noon will be 12.00.00.*

Tender Opening

South Hams

13.6 The Member Services department will ensure that all *Tenders* are opened at the same time when the period for their submission has ended. The *Officer* or his or her representative must be present. *Tenders* must be opened in the presence of an officer representing the Head of Corporate Services and a Council Member. Where the *Total Value* is more than the *EU Threshold*, the *Corporate Procurement Officer* shall also attend.

13.7 Upon opening, a summary of the main terms of each *Tender* (i.e. significant issues that are unique to each *Tender* submission and were not stated in the *Tender* invitation documents such as *Tender* sum) must be recorded in the *Tender Register Pro-Forma*. The summary must be signed by all present. Where an electronic tendering process is used, those involved must verify the results to the screen.

West Devon

13.8 The Legal department will ensure that all *Tenders* are opened at the same time when the period for their submission has ended. A legal officer will be present for the following:

All *Tenders* with an **estimated value of more than £50,000** shall be opened and recorded by the *Officer*, relevant Senior Officer in the presence of two members from the relevant Committee

Where the *Total Value* is more than the *EU Threshold*, the *Corporate Procurement Officer* shall also attend.

13.9 Upon opening, a summary of the main terms of each *Tender* must be recorded in the *Tender Register Pro-Forma*. The summary must be signed by all present. Where an electronic tendering process is used, those involved must verify the results to the screen.

14. CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION

14.1 Providing clarification to potential or actual suppliers of an *Invitation to Tender* or *Tender* is permitted:

- **Via the Council's electronic tendering system;**
- In writing;

SECTION 3: CONDUCTING PURCHASES

- At a meeting provided that a written record is made of the meeting
- In a way that is fair, transparent and equal to all participants.

14.2 Discussions with tenderers after submission of a *Tender* and before the award of a **Contract** with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) **must be the exception** rather than the rule. In particular, such decisions must not be conducted in an *EU Procedure* where this might distort competition, especially with regard to price. If in doubt, seek professional advice from the *Corporate Procurement Officer* or *Monitoring Officer*.

14.3 If post-tender negotiations are necessary after a single-stage *Tender* or after the second stage of a two-stage *Tender*, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best *Tender* and after all unsuccessful *Suppliers* have been informed.

Officers appointed by the *Head of Service* to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

14.4 Post-tender negotiation must only be conducted in accordance with the guidance issued by the *Corporate Procurement Officer* who must be consulted wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by a team of at least two *Officers*, one of whom must be from a division independent to that leading the negotiations.

14.5 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the *Contract* must not be awarded but re-tendered.

15. EVALUATION, AWARD OF CONTRACT, AND DEBRIEFING SUPPLIERS

15.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of *Quotations*, *Tenders* and the identity of *Suppliers* must be preserved at all times and information about one *Supplier's* response must not be given to another *Supplier*.

15.2 ***Tenders and Quotations*** must be evaluated and awarded in accordance with the ***Selection and Award Criteria***. During this process, *Officers* shall ensure that submitted *Tender* prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

15.3 The arithmetic in compliant *Tenders* must be checked.

If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm the price or withdraw their *Tender*.

15.4 ***Officers may use Electronic Auctions as means of driving additional Value for Money and as part of the Award Criteria, where this process is completed using the Council's electronic tendering portal.***

SECTION 3: CONDUCTING PURCHASES

Where the *Officer* wishes to use such a tool, the *Corporate Procurement Officer* must be contacted to offer assistance.

Electronic Auctions may also be used as a tool for seeking bids in sale transactions, such as land, where the highest possible price is sought from an applicant. (Links to 'Disposals' in Financial Procedure Rules).

- 15.5 *Officers* may accept *Quotations* and *Tenders* received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these Contract Procedure Rules. Awarding of contracts that are expected to exceed the approved budget sum shall be referred back to the *S.151 Officer*.
- 15.6 Where the **Total Value is over £50,000**, the *Officer* must notify all *Suppliers* in writing simultaneously and as soon as possible of the intention to award the *Contract* to the successful *Supplier*, and include the reasons why for the unsuccessful bidders. Where an unsuccessful *Supplier* requests debrief information the *Officer* may use their discretion in deciding whether or not to comply with the request; there is no legal obligation imperative on the *Officer* to do so.
- 15.7 Where the **Total Value will exceed the EU Threshold** the *Officer* must notify all *Suppliers* in writing simultaneously and as soon as possible of the intention to award the *Contract* to the successful *Supplier*, unless it is known sooner in the procurement process that a *Supplier* has been unsuccessful, in which case the *Officer* must notify the *Supplier* soonest with as much of the information required at 15.8 below as possible. (See 15.9 for further details). The latter applies most particularly, but not exclusively, in the case of a Restricted Procedure whereby the *Officer* must communicate the list of shortlisted *Suppliers* to those that have not been shortlisted.
- 15.8 The letters to the unsuccessful *Suppliers* must contain:
- The criteria for the award of the *Contract*;
 - The reasons for the decision, including the characteristics and relative advantages of the successful *Tender*, the score (if any) obtained by:
 - the *Supplier* which is to receive the notice; and
 - the *Supplier* to be awarded the *Contract*, or to become a party to a *Framework Agreement* or *Dynamic Purchasing System*,
 - The name of the *Supplier* to be awarded the *Contract*, or to become a party to a *Framework Agreement* or *Dynamic Purchasing System*; and
 - A precise statement of either—
 - when the *Standstill Period* is expected to end and, if relevant, how the timing of its ending might be affected by any and, if so what, contingencies; or
 - the date before which the Council will not enter into the *Contract* or conclude the *Framework Agreement* or *Dynamic Purchasing System*.

SECTION 3: CONDUCTING PURCHASES

- 15.9 The *Officer* must provide a *Standstill Period* of at least ten working days, where the communication is made electronically (fifteen days if not) to allow unsuccessful *Suppliers* the opportunity of challenging the decision before the *Officer* awards the *Contract*. The *Standstill Period* shall end at midnight on the final day of *Standstill* and no sooner. Where the last day of the *Standstill Period* is not a working day, the *Standstill Period* is extended to midnight at the end of the next working day. If the decision is challenged by an unsuccessful *Supplier* then the *Officer* shall not award the *Contract* and shall immediately seek the advice of the *Monitoring Officer and Corporate Procurement Officer*.
- 15.10 Where the *Supplier* has been informed of the fact that they have not been successful at an early stage in the procurement process, they must be provided within fifteen days of any request in writing from said *Supplier*, with the reasons that they were unsuccessful.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16. CONTRACT DOCUMENTS

16.1 Relevant Contracts

16.1.1 All Contracts above £7,500 shall be **in writing** in a form approved by the *Monitoring Officer*.

16.1.2 All *Relevant Contracts*, irrespective of value, shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done)
- The provisions for payment (i.e. the price to be paid and when)
- The time, or times, within which the *Contract* is to be performed
- The provisions for the Council to terminate the *Contract*.

16.1.3 The Council's purchase orders or standard terms and conditions must be used for simple purchases of goods. In any circumstances that require special terms and conditions, the advice of the *Monitoring Officer* and *Corporate Procurement Officer* must be sought.

16.1.4 In addition, every *Relevant Contract* of purchase **over £50,000** must also state clearly as a minimum:

- Health and safety requirements (where applicable and proportionate)
- Sustainability and environmental management requirements (where applicable and proportionate)
- Social Value Act requirements (where applicable, i.e. for service Contracts with a Total Value in excess of the EU Threshold)
- Equality Act 2010 requirements (where applicable and proportionate)
- Any insurance requirements
- Data protection requirements, if relevant
- Charter standards to be met, if relevant
- Bribery Act 2010 requirements
- Freedom of Information Act requirements
- A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant
- Prevention of Corruption and Anti Competitive Behaviour (see paragraphs 18.1 and 18.2) and
- A transparency clause that allows the Council to comply with the government's transparency agenda
- Any confidentiality requirements
- Tax evasion and avoidance requirements.

Where Agents are used to let contracts, that Agents must comply with the Council's Contract Procedure Rules

16.1.5 The formal advice of the *Monitoring Officer* on the form of documentation to be used must be sought for contracts where any of the following apply:

SECTION 4: CONTRACT AND OTHER FORMALITIES

- Where the *Total Value* exceeds £50,000; or
- Below £50,000 if other than the Council's standard terms and conditions are to be used; or
- Those involving leasing arrangements (when the *S.151 Officer* should also be advised); or
- Where it is proposed to use a supplier's own terms; or
- Those involving the purchase of application software with a *Total Value* of more than £50,000; or
- Those that are complex in any other way.

16.2 Contract Formalities

16.2.1 Agreements shall be completed as follows:

Total Value	Method of Completion	By
Purchase orders - up to £50,000	Electronic Order or Signature	Authorised officer (see Rule 16.2.3)
Contracts and licences up to £50,000. Council's Standard Terms and Conditions	Signature	<i>Head of Service</i> or Nominated Deputy (Rule 16.2.3) or <i>Monitoring Officer</i>
Contracts and licences up to £50,000 Non Standard Terms and Conditions	Signature	<i>Head of Service</i> , on the advice of the <i>Monitoring Officer</i> (Rule 16.2.3) or <i>Monitoring Officer</i>
Above £50,000 or if any of para 16.1.5 applies except ICT software.	Sealing (unless advised by the <i>Monitoring Officer</i> that sealing is not necessary)	<i>Monitoring Officer</i> (See also Rule 16.2.3 and 16.3), on the instruction of the <i>Head of Service</i>
ICT - system developments and purchases of computer equipment or software	Method of completion in line with limits above	As above, except in all cases to be the head of ICT , and not the <i>Head of Service</i> .

16.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the *Monitoring Officer* or *S.151 Officer*.

16.2.3 The *Officer* responsible for securing a signature on the *Contract* must ensure that the person signing for the other contracting party has authority to bind it. An award letter is insufficient. **The use of Letters of Intent (which are binding for the Council) should be avoided, but in exceptional circumstances they may**

SECTION 4: CONTRACT AND OTHER FORMALITIES

be used with the approval of and review by the *Monitoring Officer* before issue. The same rules relating to signatures apply.

Any new *Contract* should not be signed until the *Contract* it replaces is either ended or under notice.

Depending on the circumstances an officer of the Council may be subject to disciplinary action if he/she signs a *Contract* without being specifically authorised to do so.

16.2.4 All **original** contracts, (save straight forward purchase orders, must be given to the *Monitoring Officer* for secure storage and recording in **Legal's Contract Register. It is the responsibility of the Officer to ensure that this happens, only copies of contracts should be held within services.** An electronic copy must be copied to the *Corporate Procurement Officer* for all contracts with value over £50,000.

16.3 Sealing

16.3.1 A *Contract* must be sealed where:

- The Council may wish to enforce the *Contract* more than six years after its end
- The price paid or received under the *Contract* is a nominal price and does not reflect the value of the goods or services, or
- There is any doubt about the authority of the person signing for the other contracting party.

South Hams

16.3.2 Where appropriate contracts are completed by each side adding their formal seal. The fixing of the Council's seal must be witnessed by a further officer on behalf of the *Monitoring Officer*.

16.3.3 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed except in accordance with the Council's *Constitution*.

West Devon

16.3.4 Contracts must be sealed in accordance with Council Procedure Rule 26 and will be overseen by the Council's Solicitor

17. BONDS AND PARENT COMPANY GUARANTEES

17.1 The *Officer* must consult the *S.151 Officer* about whether a *Parent Company Guarantee* is necessary when a *Supplier* is a subsidiary of a parent company and:

- The *Total Value* exceeds £50,000, or

SECTION 4: CONTRACT AND OTHER FORMALITIES

- Award is based on evaluation of the parent company, or there is some concern about the stability of the Supplier.

17.2 The *Officer* must consult the *S.151 Officer* about whether a Bond is needed:

- Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the *Contract* and there is concern about the stability of the Supplier **i.e. following a formal risk assessment.**
- Where the *Total Value* exceeds £500,000.

18. PREVENTION OF CORRUPTION & ANTI COMPETITIVE BEHAVIOUR

18.1 Prevention of Corruption

18.1.1 The *Officer* needs to be aware of the Bribery Act 2010, which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official and the new corporate offence of failing to prevent bribery, as well as the Council's Anti Fraud, Corruption and Bribery Policy and Strategy.

18.1.2 The *Officer* must comply with the Officers' Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any *Contract*. It will be for the *Officer* to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.1.3 below.

18.1.3 The following clause must be put in every written Council *Contract*.
"The Council may terminate this Contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

- (a) Offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done), or
- (b) Commit an offence under the Bribery Act 2010, or
- (c) Commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council members, contractors or employees. Any clause limiting the Contractor's liability shall not apply to this clause."

18.2 Anti Competitive Behaviour

18.2.1 In their guidance for public sector procurers, the Office of Fair Trading has highlighted practical steps to take to reduce the risks of anti-competitive behaviour, and this should be followed where it is practical to do so:

- :
- (a) Use non-collusion clauses, certificates of independent bids and requests;

SECTION 4: CONTRACT AND OTHER FORMALITIES

- (b) Ensure sufficient credible bidders;
- (c) Look for suspicious bidding patterns (further guidance available);
- (d) Keep good notes of all discussions and potential bidders and systematically scrutinise them for suspicious patterns e.g. geographical prevalence of certain suppliers' areas.

18.2.2 If there is any doubt during a procurement exercise, or for further guidance, the *Officer* should contact the *Corporate Procurement Officer* or Internal Audit.

19. DECLARATION OF INTERESTS

- 19.1 If it comes to the knowledge of a member or an employee of the authority that a *Contract* in which he or she has an *Interest* has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the *Monitoring Officer*.
- 19.2 Officer must comply with the Officers' *Code of Conduct*, as discussed at paragraph 18.1.2.
- 19.3 All Councillors must comply with the Members' *Code of Conduct* and register all contracts for goods, services or works made between the Council and:
- The councillor,
 - A firm in which s/he is a partner
 - A company in which s/he is a remunerated director
 - A member of the Councillor's family or a person with whom they have a close association, or a partnership or company employing or operated by such a person
 - Any person or body who has a place of business in the South Hams District Council and in which the Councillor has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 (or one hundredth of the total issued share capital) which ever the lower.
- 19.4 The *Monitoring Officer* shall maintain a record of all declarations of interests notified by members and *Officers*.

SECTION 6: CONTRACT MANAGEMENT

20. MANAGING CONTRACTS

20.1 **Heads of Service must appoint contract managers for all new contracts and for the entirety of the *Contract*.**

20.2 Contract managers must follow best practice in the area of supplier relationship and contract management.

20.3 **Variations or Extensions** should not be made unless this is provided for in the *Invitation to Tender* and the *Contract* itself. Heads of Service must contact the *Monitoring Officer* and the *Corporate Procurement Officer* before any variation is actioned (excludes site variations for construction projects).

Any variations to contracts are to be in writing in the form approved by the *Monitoring Officer*, sequentially numbered and stored with the original *Contract*.

Variations or extensions proposed by the *Officer* that are likely to be considered as 'materially different' from the original *Contract*, on the following grounds:

- When the amendment introduces conditions which, had they been part of the original procurement process, would have allowed for the admission of different *Tenders* or the acceptance of a *Tender* other than the one accepted
- When the amendment "extends the scope of the *Contract* considerably to encompass goods, works or services not initially covered"
- When the amendment changes the economic balance of the *Contract* in favour of the contractor; or
- When there is a change of main contractor, change of ownership of the main contractor, a transfer of shares in the main contractor or a change of sub-contractor where the inclusion of a sub-contractor is inherent to the decision to award the *Contract*

Variations or extensions are unlikely to be permitted on the basis that the proposed *Contract* will be fundamentally different from the old and therefore will a re-tender will be required.

20.4 **Payments** to contractors will only be made on certification by the designated contract manager in line with the Financial Procedure Rules.

20.5 Ongoing checking of the financial position of the successful contractor throughout the period of the *Contract*. The level of any review will vary depending on the type of *Contract* and contractor involved, so the advice of the S.151 Officer or Internal Audit must be sought. The Contractor's insurance should also be checked annually through the life of the *Contract* and details passed to the Council's insurance officer for comment.

20.6 **Liquidated and ascertained damages** must be deducted for all periods of delay in line with the terms of the *Contract*.

SECTION 6: CONTRACT MANAGEMENT

If the Contract Manager does not consider that such damages should be deducted s/he must seek and follow the advice of the *Monitoring Officer* and S.151 Officer.

- 20.7 The Contract Manager must notify the *Monitoring Officer*, the responsible Head of Service, and the *S.151 Officer* promptly on becoming aware of any significant **dispute**, or **claim for additional payment** in connection with a *Contract*.

No liability shall be accepted without the approval of the Executive/Committees in such cases.

21. RISK ASSESSMENT AND CONTINGENCY PLANNING

- 21.1 A business case must be prepared for all procurements with a potential value over the *EU Threshold*. Provision for resources for the management of the *Contract*, for its entirety, must be identified in the business case.

- 21.2 For all contracts with a value of over £50,000, Contract Managers must:

- Maintain a risk register during the contract period in accordance with the Council's Risk Management Strategy
- Undertake appropriate risk assessments and for identified risks (in consultation with the Council's Lead Officer – Risk Management and Risk Management Strategy as appropriate)
- Ensure contingency measures are in place
- **Monitor the financial performance of the contractor or any parent company and alert the S.151 Officer if there is any concerns**

22. CONTRACT MONITORING, EVALUATION AND REVIEW

Contracts Financed from Revenue

- 22.1 All contracts which have a value higher than the *EU Threshold* limits, or which are *High Risk*, are to be subject to formal review(s) by the contract manager with the contractor. The review may be conducted at a frequency that is determined by the risk value and profile of the *Contract*.
- 22.2 As a minimum, for all contracts with a value higher than the *EU Threshold* limits, or which are *High Risk*, an annual report must be submitted to the *Senior Management Team* detailing the financial and service performance.
- 22.3 A contract review process must be applied to all contracts deemed to be *High Risk*, *High Value*, or *High Profile*. This process must be applied at key stages of major procurements.
- 22.4 During the life of the *Contract*, the *Contract Manager* must monitor and take any necessary corrective action in respect of:

SECTION 6: CONTRACT MANAGEMENT

- Performance
- Compliance with specification and *Contract*
- Cost
- Any *Value for Money* requirements
- User satisfaction and risk management.

22.5 When the *Contract* is completed the Contract Manager must submit a report to the Senior Management Team. The report must evaluate the extent to which the purchasing need and the *Contract* objectives (as determined in accordance with Rule 5.2) were met by the *Contract*. Where the *Contract* is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent *Contract*.

Contracts Financed from the Capital Programme

22.6 Procurement for approved capital projects must be made in line with these Rules. Having regard to Rule 15.4, where any *Tender* for projects under the Capital Programme exceeds the available budget by 10% or £50,000 approval to proceed may be made by the Head of Assets and *S.151 Officer* with retrospective reporting through the monitoring process. Above these amounts the specific approval of the Executive/Committees should be sought prior to acceptance.

22.7 The Head of Finance and Audit (*S.151 Officer*), assisted by the Head of Assets, has monitoring responsibilities to receive regular reports from Project Managers on the performance of their project; and report quarterly to the Executive/Committees on the overall progress of the Capital Programme.

22.8 The monitoring report will outline the budget position as a whole and include, as a minimum, the financial position of each approved project.

Project Overspends

22.9 In monitoring expenditure on a project, the *Officer/Project Manager* should seek the formal approval of the *S.151 Officer*, Head of Assets or Members at the earliest opportunity where the approved expenditure appearing in the capital programme is likely to be exceeded.

The following table sets out the authorisation required:

Project Total Value excl. VAT	Overspend excl. VAT	Authorised By
Up to £500,000	£25,000 to £50,000	<i>S.151 Officer</i> Head of Assets With retrospective reporting to the Executive/Committees within the quarterly monitoring report.
Up to £500,000	Exceeds £50,000	Executive/Committees

SECTION 6: CONTRACT MANAGEMENT

Over £500,000	10%	Executive/Committees
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SECTION 7: OTHER RELEVANT CONSIDERATIONS

23. STATE AID

Definition

23.1 State aid can be defined any assistance offered by a public sector body in any form whatsoever that distorts or threatens to distort competition by favouring certain organisations and/or *Suppliers* or the production of certain goods. Such aid may take the form of a grant (capital injection), business tax relief, a reduction in rent or preferential finance (this is not an exhaustive list).

23.2 Where the Council wishes to administer aid in this manner careful consideration must be given prior to such a grant so as to ensure that it is compatible with EU law. Aid that is not compatible with EU law may be recovered from the beneficiary with interest.

23.3 For a grant to be considered as State Aid the following cumulative criteria must be met:

- The beneficiary receives a grant of a benefit or advantage; and
- The aid is give by a Member State or through state resources; and
- The beneficiary receives the aid on a selective basis; and
- The aid granted distorts or threatens to distort competition; and
- The aid is capable of affecting trade between Member States

Granted aid must fulfil all of these criteria in order to be deemed as a State Aid for the purposes of EU law.

23.4 Where a grant is defined as State Aid it must be notified in sufficient time to the European Commission. Aid will not be permitted to be bestowed upon the beneficiary until the Commission has reached a decision as to whether it can be deemed as compatible with EU law or not. Where Aid is incompatible the Council will not be permitted to grant it.

Exemptions for State Aid

23.5 Besides seeking approval from the European Commission, State Aid can be said to be compatible with EU law and can therefore be granted legally if:

- For the most part the total de minimis Aid given to a single recipient is less than €200,000 over a 3-year fiscal period
- Aid in favour of SMEs, research, innovation, regional development, training, employment of disabled and disadvantaged workers, risk capital and environmental protection.
- Aid measures promoting female entrepreneurship, such as aid for young innovative businesses, aid for newly created small businesses in assisted regions, and measures tackling problems like difficulties in access to finance faced by female entrepreneurs.

23.6 Such Aid must still be notified to the European Commission and as a result Council *Officers* are advised to seek the advice and guidance of the *Council's*

SECTION 7: OTHER RELEVANT CONSIDERATIONS

Solicitor and/or Monitoring Officer and Corporate Procurement Officer where State Aid may be said to exist on a particular project or procurement.

24. DEVELOPMENT AGREEMENTS

Definition

- 24.1 A development agreement can be defined as an arrangement between a public sector body and a third party about the use or development of land or property, the nature of which invariably involves the transfer of land that would be otherwise be considered commercially undesirable, which becomes commercial desirable as a result of incentivisation by the public sector body.
- 24.2 Where the Council wishes to establish a development agreement that meets the definition above again careful consideration must be given prior to such an agreement being established so as to ensure that it is compatible with EU law. A development agreement that is not compatible with EU law may be said to be a public works or *Concession Contract* and may therefore be subject to the legislation on public procurement.
- 24.3 For a development agreement to be considered as not triggering the public procurement legislation some or all the following characteristics must be met:
- The proposed development (or a significant part) is to be undertaken at the initiative and autonomous intention of the developer. (This may be particularly likely if the developer already owns or has control of land to be developed);
 - The development agreement is ancillary or incidental to a transfer or lease of land or property from the Council to the developer, and is intended to protect the interests of the Council which is the lessor or otherwise retains an interest in the land or property;
 - The development agreement is based on proposals put forward by the developer, rather than requirements specified by the Council, albeit that these proposals may be sought, and the “winner” chosen by the Council;
 - There is no pecuniary interest passing from the Council to the developer as consideration for undertaking the development, either through direct payment or indirectly, for example by the assumption of obligations such as contributions towards project finance or guarantees against possible losses by the developer;
 - The development agreement does not include specific contractually enforceable obligations on the developer to realise a work or works (even if that work or works is recognised as being the general intent of the parties to the agreement);
 - The development does not consist of or contain works for the direct economic benefit of the Council. The involvement of the Council consists only in the exercise of statutory land-use planning powers.
- 24.4 Where a development agreement cannot be said to meet the criteria defined above a public works or *Concession Contract* must be awarded in accordance with the public procurement legislation.

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AGENDA
ITEM

11

SOUTH HAMS DISTRICT COUNCIL

AGENDA
ITEM

11

NAME OF COMMITTEE	Audit Committee
DATE	5 June 2014
REPORT TITLE	CODE OF CORPORATE GOVERNANCE - 2013/14 COMPLIANCE REVIEW
Report of	S.151 Officer Monitoring Officer Chief Internal Auditor
WARDS AFFECTED	All/Corporate

Summary of report:

The purpose of this report is to inform Members of the results of the 2013/14 compliance review of the 2011 Code of Corporate Governance. The Code describes South Hams District Council's intention to discharge its responsibilities, and how the Code will be tested and monitored annually.

Overall responsibility for Governance rests with the Council, but monitoring of compliance with the Code will be carried out on its behalf by the S.151 Officer, Monitoring Officer and Chief Internal Auditor reporting annually to the Audit Committee.

The Accounts and Audit (Amendment) (England) Regulations require the Council to publish an Annual Governance Statement, which describes the Governance Framework and review of the effectiveness of the Code of Corporate Governance and System of Internal Control.

Financial implications:

None: within existing budgets.

RECOMMENDATION

That the Committee note the findings of the 2013/14 Compliance Review of the Council's Code of Corporate Governance 2011, including the significant governance issues to be taken to the Annual Governance Statement.

Officer contact:

For further information concerning this report, please contact:
Lisa Buckle, Head of Finance & Audit and S.151 Officer (01803) 861413

1. BACKGROUND

- 1.1 CIPFA (Chartered Institute of Public Finance and Accountancy)/SOLACE (Society of Local Authority Chief Executives) provided updated guidance on Corporate Governance in the 2007 document 'Delivering Good Governance in Local Government – Framework', which also introduced the Annual Governance Statement. This was the basis of the Council's 2008 version of the Code of Corporate Governance.
- 1.2 The document described governance as being about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner. It comprises the systems and processes, culture and values, by which local government bodies are directed and controlled and through which they account to, engage with and where appropriate lead their communities. Minor updates took place in 2011.

The Principles of Corporate Governance

- 1.3 In 2004, the Independent Commission for Good Governance in Public Services (set up by CIPFA and the Office for Public Management) published a set of common principles that it wants all public sector organisations to adopt as a standard.
- 1.4 Their report '*Good Governance Standard for Public Services*' sets out six core principles it says should underpin the governance arrangements of all bodies and which form the basis of the CIPFA/SOLACE guidance and the Council's 2008 Code of Corporate Governance:
 - Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area;
 - Members and officers working together to achieve a common purpose with clearly defined functions and roles;
 - Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
 - Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
 - Developing the capacity and capability of Members and officers to be effective; and
 - Engaging with local people and other stakeholders to ensure robust public accountability.

The Council's 2011 Code of Corporate Governance

- 1.5 The 2011 Code was adopted on behalf of the Council by the March 2011 Executive.

- 1.6 Backing each of the six principles is a series of 'supporting principles', each of which in turn translates into a range of specific requirements of the Council under the Code.
- 1.7 The Council's 2011 Code of Corporate Governance reflects the model provided by the CIPFA/SOLACE *Application Note to Delivering Good Governance in Local Government: a Framework*: March 2010. and reflects the CIPFA *Statement on the Role of the Chief Financial Officer in Public Service Organisations* – June 2009.
- 1.8 In 2012 CIPFA/SOLACE issued new guidance entitled 'Delivering Good Governance'. The document provided a revised suggested structure for the Annual Governance Statement, as well as a revised Code of Corporate Governance. The covering report suggests that there is a need for the Code to be updated to reflect the role of the head of internal audit. However, the template Code provided does not reflect the suggested changes, or the above March 2010 update. The guidance makes it clear that it is not essential to use the template, but it was decided not to update the Council's 2011 Code of Corporate Governance until the guidance has been clarified.

Discharging Responsibilities under the Code Including Monitoring

- 1.9 Overall responsibility for Governance rests with the Council.
- 1.10 However, direct responsibility for monitoring compliance will rest with the Section 151 Officer (S.151), the Monitoring Officer and Chief Internal Auditor. These officers are a group of individuals within the Council who have the appropriate knowledge, expertise and levels of seniority to consider the extent to which South Hams complies with the principles and elements of corporate governance set out in the framework.
- 1.11 Much of the work involves issues of legal and financial propriety and includes:
- Identifying systems, processes and documentation that provide evidence of compliance e.g. the Constitution;
 - Identifying the individuals and committees responsible for monitoring and reviewing the systems, processes and documentation identified;
 - Identifying issues that have not been addressed in the Council and consider how they should be addressed; and
 - Identifying the individuals who would be responsible for undertaking any actions that are required.
- 1.12 The Code of Corporate Governance sets out the requirement for it to be monitored and tested for compliance on an annual basis.
- 1.13 It states that the subsequent report with an action plan for significant governance issues will be presented to the Audit Committee.

Results for the 2013/14 Review

- 1.14 The Appendices A to F set out the 2011 Code of Corporate Governance and the compliance review results. In the left hand and central columns is the 2011 Code,

and in the right hand column the actions that the Council is taking that satisfy its requirements. **Shaded bold blue print indicates a change compared with the 2012/13 review**, text not in bold means that arrangements have remained unchanged.

1.15 The main changes during 2013/14 are the:

- **Issues at Section 2;**
- **Progress on the 2012/13 Action Plan at Section 3;**
- **T18 Transformation Programme;**
- **Our Plan.**

1.16 At the end of each Appendix is a separate table noting any gaps in the governance arrangements for that Principle, which will be carried into the Annual Governance Statement 2013/14.

2. ANNUAL GOVERNANCE STATEMENT 2013/14

2.1 The results of the annual review described above must be reflected in the Council's Annual Governance Statement (AGS) with the annual published accounts.

2.2 Appendices A to F demonstrate that for Principles 5 and 6 there are no issues to raise in relation to the governance arrangements.

2.3 However, the following matters may be taken to the Council's AGS as required under the guidance:

Issues for Principle 1: Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area:

Compliance Review Findings for this Principle	Action Plan with Responsible Officer & Target Date
<p><i>South Hams District and West Devon Borough Councils are forging ahead with innovative plans to transform the way they carry out their work.</i></p> <p><i>Internally this is known as the T18 Transformation Programme.</i></p> <p><i>They plan to introduce a new working model within the next two years, which ensures the way they deliver their services to residents and communities remains at the very heart of everything they do.</i></p> <p><i>The changes will cast aside the traditional ways of local government, and long-established Council departments will be replaced by customer-focussed teams of officers who will work out of the office and more within the community.</i></p> <p><i>The Councils will invest in the latest technology to enable residents and businesses to conduct their business online 24 hours a day, seven days a week. Those who prefer will still be able to contact the councils in the conventional way, such as by phone or through visiting the council's offices.</i></p> <p><i>The Councils' workforce will be smaller, reducing the need for office accommodation, and all staff roles will change.</i></p>	<p><i>The S.151 Officer, Monitoring Officer and Chief Internal Auditor will monitor the governance of the T18 Transformation Programme and its impact on the Constitution including the related Procedure Rules.</i></p> <p><i>S.151 Officer Monitoring Officer Chief Internal Auditor Timescale in line with the Programme</i></p>

Issues for Principle 2: Members and officers working together to achieve a common purpose with clearly defined functions and roles:

Compliance Review Findings for this Principle	Action Plan with Responsible Officer & Target Date
<p><i>Last year it was reported that the Monitoring Officer was in the process of reviewing an Overarching Agreement between the two Councils, which will also include responsibilities relating to contract liabilities e.g. costs incurred in relation to disputes by one of the two Councils only under a shared contract. A 'Collaboration Agreement' has been drafted and passed to the Leader and Deputy Leader, Director, S.151 Officer and the Council's insurers for comment. The Agreement will be presented to full Council later in the year.</i></p>	<p><i>As planned, the Monitoring Officer should complete the production of a Collaboration Agreement, which should also include responsibilities relating to potential contract liabilities, and present the document to full Council.</i></p> <p><i>Monitoring Officer 31st December 2014</i></p>
<p><i>The Monitoring Officer was putting in place Onward Delegation documents, setting out those areas delegated by the Heads of Service to the relevant Middle Manager. However, a decision has been taken to delay implementation of these Delegation documents until the roles and responsibilities of officers are clarified post T18 Transformation Programme.</i></p>	<p><i>The Monitoring Officer should ensure that post T18 Transformation Programme, Onward Delegation documents, setting out those areas delegated by the Heads of Service to the relevant managers.</i></p> <p><i>Monitoring Officer 31st December 2014</i></p>

Issues for Principle 3: Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour:

Compliance Review Findings for this Principle	Action Plan with Responsible Officer & Target Date
<i>The Information Access Policy was written in 2007 and would benefit from an update.</i>	<i>The Information Access Policy should be reviewed and updated as an aligned policy with West Devon Borough Council, having regard to any impact on it brought about by the T18 Transformation Programme.</i> <i>Deputy Monitoring Officer</i> <i>31st December 2014</i>

Issues for Principle 4: Taking informed and transparent decisions which are subject to effective scrutiny and managing risk:

Compliance Review Findings for this Principle	Action Plan with Responsible Officer & Target Date
<i>A linked Anti-Fraud/Confidential Reporting leaflet has been put on notice boards around the Council and sent to Town/Parish Councils and Libraries but would benefit from an update as reported to the Audit Committee at the April 2014 meeting in the Audit Commission checklist 'Protecting the Public Purse.</i>	<i>The linked Anti-Fraud/Confidential Reporting leaflet should be reviewed and updated and published and distributed appropriately.</i> <i>Chief Internal Auditor</i> <i>Monitoring Officer</i> <i>30th September 2014</i>

2.4 The AGS itself is the subject of a separate report to the Audit Committee (June meeting) whose role is to review the Statement and supporting evidence provided and if satisfied recommend approval of the AGS to the Council.

3. PROGRESS on the 2012/13 ACTION PLAN

3.1 The results of the annual review for 2012/13 presented to the meeting of the Audit Committee (June 2013) were reflected in the Council's Annual Governance Statement (AGS) with the annual published accounts.

3.2 The following table show the review findings from last year and the action taken against the action plan.

Issues for Principle 1: Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area:

Compliance Review Findings for this Principle	Progress on Action Plan to Date
Data Quality Strategy The Council's Data Quality Strategy should be reviewed and updated and the appropriate approval sought for any revised document.	Implemented. The Data Quality Strategy was updated and approved by the Senior Management Team (SMT) in December 2013 although SMT noted that it would change in future due to the T18 Transformation Programme.

Principle 2: Members and officers working together to achieve a common purpose with clearly defined functions and roles:

Compliance Review Findings for this Principle	Progress on Action Plan to Date
<p>Overarching Agreement The Monitoring Officer is in the process of reviewing an Overarching Agreement between the two Councils, which will also include responsibilities relating to contract liabilities e.g. costs incurred in relation to disputes by one of the two Councils only under a shared contract.</p>	<p>A Collaboration Agreement has been drafted and sent to the Executive Director responsible for internal transformation, the S.151 Officer and the Council's Insurers for comment.</p> <p>The Leaders and Deputy Leaders of both Councils have also reviewed the Agreement, which is expected to be presented to full Councils a little later in the year.</p>
<p>Onward Delegation The Monitoring Officer is putting in place Onward Delegation documents, setting out those areas delegated by the Heads of Service to the relevant Middle Manager.</p>	<p>A decision has been taken to delay implementing the issue of Onward Delegation documents until the changes in officers' roles and responsibilities brought about by the T18 Transformation Programme are known.</p>
<p>Partnership Framework The Council's Partnership Framework, Policy and Guidance and reporting requirements would benefit from a review and update as a shared approach with West Devon Borough Council. The Council's Director should consider which corporate resource is best placed to oversee the Council's Partnership Framework, Policy and Guidance. The identified officer should review the Council's Partnership Management Framework and ensure that the related Policy and Guidance is updated as a shared document with West Devon Borough Council.</p>	<p>Implemented. The appropriate officer was appointed and has completed:</p> <ul style="list-style-type: none"> • A new Partnership Policy approved by the Executive; • Supplementary guidance to officers involved with partnerships; • A partnership register and identification of significant partnerships; and • Preparation for an annual report to Scrutiny in late summer/autumn of 2014.

4. LEGAL IMPLICATIONS

4.1 The legal implications are itemised through the report, which is required under Accounts and Audit (England) Regulations 2011 (latest).

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.

Corporate priorities engaged:	All
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:	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"> • The Council's Code of Corporate Governance 2011; • CIPFA/SOLACE (2012) Delivering Good Governance in Local Government; • CIPFA/SOLACE Application Note to Delivering Good Governance in Local Government: a Framework: March 2010; • CIPFA Statement on the Role of the Chief Financial Officer in Public Service Organisations – June 2009; • CIPFA/SOLACE (2007) Delivering Good Governance in Local Government – Framework; • CIPFA/SOLACE (2007) Delivering Good Governance in Local Government – Guidance Note for English Authorities.
Appendices attached:	<p>Appendix A – Principle 1: Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area;</p> <p>Appendix B – Principle 2: Members and officers working together to achieve a common purpose with clearly defined functions and roles;</p> <p>Appendix C – Principle 3: Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour;</p> <p>Appendix D – Principle 4: Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;</p> <p>Appendix E – Principle 5: Developing the capacity and capability of Members and officers to be effective; and</p> <p>Appendix F – Principle 6: Engaging with local people and other stakeholders to ensure robust public accountability.</p>

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	Adoption of a Code of Corporate Governance	Adoption of the Code of Corporate Governance, in line with the guidance provided by CIPFA/SOLACE, will enable the Council to formally demonstrate that it is committed to good governance: doing the right thing, for the right people, in the right way. A sound Governance Framework.	3	2	6	↔	<p>The Council will be able to readily demonstrate to the community and other stakeholders that the principles of Corporate Governance are being adhered to.</p> <p>The adoption of a Code of Corporate Governance, written in line with the CIPFA/SOLACE framework and guidance will make it possible to readily monitor compliance.</p>	The Council; S.151 Officer; Monitoring Officer; Chief Internal Auditor.
2	Review of the Code of Corporate Governance	The Council may not be able to readily demonstrate to stakeholders and inspectors that the principles of Corporate Governance are being adhered to.	2	2	4	↔	<p>Monitoring compliance of the Code of Corporate Governance will enable the Council to address any weaknesses in the Governance Framework identified, and feed the Annual Governance Statement (AGS) process.</p> <p>The Terms of Reference of the Audit Committee include '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'.</p>	Audit Committee; S.151 Officer; Monitoring Officer; Chief Internal Auditor.

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			3	2	6	↔		
3	Annual Governance Statement (AGS)	<p>Risk that if the Corporate Governance process is not formalised and brought together, some aspects may fall by the wayside.</p> <p>The Council may not approve the AGS or the Leader and Chief Executive (Head of Paid Service) be able to sign because issues are identified, resulting in adverse comment.</p> <p>The Council may not act within the 'Accounts and Audit Regulations', and be publicly criticised by the external auditor as a result.</p>	3	2	6	↔	<p>The Council will produce an Annual Governance Statement, in line with the latest guidance, describing the governance framework and reflecting issues identified from a number of assurance streams including the review of the Code of Corporate Governance.</p> <p>The Annual Governance Statement will include an action plan to address any issues identified by the compliance monitoring of Corporate Governance, and will be reviewed by the Council's external auditors and published with the Council's accounts.</p>	<p>The Council; Audit Committee; S.151 Officer; Monitoring Officer; Chief Internal Auditor.</p>

Direction of travel symbols ↓ ↑ ↔

Applying the Principles of Good Governance – Principle 1

Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Exercising strategic leadership by developing and clearly communicating the Council's purpose and vision and its intended outcome for service users.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> Develop and promote the Council's purpose and vision; Review on a regular basis the Council's vision for the local area and its impact on its governance arrangements; Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners; 	<p>Purpose and Vision</p> <p>The Strategic direction is set by Members at formal meetings. The December 2010 meeting of the Council approved four new high level priorities: Community Life, Economy, Environment and Homes. These are to be reviewed in early 2014/15. The Priorities are confirmed in Article 6 of the Constitution and are published on the Council's website.</p> <p>'Our Plan' will be one strategic plan setting out a vision, long term priorities and planning policies that are in line with the National Planning Policy Framework To support this plan there will be an annual action plan to achieve the longer terms priorities and objectives supported and informed by partner and community plans. This process will also help to commission services in a more effective way. We are currently working with Members to agree the scope of the plan and we will then shape and develop the plan throughout 2014 with a view to implementing it on the 1st April 2015. The Local Plan element, setting out planning policies and broad locations and sites for development, will also then be submitted to the Secretary of State and have to undergo an Examination in Public to ensure it is sound.</p> <p>Partnerships</p> <p>Article 9 of the Constitution allows the Council or the Executive to enter into joint arrangements with other bodies in order to promote the economic, social or environmental well-being of its area. The Executive approved the adoption of an updated Partnership Policy in December 2013. It is supported by supplementary guidance for identifying significant partnerships, considering the purpose of joining a partnership, risk management, governance arrangements, information sharing, monitoring and scrutiny .</p> <p>Connect Partnership</p> <p>On 14th July 2011, the Executive approved the Connect Strategy. This sets out the priorities for the period 2011-2015 and the four detailed Delivery Plans (Community Life, Economy, Environment and Homes) for each of the new priorities for that period.</p> <p>The Connect Strategy is produced by the South Hams and West Devon Connect Partnership, replacing the Local Strategic Partnerships, and brings together key stakeholders from the community, voluntary, business and public sectors.</p> <p>The Strategy links to plans of partner organisations and the Partnership's Governance arrangements include a Delivery Group comprising of the key stakeholders who monitor plans and report to a Connect Partnership Board etc. A Connect Strategy 'Annual Update' was published in 2013/14 and is available on the Council's website.</p>

Applying the Principles of Good Governance – Principle 1 (Continued)

Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Exercising strategic leadership by developing and clearly communicating the Council's purpose and vision and its intended outcome for service users. (Continued)</p>	<ul style="list-style-type: none"> Publish an annual report on a timely basis to communicate the Council's activities and achievements, its financial position and performance. 	<p>Publishing Activities and Achievements</p> <p>The Leader of the Council presents an annual report to the Council of the achievements made against each of the Priorities in the public session of the meeting. The Leader fields questions from Members with technical assistance by officers.</p> <p><i>For 2013/14 a new initiative was agreed by Council whereby 30 minutes is set aside during each informal Council (on the morning of full Council meetings) for Executive members to answer questions on the activities and achievements of their areas of responsibility.</i></p> <p><i>The Council's magazine, 'South Hams Living' is produced annually in the autumn with contributions from Devon County Council and the NHS and is sent to all households in the district. It contains some key financial data and other information that is felt to be useful to the community. It is also available via Twitter and Facebook.</i></p> <p>A leaflet issued with Council Tax and NDR bills describes how council tax is spent. It is a joint leaflet with the other 'precepting' authorities.</p> <p><i>From 2014/15 there is no requirement to send a council tax booklet. An electronic equivalent is placed on the web site and a link to it included in the bills.</i></p> <p>In addition from March 2012 the community and other stakeholders can subscribe to e-Connect for news of services, events and other information.</p> <p>Financial Statements</p> <p>The financial statements are certified by the S.151 Officer by 30th June and subsequently approved by the Audit Committee by 30th September as required by the Council's Constitution (Part 3 Delegation Scheme).</p> <p>They are produced in line with the requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA) and published, including on the Council's website.</p> <p>The statements explain the Council's financial position and performance, annual activities and achievements. They are advertised in the press and are available from the Head of Finance and Audit or on the Council's website.</p> <p>The Council's responsibilities for the effectiveness of the Council's system for risk management, internal control and corporate governance are published separately in an Annual Governance Statement that accompanies the financial statements.</p>

Applying the Principles of Good Governance – Principle 1 (Continued)

Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning.</p>	<ul style="list-style-type: none"> Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available; Put in place effective arrangements to identify and deal with failure in service delivery. 	<p>Quality of Service and Data</p> <p>This Data Quality Assurance Strategy outlines the approach that is needed to maintain the highest possible standards, controls and validation throughout all the data processes. It clearly indicates the role each individual has to play in the production and analysis of data and recognises the need that data is accurate, reliable and timely in informing service provision and in supporting good decision-making. <i>The Strategy was updated in 2013 and approved by the Senior Management Team in December 2013.</i></p> <p>The Council uses a suite of performance indicators that include measurement of the quality of service. A 'Balanced Scorecard' system of regular reporting of the key indicators to the Senior Management Team (SMT), and Members (Corporate Performance and Resources Scrutiny Panel).</p> <p>The basis of the indicators and the processes that produce them are subjected to audit by the Council's internal auditors with generally satisfactory results.</p> <p>Consultations and customer surveys are regularly issued either corporately or by individual services and are discussed further at Principle 6 (Appendix F).</p> <p>Failure in Service Delivery</p> <p>Arrangements to identify and deal with failure in service delivery are in place for problems of all sizes e.g. Members and senior managers monitor response to any large scale issues that may arise. Article 3 of the Council's Constitution supports the citizen's right to complain.</p> <p>As well as the normal 'Contact Us' information, the Council's website includes a Comments and Complaints page which outlines the procedure for making a complaint, suggestions, and how to contact the Local Government Ombudsman.</p> <p>A procedure for dealing with complaints is included within the Complaints Policy, which links to the internal complaint management software. <i>A quarterly report is provided to SMT on the number of complaints by service and category with the lessons learned. The number of complaints also features in the balance Scorecard described above.</i></p>
<p>c) Ensuring that the Council makes best use of resources and that tax payers and service users receive excellent value for money.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> Decide how value for money is to be measured and make sure that the Council or partnership has the information needed to review value for money and performance effectively. 	<p>Performance and Value for Money</p> <p>The Connect Strategy has four detailed Delivery Plans (Community Life, Economy, Environment and Homes). Wherever possible the delivery plans seek to maximise opportunities from shared services to deliver efficiencies, be more cost-effective and improve outcomes for local people. The targets set within these plans are achievable and realistic delivering outcomes for local communities. Progress against the targets is reported regularly to the Connect Partnership Board and the relevant Scrutiny Panel.</p>

Applying the Principles of Good Governance – Principle 1 (Continued)

Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>c) Ensuring that the Council makes best use of resources and that tax payers and service users receive excellent value for money. (Continued)</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> Decide how value for money is to be measured and make sure that the Council or partnership has the information needed to review value for money and performance effectively. Ensure that timely, accurate and impartial financial advice and information is provided to assist in decision making and to ensure that the Council meets its policy and service objectives and provides effective stewardship of public money and value for money in its use; 	<p>Performance and Value for Money (continued)</p> <p>The External auditor's <i>Audit Findings Report</i> is presented to the Audit Committee (latest September 2013) and included an unqualified Value for Money conclusion for 2012/13. The assessment of the Council's arrangements for securing economy, efficiency and effectiveness is measured against criteria including financial management and resilience.</p> <p>Their Annual Audit Letter was sent to members separately in October 2013. The letter referred to the Securing Financial Resilience Report and confirmed the conclusion that the Council made proper arrangements to secure economy, efficiency and effectiveness in the use of resources. The letters and reports are made available on the Council's website.</p> <p>The Council is a member of the Sparsity Partnership for Authorities delivering Rural Services (SPARSE) a grouping of the most rural local authorities in England. SPARSE provides service managers with comparative analysis reports based on audited data.</p> <p>An electronic performance management and information system (Covalent) is in use. All managers are required to record their performance indicators (PIs) and this is the basis of the 'Balanced Scorecard' reports described earlier.</p> <p>The Covalent system is also used to identify and manage risks, actions to improve performance, recording controls to mitigate risks and the deployment of resources. It provides managers with the opportunity to compare performance with other Devon Council's, as well as flagging up whether data has met or missed its target or due date.</p> <p><i>A report to a Special Council meeting in October 2013 detailed the financial challenge faced by the Council over the next four financial years. It proposed the adoption of the T18 Transformation Programme which aims to deliver a new model in partnership with West Devon Borough Council which will ensure quality services for customers and communities. The Council carried the motion and the model comprising the commissioning/delivery model, transformed shared business process and ICT was adopted. Governance of the Programme is separate with a Steering Group comprising senior members from both Councils who, at a meeting in January 2014, agreed Terms of Reference for itself and a Programme Board. Reports and minutes are available on the Intranet.</i></p> <p>Financial Advice</p> <p>Financial information and advice is provided to all managers. Budget holders have access to the Council's general ledger and are supported with advice by a nominated accountant.</p> <p>A system of consultation, as well as agenda overview by the S.151 and Monitoring Officers, ensures that reports to decision makers contain accurate information.</p>

Applying the Principles of Good Governance – Principle 1 (Continued)

Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>c) Ensuring that the Council makes best use of resources and that tax payers and service users receive excellent value for money. (Continued)</p>	<ul style="list-style-type: none"> • Ensure that the Council maintains a prudential financial framework; keeps its commitments in balance with available resources; monitors income and expenditure levels to ensure that this balance is maintained and takes corrective action where necessary; • Ensure compliance with CIPFA's Code on a Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code. 	<p>Prudential Financial Framework</p> <p>The Council publishes a Medium Term Resource Strategy each year, which covers a four year period. That for period 2014/15–2017/18 was approved by the Executive in July 2013 and has regard to the Priorities, business planning – pressures and savings, government grant settlements, council tax, and reserves. It also reflects the revenue implications of the capital programme.</p> <p>An annual budget approval process is in place which includes consultation with all of the main member bodies and the community. The budget is approved by the Council following recommendation from the Executive. Quarterly reports to the Executive monitor income and expenditure against the approved budget.</p> <p>The Capital Programme is approved by the Council on recommendation of the Executive, who also receive monitoring reports on the progress being made on the Programme.</p> <p>The annual Statement of Accounts includes the performance against the budget in the year and the impact on balances.</p> <p>Treasury Management</p> <p>The Council complies with CIPFA's Code on a Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code. A Treasury Management Strategy Statement and Annual Investment Strategy are approved by the Executive and Council at the beginning of each year and at the end an annual report. Half yearly updates are also provided.</p>

Principle 1 - Action Plan

Compliance Review Findings for this Principle	Recommendation	Action Plan with Responsible Officer & Target Date
<p><i>South Hams District and West Devon Borough Councils are forging ahead with innovative plans to transform the way they carry out their work. Internally this is known as the T18 Transformation Programme.</i></p> <p><i>They plan to introduce a new working model within the next two years, which ensures the way they deliver their services to residents and communities remains at the very heart of everything they do.</i></p> <p><i>The changes will cast aside the traditional ways of local government, and long-established Council departments will be replaced by customer-focussed teams of officers who will work out of the office and more within the community.</i></p> <p><i>The Councils will invest in the latest technology to enable residents and businesses to conduct their business online 24 hours a day, seven days a week. Those who prefer will still be able to contact the councils in the conventional way, such as by phone or through visiting the council's offices.</i></p> <p><i>The Councils' workforce will be smaller, reducing the need for office accommodation, and all staff roles will change.</i></p>	<p><i>The S.151 Officer, Monitoring Officer and Chief Internal Auditor will monitor the governance of the T18 Transformation Programme and its impact on the Constitution including the related Procedure Rules.</i></p>	<p><i>S.151 Officer Monitoring Officer Chief Internal Auditor Timescale in line with the Programme</i></p>

Applying the Principles of Good Governance – Principle 2

Members and officers working together to achieve a common purpose with clearly defined functions and roles:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Ensuring effective leadership throughout the Council and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function.</p>	<ul style="list-style-type: none"> Set out a clear statement of the respective roles and responsibilities of the executive and of the executive's Members individually and the Council's approach towards putting this into practice; Set out a clear statement of the respective roles and responsibilities of other Council Members, Members generally and senior officers. Ensure that the CFO reports directly to the Chief Executive (Head of Paid Service) and is a member of the leadership team with a status at least equivalent to other members. If different organisational arrangements are adopted, explaining the reasons publicly, together with how these deliver the same impact. 	<p>Member Roles and Responsibilities</p> <p>The Council's Constitution defines the roles and responsibilities of the Council, Executive, Overview and Scrutiny and all other Member bodies, Members generally and senior officers. Its purpose is 'to ensure the good governance of the Council in the public interest'. It aims to enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations, and support the active involvement of citizens in the process of decision-making (Article 1). Article 2 describes the role and functions of all Councillors. Linking with the Delegation Scheme (Part 3), Article 4 describes the Full Council, Article 6 the role of the Executive and Article 5 that of Overview and Scrutiny. Article 10 outlines the functions and areas of responsibility of senior officers, including the Chief Executive (as Head of Paid Service) until 31.12.2013, Directors, Heads of Service and the statutory officers (Section 151 and Monitoring Officers). It states that the Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.</p> <p>At the December meeting the Council resolved to move towards an Executive Director model as an interim measure from 01.01.2014 until 31.12.2014 (at the latest), with the Corporate Director (AR) being assigned the role Head of Paid Service. The Constitution has been amended accordingly. The Director leading on internal transformation and resources has line management responsibilities for a Head of Service with whom a formal personal relationship exists. Senior members felt that moving the management of this Head of Service would have a detrimental effect on the transformation programme. A paper setting out the areas of potential conflict and mitigations was presented to the Senior Management Team in January 2014 to seek their support in managing the perception of risks of a conflict of interest.</p> <p>The Constitution is available on the Council's web-site. The roles and responsibilities are subject to regular review by the Council and the Constitution itself is monitored and evaluated annually as set out in Article 13.</p> <p>Members of the Executive, Scrutiny and the Leader and Chairman of the Council have 'job descriptions' that describe their roles.</p> <p>Status of the Chief Financial Officer (CFO)</p> <p>Part 7 of the Constitution, Management Structure, demonstrates that the CFO reports directly to the Chief Executive (Head of Paid Service) and is a member of the Senior Management Team with a status equivalent to other members.</p> <p>The Management Structure shows a shared management team with West Devon Borough Council.</p>

Applying the Principles of Good Governance – Principle 2 (Continued)

Members and officers working together to achieve a common purpose with clearly defined functions and roles:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Ensuring that a constructive working relationship exists between Council Members and officers and that the responsibilities of Members and officers are carried out to a high standard.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for collective decision of the Council, taking account of relevant legislation, and ensure that it is monitored and updated when required; 	<p>Delegation Scheme/Collective Decision of the Council</p> <p>Part 3 of the Council's Constitution sets out the Delegation Scheme and has been updated for 2013/14. It includes the Principles of Delegation, the list of powers reserved for the Council and Delegations to the Executive, Committees and other Council bodies. Subject to those matters which are reserved for Committee all Senior Officers shall be responsible and shall have delegated authority for the day to day operation and management of the Services and land for which they are responsible.</p> <p>Part 7 defines the Council's Management Structure, including responsibilities.</p> <p>Delegation Scheme/Constitution</p> <p>The Council has entered into shared working arrangements with West Devon Borough Council under which some officers' services are shared. These officers have Shared Service Operating Agreements by means of which their services are made available to the partner authorities (under S.113 of the Local Government Act 1972) as well as their employer.</p> <p>Last year it was reported that the Monitoring Officer was in the process of reviewing an Overarching Agreement between the two Councils, which will also include responsibilities relating to contract liabilities e.g. costs incurred in relation to disputes by one of the two Councils only under a shared contract. A 'Collaboration Agreement' has been drafted and passed to the Leader and Deputy Leader, Director, S.151 Officer and the Council's insurers for comment. The Agreement will be presented to full Council later in the year.</p> <p>Officers are formally empowered to act by means of a resolution of each Council because it is essential that there is no doubt that they have proper authority, particularly (for example) where formal notices or permissions are issued or contracts signed.</p> <p>Article 13 of the Constitution (Review and Revision of the Constitution) makes the Monitoring Officer responsible for maintaining an up to date Constitution. Changes require the approval of the full Council via recommendation by the Audit Committee.</p> <p>South Hams District Council's Audit Committee April 2013 recommended approval of the Constitution, as part of the Monitoring Officers annual review. This included the delegations to member bodies and officers covering the Council's Functions and Responsibilities (Part 3).</p> <p>The Monitoring Officer was putting in place Onward Delegation documents, setting out those areas delegated by the Heads of Service to the relevant Middle Manager. However, a decision has been taken to delay implementation of these Delegation documents until the roles and responsibilities of officers are clarified post T18 Transformation Programme.</p>

Applying the Principles of Good Governance – Principle 2 (Continued)

Members and officers working together to achieve a common purpose with clearly defined functions and roles:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Ensuring that a constructive working relationship exists between Council Members and officers and that the responsibilities of Members and officers are carried out to a high standard. (Continued)</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> • Develop protocols to ensure that the leader and Chief Executive (Head of Paid Service) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained; • Ensure that the Council's governance arrangements allow the CFO direct access to the CEO and to other leadership team members; • Make a senior officer (the S.151 officer) responsible to the Council for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control; • Appoint a professionally qualified CFO whose core responsibilities include those set out in the Statement on the role of CFO in Local Government and ensuring that they are properly understood throughout the Council; 	<p>Leader and Chief Executive (Head of Paid Service)/Executive Directors</p> <p>Article 10 outlines the functions and areas of responsibility of senior officers, including the Chief Executive (and Head of Paid Service) superseded by the Executive Directors and Heads of Service. These responsibilities are reflected in the related job descriptions and specifications for both Members and officers and signed secondment agreement with West Devon Borough Council ('shared' post).</p> <p>The Leader's role is to provide overall political leadership and direction to the Council and the Executive. Part 3 of the Constitution, 'Delegation Scheme' details the responsibilities of Member bodies, including the Executive. The Leader's responsibilities are detailed in the related job description and specification. The Council has adopted the Strong Leader Model, the Leader having been appointed for a four year term rather than the previous annual renewal.</p> <p>The Chief Executive (Head of Paid Service) and the Leader met on a regular weekly basis with a Corporate Director attending on a fortnightly basis. However, there is no written policy in place to ensure that it is carried out and there are no recorded minutes of the meetings, which is the continuation of historical practice. Last year the Audit Committee suggested that minutes be taken but this was not accepted. From January 2014, the meeting has been held with the two Executive Directors.</p> <p>Chief Financial Officer (CFO)</p> <p>Part 7 of the Constitution, Management Structure, provides for the CFO to have direct access to the CEO and other management team leaders.</p> <p>Article 10 of the Constitution also sets out the functions of the statutory officers, including the S.151 Officer. This Article requires the S.151 Officer to ensure the lawfulness and financial prudence of decision making with the Head of Paid Service and Monitoring Officer, administer financial affairs, and contribute to corporate management etc.</p> <p>Part 3 of the Constitution, the Delegation Scheme to Officers, also reflects the S.151 Officer's delegated authority for all statutory provisions of the Local Government and Finance Acts and matters set out in the Financial Procedure Rules. This includes the publication of the Council's audited annual Statement of Accounts and the budget for the coming year.</p> <p>The Constitution states that the Council will appoint a 'S.151 Officer'. S.113 of the Local Government Finance Act 1988 requires the S.151 Officer to hold a recognised professional qualification. The S.151 Officer is a qualified accountant and member of the Chartered Institute of Accountants in England and Wales.</p>

Applying the Principles of Good Governance – Principle 2 (Continued)

Members and officers working together to achieve a common purpose with clearly defined functions and roles:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Ensuring that a constructive working relationship exists between Council Members and officers and that the responsibilities of Members and officers are carried out to a high standard. (Continued).</p>	<ul style="list-style-type: none"> • Ensure the CFO leads the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively; and has a line of professional accountability throughout the organisation; • Ensure that budget calculations are robust and reserves adequate, in line with CIPFA guidance; • Ensure that appropriate management accounting systems, functions and controls are in place so that finances are kept under review on a regular basis. These systems, functions and controls should apply consistently to all activities including partnership arrangements, outsourcing or where the Council is acting in an enabling role; <p>Make a senior officer (the monitoring officer) responsible to the Council for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.</p>	<p>The S.151 Officer will have responsibility for the administration of the financial affairs of the Council; will contribute to the corporate management of the Council, in particular through the provision of professional financial advice; 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; and, will provide financial information to the media, Members of the public and the community. (Article 10)</p> <p>The CFO leads the promotion of good financial management including through the provision and publication of Financial and Contract Procedure Rules which are recommended for approval to the Council by the Audit Committee and are included in Part 4 of the Constitution. A self assessment of the Role of the Chief Financial Officer highlighted the potential for a conflict of interest as the S.151 Officer is also the S.151 at West Devon Borough Council. This risk is mitigated by formally appointed Deputy S.151 Officers who are dedicated to each Council (not shared).</p> <p>Budgets</p> <p>Budget calculations are robust and include approved new spend and savings and realistic assumptions for pay and price increases, grant, capital charges etc in line with CIPFA guidance.</p> <p>The budget proposals report to the Executive includes a statement by the S.151 Officer, as required by the Section 25 of the Local Government Act 2003, on the robustness of the estimates made for the purpose of budget calculations, and the adequacy of the proposed financial reserves. The report asks members to note the assessment of their adequacy and the robustness of the budget estimates.</p> <p>Budget holders have access to the Council's general ledger and are supported with advice by a nominated accountant. The computerised ledger system allows budget holders to monitor actual income and expenditure to date, as well as amounts that have been committed through the formal ordering of goods, works and services against the approved budget. Budgetary control is covered by the Financial Procedure Rules of the Constitution, and are applied equally to partnership arrangements or services provided by external contractors.</p> <p>Monitoring Officer</p> <p>Article 10 requires the Monitoring Officer to ensure lawfulness and fairness of decision making and contribute to corporate management. These responsibilities are reflected in the related job description and specification and include responsibility for maintaining the Constitution, advising the Executive whether decisions are within the policy framework, proper access to information etc.</p>

Applying the Principles of Good Governance – Principle 2 (Continued)

Members and officers working together to achieve a common purpose with clearly defined functions and roles:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>c) Ensuring relationships between the Council its partners and the public are clear so that each knows what to expect of the other.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> • Develop protocols to ensure effective communications between Members and officers in their respective roles; • Set out the terms and conditions for remuneration of Members and officers and an effective structure for managing the process, including an effective remuneration panel; 	<p>Communication between Members and Officers</p> <p>The Council's Constitution defines the roles of Members and officers as discussed in previous paragraphs.</p> <p>Part 5 of the Constitution includes a Protocol on Councillor / Officer Relations. The Protocol is a guide to Members and Officers in their dealings with each other, and applies equally to co-opted Members of Council bodies in their dealings with officers where appropriate.</p> <p>Lead Executive members are aligned to services areas and regularly communicate with and provide strategic direction to the relevant Head of Service.</p> <p>Remuneration of Members</p> <p>The Scheme of Members Allowances is set out at Part 6 of the Constitution. In accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, the Council's Members' Allowances Scheme is considered initially by an Independent Panel appointed for that purpose which then makes recommendations to the Council. The Panel met on 5 December 2011 and recommended future increases align with the Consumer Price Index. However, their recommendation was not accepted for 2013/14 and the Council instead approved a lower percentage increase at the meeting of December 2013.</p> <p>Remuneration of Officers</p> <p>Part 4 of the Constitution lays down the framework for Officer Employment Procedure Rules. This is supplemented in detail by the Council's recruitment, disciplinary and grievance procedures, its confidential reporting policy, individual conditions of service and all other relevant employment policies, protocols or codes of conduct.</p> <p>Officers are currently subject to the terms and conditions applicable to all Local Government Officers, as set out in the National Schemes of Conditions of Service. These are supplemented by local conditions.</p> <p>The policies can all be found on the Council's Intranet.</p> <p>From May 2012, the Council's Personnel Panel was disbanded, with its functions of development and revision of personnel policies, maintaining staff confidence in how the Council deals with contractual matters personal to the individual and enabling expeditious decision making in personnel matters, divided between the Executive, Chief Executive (Head of Paid Service), Heads of Service, and Overview and Scrutiny.</p> <p><i>Each year the Council is required to agree and publish a Pay Policy Statement which sets out the amounts paid to senior officers.</i></p>

Applying the Principles of Good Governance – Principle 2 (Continued)

Members and officers working together to achieve a common purpose with clearly defined functions and roles:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>c) Ensuring relationships between the Council its partners and the public are clear so that each knows what to expect of the other. (Continued)</p>	<ul style="list-style-type: none"> • Ensure that effective mechanisms exist to monitor service delivery; • Ensure that the organisation’s vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated; • Establish a medium term business and financial planning process to deliver strategic objectives. • Ensure that these are subject to regular review to confirm the continuing relevance of assumptions used; <p>When working in partnership:</p> <ul style="list-style-type: none"> • Ensure that Members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the Council; • Ensure that there is clarity about the legal status of the partnership; • Ensure that representatives of organisations both understand and make clear to all other partners the extent of their Council to bind their organisation to partner decisions. 	<p>Monitoring Service Delivery Service delivery is monitored using a range of service relevant performance indicators which are reported to managers and Members as discussed in Principle 1(c).</p> <p>Vision, Strategic Plans etc. See also Principle 1(a) for details of documentation of the Council’s vision and strategy, including the ‘Connect Strategy and Delivery Plans’, financial reporting and the monitoring process. The South Hams and West Devon Connect Partnership bring together key stakeholders from the community, voluntary, business and public sectors. Community consultation: see also Principle 6(b), Appendix F.</p> <p>Business and Financial Planning The Council’s Medium Term Resource Strategy and annual budget process is described at Principle 1(c) Appendix A. Both are regularly reviewed and monitored.</p> <p>Partnerships Article 9 of the Constitution allows the Council to enter into joint arrangements with other bodies in order to promote the economic, social or environmental well-being of its area.</p> <p>The Executive approved the adoption of a Partnership Policy document in December 2013. This is supported by supplementary guidance to officers considering joining a partnership. Areas covered included:</p> <ul style="list-style-type: none"> • Partnership definitions; • Partnership assessment; • Managing risk and identifying opportunities; • Governance arrangements • Information sharing; • Terms of Reference; • Identifying ‘Significant Partnerships’; • Business Case Significant Partnerships; and • Evaluation and Review. <p>The new Policy also requires a Partnership Register which has been completed. An annual appraisal of each significant partnership will be presented to members (scrutiny function) for review in the late summer/autumn of 2014 and will provide information on achievements, challenges and risks and recommend any changes.</p>

Principle 2 - Action Plan

Compliance Review Findings for this Principle	Recommendation	Action Plan with Responsible Officer & Target Date
<p><i>Last year it was reported that the Monitoring Officer was in the process of reviewing an Overarching Agreement between the two Councils, which will also include responsibilities relating to contract liabilities e.g. costs incurred in relation to disputes by one of the two Councils only under a shared contract. A 'Collaboration Agreement' has been drafted and passed to the Leader and Deputy Leader, Director, S.151 Officer and the Council's insurers for comment. The Agreement will be presented to full Council later in the year.</i></p>	<p><i>As planned, the Monitoring Officer should complete the production of a Collaboration Agreement, which should also include responsibilities relating to potential contract liabilities, and present the document to full Council.</i></p>	<p><i>Monitoring Officer 31st December 2014</i></p>
<p><i>The Monitoring Officer was putting in place Onward Delegation documents, setting out those areas delegated by the Heads of Service to the relevant Middle Manager. However, a decision has been taken to delay implementation of these Delegation documents until the roles and responsibilities of officers are clarified post T18 Transformation Programme.</i></p>	<p><i>The Monitoring Officer should ensure that post T18 Transformation Programme, Onward Delegation documents, setting out those areas delegated by the Heads of Service to the relevant managers.</i></p>	<p><i>Monitoring Officer 31st December 2014</i></p>

Applying the Principles of Good Governance – Principle 3

Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Ensuring Council Members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance.</p> <p><i>Continued overleaf</i></p>	<ul style="list-style-type: none"> • Ensure that the Council's leadership sets a tone for the organisation by creating a climate of openness, support and respect; • Ensure that standards of conduct and personal behaviour expected of Members and staff, of work between Members and staff and between the Council, its partners and the community are defined and communicated through codes of conduct and protocols; • Put in place arrangements to ensure that Members and employees of the Council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice. 	<p>Openness</p> <p>An Information Access Policy incorporates the requirements of the Freedom Information Act 2000, Data Protection Act 1998 (refers to separate policy), Environmental Information Regulations 2004 and the Reuse Of Public Sector Information Regulations 2005. The IAP describes the principles for the disclosure of information: openness, transparency, fairness, compliance and challenge. The document was written in 2007 and therefore would benefit from an update.</p> <p>Article 3 of the Constitution provide Citizens with the right to petition, to attend meetings, see reports and background papers, inspect the Council's accounts and make their views known to the external auditor, participate in public question times at meetings, and complain (including to the Monitoring Officer about a perceived breach of the Members' Code of Conduct).</p> <p>Part 4 of the Constitution includes the Council's 'Access to Information Procedure Rules' which is described at paragraph 6(b)</p> <p>The Council's website includes a Comments and Complaints page which outlines the procedure for making a complaint as discussed at Principle 1(b)</p> <p>Standards of Conduct – Members and Officers</p> <p>The Codes of Conduct for councillors (Part 5 of the Constitution) and staff (also Part 5 of the Constitution) set out the standard of conduct and ethics expected.</p> <p>The Codes require interests, and, gifts and hospitality for both Members and officers to be reported to the Monitoring Officer who maintains a Register. Training on personal /disclosable pecuniary interests has been provided to Members and officers.</p> <p>The Members' Code of Conduct changed as a result of the Localism Act. The revised Code was adopted by the Council at the meeting of 28th June 2012 with a start date of the 1st July 2012. An updated version of the Member's Code was presented to the Corporate Performance & Resources Scrutiny Committee in March 2014 and approval recommended to the Executive/Council. This version was subsequently agreed for adoption at the annual Council meeting of May 2014. In addition a review of the procedures for 'Dealing with Standards complaints' was presented to the same Committee.</p> <p>The Constitution also includes a 'Members Planning Code of Good Practice' and a 'Protocol on Councillor / Officer Relations'.</p> <p>The 'Code of Conduct and Standard of Behaviour for Staff' is published on the Council's Intranet and is linked to the confidential reporting (whistle blowing) system.</p>

Applying the Principles of Good Governance – Principle 3 (Continued)

Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Ensuring Council Members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance. (Continued).</p>	<ul style="list-style-type: none"> Put in place arrangements to ensure that Members and employees of the Council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice. 	<p>The formal confidential reporting (whistle blowing) system and a grievance procedure enable officers to formally complain about issues of concern in respect of behaviour without fear of reprisal. Confidential Reporting is publicised by a leaflet on notice boards, Intranet and Induction. The leaflet has been sent to Town/Parish Councils. The Council has published an Anti-fraud, Corruption and Bribery Policy and Strategy, and separate Response Plan, which is available on the Council's website, and publicised through electronic bulletins, Intranet and leaflets on notice boards and officer Induction training etc. <i>In the annual review of the Council's anti fraud arrangements, it was reported to the Audit Committee that the publicity leaflet would benefit from updating.</i></p>
<p>b) Ensuring that organisational values are put into practice and are effective</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> Develop and maintain shared values including leadership values for both the organisation and staff reflecting public expectations and communicate these with Members, staff, the community and partners Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice; Ensure that systems and processes for financial administration, financial control and protection of the Council's resources and assets are designed in conformity with appropriate ethical standards and monitoring their continuing effectiveness in practice. 	<p>Values</p> <p>Principle 1(a) contains details of how the Council's vision and strategic direction is determined. It also describes the Council's arrangements for measuring performance. Principle 6 describes the Council's procedures for communicating with all stakeholders. Part 5 of the Constitution sets out the Members' Code of Conduct – see above.</p> <p>Procedures Conform to Ethical Standards</p> <p>Ethical considerations are included in reports to the decision makers, which are available to the community on the Council's website.</p> <p>Part 4 of the Constitution includes Procedure Rules for Council, Executive, Budget and Policy Framework, Finance, Contracts, Officer Employment amongst others. Officers are currently subject to a Code of Conduct. This is a requirement of the National Scheme of Conditions of Service applicable to all Local Government Officers. The Code of Conduct and Standards of Behaviour for Staff is published on the Council's Intranet.</p> <p>Financial Administration</p> <p>Standards for the systems and processes for financial administration and control are set out in the Council's Financial and Contract Procedure Rules, which are included in Part 4 of the Constitution, Rules of Procedure. They are designed with the appropriate ethical standards and are monitored by Internal Audit who reports any significant breaches to the S.151 and Monitoring Officer as well as the Audit Committee.</p> <p>Contract Procedure Rules were updated in 2011/12 and aligned as far as possible with West Devon Borough Council's equivalent. <i>These will be fully reviewed and updated for the June 2014 Audit Committee.</i></p>

Applying the Principles of Good Governance – Principle 3 (Continued)

Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
b) Ensuring that organisational values are put into practice and are effective (Continued).	<ul style="list-style-type: none"> Ensure that systems and processes for financial administration, financial control and protection of the Council's resources and assets are designed in conformity with appropriate ethical standards and monitoring their continuing effectiveness in practice. Develop and maintain an effective Standards function; Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the Council; In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively. 	<p>Financial Administration (Continued) Financial Procedure Rules were also reviewed, updated and aligned as far as possible with the West Devon Borough Council equivalent, with presentation to the Audit Committee in December 2012 and approval by Council in January 2013.</p> <p>Standards Function Part 3 of the Constitution, Delegation Scheme, gives the new Terms of Reference for the Council's Standards function under the Corporate Performance and Resources Scrutiny Panel and its sub-committee – the Code of Conduct Scrutiny Panel Meetings are recorded and agendas and minutes published on the Council's web-site.</p> <p>Decision Making Article 13 of the Constitution sets out the principles of decision making for Members. Part 3 of the Constitution sets out the responsibilities for decision-making, includes the Delegation Scheme and links to Article 13. All reports to decision-making bodies are linked to the Council's priorities and are formally recorded in an Agenda and Minutes which are also available on the Council's web-site.</p> <p>Partnership The Executive approved the adoption of a Partnership Policy and guidance document in December 2013, which is supported by a guide to officers in considering the purpose of joining a partnership, risk management, governance arrangements, information sharing, monitoring and scrutiny. Principle 2(c)</p>

Principle 3 - Action Plan

Compliance Review Findings for this Principle	Recommendation	Action Plan with Responsible Officer & Target Date
<i>The Information Access Policy was written in 2007 and would benefit from an update.</i>	<i>The Information Access Policy should be reviewed and updated as an aligned policy with West Devon Borough Council, having regard to any impact on it brought about by the T18 Transformation Programme.</i>	<i>Deputy Monitoring Officer 31st December 2014</i>

Applying the Principles of Good Governance – Principle 4

Taking informed and transparent decisions which are subject to effective scrutiny and managing risk:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> • Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the Council’s performance overall and that of any organisation for which it is responsible; • Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based: • Put in place arrangements to safeguard Members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice; 	<p>Scrutiny</p> <p>Article 5 of the Constitution sets out the principles of the Scrutiny Panels linked to Part 3 Delegation Scheme. They adhere to the Centre for Public Scrutiny’s four principles of good scrutiny.</p> <p>Part 4 of the Constitution lays down the Scrutiny Procedure Rules for the, which includes Terms of Reference, describes the rights of Scrutiny to access copies of any document under the separate ‘Access to Information Procedure Rules’ and the process for ‘Call Ins’. The Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function. Scrutiny Panels may also invite other people and public sector bodies to discuss issues of local concern.</p> <p>Evidence of Decisions</p> <p>Article 11 ‘Decision Making’ of the Constitution sets out the principles of decision making and the types of decision.</p> <p>Part 3 of the Constitution sets out the responsibilities for decision-making included in the Delegation Scheme (described at Principle 2(b)).</p> <p>All decision-making by Members is formally recorded in the Agenda and Minutes for the relevant meeting, which are available to the public on the Council’s web-site. Minutes are recorded by dedicated officers who consult key report authors and some Chairman to confirm the accuracy of the draft version. The next relevant Committee meeting review the minutes and if content vote that they represent a true and correct record to enable the Chairman sign them accordingly.</p> <p>Agendas and Minutes of all member meetings are published on the Council’s website and links provided to all Council Members, Parish Clerks, local media etc.</p> <p>Safeguards Against Conflicts of Interest</p> <p>Part 5 of the Constitution sets out the Members’ Code of Conduct (see Principle 3(a)). On each Committee meeting agenda there is a specific item inviting Members to declare an interest in any related matter on that agenda. In accordance with the Code Members declare a Personal Interest and take part in the debate and vote, or, a Disclosable Pecuniary Interest for which the code requires the member to declare and leave the room.</p> <p>A Code of Conduct and Standards of Behaviour for Staff is published on the Staff Pages of the Council’s Intranet. See also Principle 3(a).</p> <p>The Monitoring Officer also maintains a register of interests and gifts and hospitality for both Members and officers. See also Principle 3(a).</p>

Applying the Principles of Good Governance – Principle 4 (Continued)

Taking informed and transparent decisions which are subject to effective scrutiny and managing risk:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny (Continued).</p>	<ul style="list-style-type: none"> • Ensure an effective internal audit function is resourced and maintained; • Develop and maintain an effective audit committee which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee; • Ensure that the Council's governance arrangements allow the CFO direct access to the audit committee and external audit; • Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints. 	<p>Internal Audit</p> <p>The Constitution (Part 4 Financial Procedure Rules) states that the Council shall make provision for internal audit in accordance with the CIPFA Public Sector internal Audit Standards. Its effectiveness is monitored by the Audit Committee and the Council's external auditors.</p> <p>An internal audit service ensures that controls to mitigate risk are in place and effective, and are an integral part of the Council's System of Internal Control. The Chief Internal Auditor provides Members and senior officers with an opinion on the Council's control environment annually. The System of Internal Control ensures that risks that may impact on the Council's objectives are managed and mitigated.</p> <p>Audit Committee</p> <p>Article 7 of the Constitution, with the Delegation Scheme Part 3, sets out the function of the Audit Committee, which is to provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment and to oversee the financial reporting process.</p> <p>Part 4 of the Constitution includes 'Rules for Other Bodies of the Council'. This sets out the membership requirements for the Audit Committee, which normally meets four times per year. The Committee carries out a self assessment of its performance and approach annually. The CFO or his/her deputy attends all Audit Committee meetings.</p> <p>Article 10 of the Constitution states that the CFO will report to the full Council or to the Executive and the external auditor if he/she considers any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.</p> <p>Complaints</p> <p>The Council's Information Access Policy is in place (and Article 3 of the Constitution 'Citizens and the Council' outlines the rights of Citizens including to complain to or about the Council. The website includes Comments and Complaints guidance for making a complaint as outlined in Principle 1(b).</p>
<p>b) Having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.</p>	<ul style="list-style-type: none"> • Ensure that those making decisions whether for the Council or the partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications; 	<p>Quality of Information</p> <p>A Data Quality Assurance Strategy (discussed at Principle 1(b)), audited financial and non-financial systems are in place to assist in the management of services and provide the information to Members that is relevant, timely and gives clear explanations of issues and their implications.</p>

Applying the Principles of Good Governance – Principle 4 (Continued)

Taking informed and transparent decisions which are subject to effective scrutiny and managing risk:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs. (Continued)</p>	<ul style="list-style-type: none"> • Ensure the provision of clear, well presented, timely, complete and accurate information and reports to budget managers and senior officers on the budgetary and financial performance of the Council; • Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately. • Ensure the Council's governance arrangements allow the CFO to bring influence to bear on all material decisions; • Ensure that advice is provided on the level of reserves and balances in line with good practice (LAAP) guidance. 	<p>Budget and Financial Performance Budget managers and senior officers receive clear and accurate information on the budgetary and financial performance of the Council as described at Principle 2 Appendix B. In addition the Council's financial systems and accounts are subject to audit by the external auditors as part of their work towards providing the Council with an opinion to the Statement of Accounts and Members with an annual report providing assurance or highlighting significant issues that require attention. The Council has provided Members with access and training to enable them to use the performance management system. See Principle 1.</p> <p>Professional Advice The Council recruits officers that are appropriately qualified for the tasks that they undertake. A programme of training is provided to officers that is linked to the annual Employee Appraisal and Competency Framework. This includes identification of one off training requirements as well ongoing professional training at all levels. In exceptional circumstances where no suitably qualified professional is employed, the Council will seek the assistance of external advisers and this too is communicated to the decision makers. Reports and recommendations are made to the decision makers by the relevant professional officers. A system of consultation of other professionals in advance of presentation to Members is in place, particularly where a recommendation requires the input of more than one profession e.g. Legal advice, Financial advice etc. The CFO and Monitoring Officer overview all reports to decision makers for financial and legal implications.</p> <p>CFOs Influence A system of consultation for all reports to decision makers is in place that includes the CFO for any financial matters. As discussed above, Article 10 of the Constitution allows for robust challenge of any course of action or proposal that is likely to cause a loss or unlawful expenditure.</p> <p>Reserves Advice is provided on the level of reserves and balances in line with good practice guidance. This is included in the Medium Term Resource Strategy and Budget reports to Members each year (links to Principle 1(c)).</p>

Applying the Principles of Good Governance – Principle 4 (Continued)

Taking informed and transparent decisions which are subject to effective scrutiny and managing risk:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>c) Ensuring that an effective risk management system is in place. (Continued)</p>	<ul style="list-style-type: none"> • Ensure that risk management is embedded into the culture of the Council, with Members and managers at all levels recognising that risk management is part of their jobs; • Ensure the Council's arrangements for financial and internal control and for managing risk are addressed in annual governance reports; • Ensure the Council puts in place effective internal financial controls covering codified guidance, budgetary systems; supervision; management review and monitoring; physical safeguards; segregation of duties; accounting procedures; information systems and authorisation and approval processes • Ensure that arrangements are in place for whistle-blowing to which staff and all those contracting with the Council have access. 	<p>Risk Management The formal management of risk is in place and subject to internal and external audit consideration. It includes:</p> <ul style="list-style-type: none"> • An adopted Risk Management Policy; • Strategic, Operational and Partnership risk registers; • A separate risk register is held for the T18 Transformation programme and included in the report to the Audit Committee; • A system for identifying risks and the controls to mitigate them; • A Corporate Risk Management Group of officers; • Training for officers and Members; • SMT regularly and frequently consider strategic risks; • Risk assessment in projects and reports to the decision makers; • Regular risk monitoring reports to the Audit Committee; and • Publicising and providing training on risk management to Members and officers. <p>Work on improvements to the operational risk framework continues.</p> <p>Internal and Financial Control The Council's arrangements for financial and internal control and managing risk are addressed in the Annual Governance Statement (AGS) which is recommended for approval to the Council by the Audit Committee. The AGS is published with the statement of accounts.</p> <p>The Council has put in place effective internal financial controls. These include codified guidance, budgetary systems; supervision; management review and monitoring; physical safeguards; segregation of duties; accounting procedures; information systems and authorisation and approval processes, in addition to the Contract and Financial Procedure Rules, Part 4 of the Constitution. Adherence to these rules is monitored by Internal Audit and breaches reported to managers, senior managers, S.151 and Monitoring Officers, Audit Committee as appropriate.</p> <p>Whistle Blowing The Council's whistle-blowing policy, known as the Confidential Reporting Policy, is available to all staff on the Council's Intranet (including Frequently Asked Questions) and is also publicised internally on an occasional basis to maintain its profile. It is also available to a wider audience on the Council's website. A linked Anti-Fraud/Confidential Reporting leaflet has been put on notice boards around the Council and sent to Town/Parish Councils and Libraries but would benefit from an update as reported to the Audit Committee at the April 2014 meeting. The policy is presented to new staff at Induction courses and the leaflet is given to attendees.</p>

Applying the Principles of Good Governance – Principle 4 (Continued)

Taking informed and transparent decisions which are subject to effective scrutiny and managing risk:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>d) Using their legal powers to the full benefit of the citizens and communities in their area.</p>	<ul style="list-style-type: none"> Actively recognise the limits of lawful activity placed on the Council by, for example, the ultra vires doctrine but also strive to utilise powers to the full benefit of the Council' communities; Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law; Observe all specific legislative requirements placed upon the Council, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice – into the Council's procedures and decision-making processes. 	<p>Legal Requirements and Lawful Activity</p> <p>The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Article 1 confirms that the local authority will act within the law and the Provisions of the Constitution.</p> <p>Some of the services provided are statutory, whilst others are a matter for the Council to decide upon. There is a process to ensure that any new legislation is identified and acted upon, which includes letters to the Chief Executive (Head of Paid Service) from the relevant government departments, the Monitoring Officer alerted by professional bodies and information received from managers' own professional bodies.</p> <p>The Monitoring Officer reviews the reports to Members for legality.</p> <p>Article 10 of the Constitution sets out the statutory functions of the Monitoring Officer, which includes ensuring lawfulness and fairness in decision making (Principle 2(c)). These responsibilities are reflected in the related job description and specification.</p> <p>Article 5 of the Constitution sets out the function of the Scrutiny. Part 4 of the Constitution lays down the Procedure Rules and Terms of Reference for the Scrutiny Panels, which includes the review of the performance of other public bodies in the area and invites reports from them to address the relevant Scrutiny Panel and local people about their activities and performance.</p>

Principle 4 - Action Plan

Compliance Review Findings for this Principle	Recommendation	Action Plan with Responsible Officer & Target Date
<p><i>A linked Anti-Fraud/Confidential Reporting leaflet has been put on notice boards around the Council and sent to Town/Parish Councils and Libraries but would benefit from an update as reported to the Audit Committee at the April 2014 meeting in the Audit Commission checklist 'Protecting the Public Purse.</i></p>	<p><i>The linked Anti-Fraud/Confidential Reporting leaflet should be reviewed and updated and published and distributed appropriately.</i></p>	<p><i>Chief Internal Auditor Monitoring Officer 30th September 2014</i></p>

Applying the Principles of Good Governance – Principle 5

Developing the capacity and capability of Members and officers to be effective.

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Making sure that Members and officers have the skills, knowledge, experience and resources they need to perform.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> • Provide induction programmes tailored to individual needs and opportunities for Members and officers to update their knowledge on a regular basis; 	<p>Induction and Ongoing Development - Members</p> <p>Article 2 of the Constitution states that “Councillors will develop and maintain a working knowledge of the authority’s services and policies and take advantage of appropriate training and development opportunities to enable them to fulfil their role”.</p> <p>Immediately after any elections, a comprehensive Induction Programme is delivered for newly elected Members. The Induction covers the role of the Councillor, chairing skills, governance arrangements and processes etc.</p> <p>The Devon Member Development Officer, managed through the Council, offered all Members a ‘one to one’ interview which helped to formulate a corporate training plan for Members, and also identify individual development needs which were drawn up into Personal Development Plans.</p> <p>At the February 2012 Council meeting, as part of the report of the Political Structures Working Group, recommendations were accepted to amend procedures to:</p> <ul style="list-style-type: none"> (i) All Members are expected to attend planning training refresher sessions as and when they are provided; (ii) Newly elected Members will have to attend appropriate induction Planning Training before they can take part in the planning decision-making process; (iii) Repeat sessions will be held in conjunction with West Devon Borough Council to provide additional opportunities for Members to meet the requirement to attend the induction training; (iv) If they so wish, re-elected Members would be welcome to attend the induction sessions. <p>A 360 degree Appraisal process was undertaken, involving many of the councillors. The Leader used the results to form the basis of the recommendation to Council of senior member appointments for 2013/14.</p> <p>Other training is also provided as required and training records are published on the Council’s web-site.</p> <p>Members receive a weekly Members Bulletin which provides an update on current issues, background information on training events and a range of other topics.</p> <p>Article 6 of the Constitution defines the role of Executive Members and Part 4 details Executive Procedure Rules. Members of the Executive have formal ‘specialisms’, aligned to specific service areas and priority themes.</p> <p>Job descriptions are in place for Executive and other Members.</p>

Applying the Principles of Good Governance – Principle 5 (continued)

Developing the capacity and capability of Members and officers to be effective.

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Making sure that Members and officers have the skills, knowledge, experience and resources they need to perform. (Continued)</p>	<ul style="list-style-type: none"> • Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the Council. • Provide induction programmes tailored to individual needs and opportunities for Members and officers to update their knowledge on a regular basis; • Ensure the CFO has the skills, knowledge, experience and resources to perform effectively in both the financial and non financial areas of their role; • Review the scope of the CFO's other management responsibilities to ensure financial matters are not compromised; • Provide the finance function with the resources; expertise and systems necessary to perform its role effectively. 	<p>Induction and Ongoing Development - Officers</p> <p>Article 10 of the Constitution details the Management Structure of the Council, including functions of the S.151 Officer and the Monitoring Officer. The responsibilities of each management post are reflected in the related job descriptions and specifications. The Article states that 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.</p> <p>A programme of training is provided to all officers that is linked to the annual Employee Appraisal & Competency scheme, which includes identification of one off training requirements as well ongoing professional training.</p> <p>A job description and personal specification form ensures that any CFO recruited has the skills, knowledge and experience to perform effectively. The Council's Appraisal and Competency Scheme ensures that once recruited the CFO continues to perform effectively. The CFO has no other management responsibilities. Article 10, Officers, and Part 7, Management Structure, set out the responsibilities relating to the S.151 Officer role. Financial Procedure Rules set the standards for controlling financial systems.</p>
<p>b) Developing the capability of people with governance responsibilities and evaluating their performance as individuals and as a group.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> • Assess the skills required by Members and officers and make a commitment to develop those skills to enable roles to be carried out; • Embed financial competencies in person specifications and appraisals; • Ensure that councillors roles and responsibilities for monitoring financial performance/budget management are clear, that they have adequate access to financial skills and are provided with appropriate financial training on an ongoing basis to help them discharge their responsibilities; • Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed; 	<p>Skills Development</p> <p>Member and officer development is discussed at 5(a) above.</p> <p>Councillor roles are documented for 'Elected Members' and for those who are appointed to each of the other member bodies or Committees. Where appropriate the Roles include financial responsibilities. Training is provided as part of the formal training plan as discussed above and specific financial training is and has been provided.</p> <p>As discussed, Members of the Executive have formal 'specialisms', consisting of specific service areas and priority themes.</p> <p>Members with these responsibilities will liaise with the relevant Head of Service, either individually through regular meetings or through a collective briefing, and may invite expert advice e.g. Highways, Environmental Health (Statutory Consultees).</p>

Applying the Principles of Good Governance – Principle 5 (Continued)

Developing the capacity and capability of Members and officers to be effective.

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Developing the capability of people with governance responsibilities and evaluating their performance as individuals and as a group. (Continued)</p>	<ul style="list-style-type: none"> Ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual Members and agreeing an action plan to address training/development needs 	<p>Reviewing the Performance of the Executive</p> <p>The Constitution, Part 4 Scrutiny Procedure Rules, says that 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; ii) the extent to which the actions taken implement Council policy; or iii) their performance.</p> <p>Call-in by a Scrutiny Panel can 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 11 (Decision Making). Member training and development is discussed at paragraph a) above.</p>
<p>c) Encouraging new talent for membership of the Council so that best use can be made of individuals' skills and resources in balancing continuity and renewal.</p>	<ul style="list-style-type: none"> Ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the Council; 	<p>Encouraging the Community to Participate in the Work of the Council</p> <p>'Community Life' is one of the Councils Priorities as described at Principle 1, Appendix A. A Delivery Plan for the priority has been developed as part of the Connect Strategy. Wider engagement with the community is discussed at Principle 6.</p> <p>Efforts are made to encourage new talent to seek election to the Council prior to an election through a publicity campaign using Town/Parish Councils, the Council's web-site, leaflets, a candidate information pack, and an open evening.</p> <p>The Council's web-site, under 'Your Council' includes the 'Want to Get Involved?' page, which provides advice on areas such as Public Questions at Meetings and 'Becoming a Councillor'.</p> <p>Within the Scheme of Members' Allowances (Constitution Part 6), there is a Dependents' Carers' Allowance to provide additional help for a dependant whose carer is employed on approved Council duty. It is intended that this will assist those who would be interested in standing for the Council but are also bound by their personal responsibilities.</p> <p>Members of the public are able to attend Committee meetings, speak at Development Management Committee and Scrutiny Panel meetings and ask questions at the meetings of several Member bodies including the Executive, Salcombe Harbour Board.</p> <p>For major planning applications the Development Management Committee meeting is preceded by a Developer Forum, which the Committee Members will be invited to attend. The developer is given the opportunity to explain the scheme to other stakeholders including members of the public, and two supporters and two objectors will be allowed to address the meeting. This allows Members of the Committee to gain wider knowledge of circumstances surrounding the application, and the outcomes will be built into the officer report to the Development Management Committee.</p>

Principle 5 - Action Plan

Compliance Review Findings for this Principle	Recommendation	Action Plan with Responsible Officer & Target Date
Satisfactory	None	No further action required.

Applying the Principles of Good Governance – Principle 6

Engaging with local people and other stakeholders to ensure robust public accountability:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>a) Exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships.</p>	<ul style="list-style-type: none"> • Make clear to ourselves, all staff and the community to whom the Council is accountable and for what; • Consider those institutional stakeholders to whom the Council is accountable and assess the effectiveness of the relationships and any changes required; • Produce an annual report on the activity of the scrutiny function. 	<p>Setting and communicating the Council's purpose and vision is discussed at Principle 1(a), and the management of partnerships at Principle 2(c).</p> <p>Considering Institutional Stakeholders</p> <p>Institutional stakeholders to whom the Council is accountable such as the external auditors etc. are considered and relationships monitored by the Audit Committee. Part of the Constitution 3 Delegation Scheme (section 5 Overview and Scrutiny) states that a Scrutiny Panel will review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Panel and local people about their activities and performance e.g. Devon County Council Highways Authority, South Devon and Dartmoor Crime and Disorder Partnership etc.</p> <p>Scrutiny Annual Report</p> <p>The Scrutiny Panels must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate. Council Agenda and Minutes September 2013 refer, being the latest available.</p>
<p>b) Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the Council, in partnership or by commissioning.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> • Hold meetings in public unless there are good reasons for confidentiality; • Ensure that clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements to ensure that they operate effectively; 	<p>Meetings in Public</p> <p>Article 3 of the Constitution sets out what citizens can expect from their Council and what rights they have. This includes the right to attend meetings of the Council, the Executive, Scrutiny Panels and other bodies of the Council except for good reasons where confidential or exempt information is likely to be disclosed.</p> <p>Clear Channels of Communication with the Community</p> <p>Part 4 of the Constitution includes the Council's 'Access to Information Procedure Rules' which requires the Council to provide the public with access to Agenda and Reports. Meetings of Member bodies are scheduled using a calendar of meetings, and recorded through a system of Agendas and Minutes. It contains the Rules of Procedure for all formal meetings and Forward Plans detail issues to be considered at future meetings. Agendas and minutes are available on the Council's web-site and also supplied to the press.</p> <p>In addition, the 360 Assessment has been developed and rolled out to all relevant staff. An assessment was completed for all new/changed policies, strategies and relevant projects including new service delivery, but this was amended to cover only significant changes that affect the community or staff. The assessment covers Equality, Human Rights, Data Protection, Crime and Disorder, Child Protection, Biodiversity and Sustainability.</p>

Applying the Principles of Good Governance – Principle 6 (Continued)

Engaging with local people and other stakeholders to ensure robust public accountability:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the Council, in partnership or by commissioning. (Continued)</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> Ensure that clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements to ensure that they operate effectively; Ensure that arrangements are in place to enable the Council to engage with all sections of the community effectively. These arrangements will recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands; 	<p><i>Clear Channels of Communication with the Community</i></p> <p>The Connect Strategy and related Delivery Plans are produced by the South Hams and West Devon Connect Partnership, as discussed at Principle 1(a), and bring together key stakeholders from the community, voluntary, business and public sectors. Annual stakeholder events are held <i>using existing fora and events to engage the Community.</i></p> <p>The Council has developed the 'Voice': Business Voice, Town and Parish Voice, Voluntary Voice, and <i>Young People Voice</i> consulting and engaging covering issues that are important to the particular groups.</p> <p><i>Local Development Framework</i></p> <p>The 2004 Planning and Compulsory Purchase Act requires local planning authorities to prepare a Statement of Community Involvement (SCI). This document sets out how and when the Council will involve the community in preparing development plans and processing planning applications. West Devon and South Hams have worked together on a revised SCI. This document sets out how communities and other stakeholders can get involved in planning and was adopted by South Hams District Council on 29th March 2012 and West Devon Borough Council on 17th April 2012.</p> <p><i>Our Plan, see principle 1(a):also includes the Local Plan element, setting out planning policies and broad locations and sites for development, will also then be submitted to the Secretary of State and have to undergo an Examination in Public to ensure it is sound.</i></p> <p><i>Other arrangements and documents include (list not exclusive):</i></p> <ul style="list-style-type: none"> Local business and Town/Parish Councils' events providing input to the Council's budget planning; Events and survey for residents as part of the 2013/14 budget setting process, online and publicised through the Council's magazine; The Council's magazine with contributions from Devon County Council is sent to all households, and a leaflet is issued with Council Tax and NDR bills. Voluntary Voice – quarterly meetings with the Community and Voluntary Services (CVS). Sustainable Communities Locality Fund – community grants for councillors to use to support projects which benefit the community;

Applying the Principles of Good Governance – Principle 6 (Continued)

Engaging with local people and other stakeholders to ensure robust public accountability:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the Council, in partnership or by commissioning. (Continued)</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> Ensure that arrangements are in place to enable the Council to engage with all sections of the community effectively. These arrangements will recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands; Establish a clear policy on the types of issues the Council will meaningfully consult on or engage with the public and service users about, including a feedback mechanism for those consultees to demonstrate what has changed as a result; 	<p>Other arrangements and documents include (list not exclusive):</p> <ul style="list-style-type: none"> The Greater Dartmoor Local Enterprise Action Fund and the South Devon Coastal Local Action Group are community led Rural Development Programme (RDPE) funding programmes for which the Council acts as accountable body; Town and Parish Voice Cluster meetings – held every 6 months: community can tailor agenda, chair and host event. Meetings now also determine applications for the Town and Parish Fund; Community pages of the Council’s website with related links; Daily messages on Twitter and Facebook, include two way exchanges, with responses, allow quicker dissemination of information and are linked to the Council’s web-site. Currently 4500 Twitter ‘Followers’ and increasing Facebook ‘Likes’; Members Southhams.gov.uk e-mail addresses; South Hams Connect – Outreach events: taking a wide range of services nearer to South Hams residents including Customer Services, Planning, Waste; Includes other partner organisations and details are available on the Council’s web-site, and E-Connect with a published Connect Directory; Benefits - home visits to assist clients in application processing; Surveys, plus other community consultation; Business Voice - publication of the Business Newsletter (e-Bulletin); Attending Parish Council meetings and running six monthly surgeries on affordable housing; and Service Level Agreements with voluntary organisations e.g. the CVS who provide support to the community and voluntary organisations, CAB for benefits; and Young Devon – YES re housing advice. <p>Types of Issues Consulted On</p> <p>The paragraphs above set out policies that demonstrate the Council’s commitment to involving the community, and examples of how this is being done. Consultations are co-ordinated through the Community Team and an online survey tool.</p> <p>Details of consultations being conducted are available on the Council’s web-site; Consultations are subject to feedback but much is posted on the Council’s web-site in a You Said/We Did format. Article 3 of the Constitution sets out what citizens can expect from their Council and what rights they have.</p>

Applying the Principles of Good Governance – Principle 6 (Continued)

Engaging with local people and other stakeholders to ensure robust public accountability:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>b) Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the Council, in partnership or by commissioning. (Continued)</p>	<ul style="list-style-type: none"> On an annual basis, publish a performance plan giving information on the Council's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period; Ensure that the Council as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so. 	<p>Performance and Outcomes The vision, strategy, plans and financial statements and reporting of outcomes are described in other parts of this report e.g. Principle 1 etc.</p> <p>Open and Accessible Citizens have the right to attend meetings of the Council, the Executive, Scrutiny Panels and other bodies of the Council except where confidential or exempt information is likely to be disclosed. In Part 4 of the Constitution the Council's 'Access to Information Procedure Rules' sets out the public's rights in addition to those specific rights elsewhere in the Constitution or in law. Principle 4 of this Code describes the Council's arrangements for taking informed and transparent decisions. The Council has approved an updated Communications Policy, 2012 – 2015. The Constitution commits the Council to openness in its dealings (e.g. Article 11 – Decision Making, Article 3 – Citizens and the Council), as does the Council's Policy on the Human Rights Act 1998. The Council has embraced the requirements of the Freedom of Information Act, introduced from 1st January 2005, and has complied with the requests received to date, except where otherwise bound by legislation. Guidance and a 'Publication Scheme' are available on the Council's web-site. The Council has a published Information Access Policy. This addresses the Council's wish to promote public understanding of the Council's activities, starting from the premise that everyone is entitled to have access to information held by the Council. The Chief Executive (Head of Paid Service) and the Leader communicate with all staff either through e mail or newsletters and members through the weekly 'Bulletin'. Weekly news bulletins are sent by e-mail to all staff and members concerning specific issues that need communicating including from the Chief Executive (Head of Paid Service), Senior Management Team or other managers. Details of all payments over £500 are Published on the Council's website.</p>

Applying the Principles of Good Governance – Principle 6 (Continued)

Engaging with local people and other stakeholders to ensure robust public accountability:

Supporting Principles	The Code Requires the Council to:	Compliance Review Results
<p>c) Making best use of human resources by taking an active and planned approach to meet responsibility to staff.</p>	<ul style="list-style-type: none"> Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making. 	<p>Consulting Staff Representatives</p> <p>Trade unions, as staff representatives, have negotiating rights with the Council, and in many other circumstances employment law requires consultation with them before action is taken by the Council.</p> <p>The Management and Trade Union Forum meets to discuss, be consulted on and negotiate on all and any amendments to terms and conditions of service.</p> <p><i>There is a separate negotiating body specifically for the T18 Transformation Programme, the Joint Negotiating and Consultative Group (JNCG). Its Terms of Reference say that its role is to negotiate and be consulted on staffing matters arising from the development and proposed implementation of the Council's Transformation Programme.</i></p> <p><i>The Transformation Staff Charter has been developed by the Joint Staff Consultative Forum (JSCF) and says 'we will communicate in an open and timely manner at all times to ensure staff engagement in the process'.</i></p> <p><i>These and other key T18 documents are published for staff to view on the Council's Intranet.</i></p> <p>Consulting Staff</p> <p>The Joint Staff Consultative Forum (JSCF) was established to undertake a consultative role where ideas, issues, drafts of new policies, organisational changes and legitimate employer / employee matters can be discussed cordially. The forum is also important as a means of effective two way communication and promoting good employee relations.</p> <p>The JSCF has a constitution published, setting out membership representation, frequency and recording of meetings, the role of representatives etc.</p> <p>The role of the Forum and its constitution is to promote effective and open channels of communications within each service group. The JSCF minutes are available to all staff on the Council's Intranet.</p> <p>Staff Voice has been developed, with well publicised briefings to all staff on current issues.</p> <p>Other ad-hoc consultation with staff is undertaken when key changes are proposed.</p> <p>The Chief Executive/Head of Paid Service, Directors, and Senior Management Team sends emails to all staff on specific topics and contributes to the weekly newsletter which is an email briefing of staff on a range of issues.</p> <p>The Chief Executive/Head of Paid Service, Directors, and Heads of Service will attend team meetings as required or upon request, allowing two way communications of issues.</p>

Principle 6 - Action Plan

Compliance Review Findings for this Principle	Recommendation	Action Plan with Responsible Officer & Target Date
Satisfactory	None	No action required.

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**MINUTES OF A MEETING OF THE AUDIT COMMITTEE
HELD AT FOLLATON HOUSE, TOTNES ON THURSDAY 5 JUNE 2014**

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
Cllrs J M Hodgson and S A E Wright

Item No	Minute Ref No below refers	Officers and Visitors in attendance
All Items		Head of Finance and Audit, Chief Internal Auditor and Member Services Manager
Item 10,11	A.08/14, A.09/14	Monitoring Officer
Item 5, 6, 7	A.03/14, A.04/14, A.05/14	Engagement Lead - Grant Thornton

A.01/14

MINUTES

The minutes of the meeting held on 3 April 2014 were confirmed as a correct record and signed by the Chairman.

A.02/14

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.03/14

AUDIT FEE LETTER

The Committee was presented with the Planned Audit Fee letter for 2014/15 letter from Grant Thornton. The Committee was advised that the fee was the same as for the previous year and that the fee for grant claim work was reduced from the previous year.

In response to a question, the Engagement Lead confirmed that the Audit Commission was a quango set up to manage public sector accounts and, whilst the work was now outsourced, they still exist as a small centre that administered contracts. It was expected that from 2017/18 local authorities would be able to appoint their own auditors.

It was then:

RESOLVED

That the Audit Fee letter be noted.

A.04/14 **HOUSING BENEFIT SUBSIDY CERTIFICATION WORK PLAN FOR SOUTH HAMS DISTRICT COUNCIL**

The Committee considered a Work Plan for Housing Benefit Subsidy Certification Work Plan presented by Grant Thornton. The Committee was advised that this was the only grant claim that required auditing.

It was then:

RESOLVED

That the Work Plan be noted.

A.05/14 **AUDIT COMMITTEE UPDATE FOR SOUTH HAMS DISTRICT COUNCIL**

The Committee was presented with an Audit Committee update from Grant Thornton.

The Engagement Lead advised the Committee that this was a standing report and set out the work that would be required by the External Auditors and the timeframe within which it must be completed. He also drew the Committee's attention to a booklet entitled 'A Guide to Local Authority Accounts' that had been produced by Grant Thornton. Copies were distributed to Committee Members. The Chairman advised that he had received an invitation for two Members to attend a workshop to be run by Grant Thornton and he proposed that he and Cllr Bramble attend. Cllr Gorman also expressed an interest and it was agreed that Cllrs Pennington and Bramble would attend and if capacity allowed, then Cllr Gorman could also attend.

It was then:

RESOLVED

That the report be noted.

A.06/14 **INTERNAL AUDIT – ANNUAL REPORT AND OPINION ON THE ADEQUACY OF INTERNAL CONTROL 2013/14**

Members considered a report that summarised and informed of the principle activities of the Internal Audit section of Finance and Audit during 2013/14. The Chief Internal Auditor introduced the report and drew Members attention to the opinion as set out on page 28 of the presented report. He then took Members through the key elements of the report.

In discussion, reference was made to:-

- (a) Whilst the strategic risk register had never been stronger, there was an issue with the monitoring of operational risks, although these do not tend to change often. The Risk and Health and Safety Advisor had agreed to look into this matter;
- (b) In terms of the creation of a single integrated fraud investigation service, the Head of Finance and Audit advised that the reason for a single team was likely to be related to the introduction of Universal Credit and also to enable further joined up working;
- (c) Finally, in respect of the ongoing HMRC investigation, there was still no news to report.

It was then:

RESOLVED

That the report and the Internal Auditor's opinion on the Adequacy of Internal Control be noted.

A.07/14

REVIEW OF THE EFFECTIVENESS OF THE SYSTEM OF INTERNAL AUDIT 2013/14

The Committee was presented with a report that provided assurance that the system of internal Audit was in place and effective.

It was then:

RESOLVED

That the findings of the Review of the Effectiveness of the System of Internal Audit be noted.

A.08/14

REVISION OF THE CONTRACT PROCEDURE RULES

A report was considered that allowed the Audit Committee to carry out an overview of the updated Contract Procedure Rules to enable them to recommend adoption to the Council of the document and the amended rules surrounding exemptions. The Chief Internal Auditor introduced the report and asked that thanks be noted to the Procurement Officer who had assisted with the preparation of the document but was unable to attend the meeting. He then took Members through the report and highlighted the key changes to the Procedure Rules.

During discussion, the following points were raised:

- (a) Members were pleased to see the definitions at the beginning of the document and felt this would be helpful;
- (b) One Member felt there was too much reference in the document to the European Union (EU). The Chief Internal Auditor advised that EU Directives were included in UK legislation. Another Member stated that there were differing views on the EU amongst the Committee Members and he felt the intention of EU Directives was to raise standards;
- (c) A Member asked how Members could find out about payments made by the Council for less than £50,000. In response, the Head of Finance and Audit advised that a spreadsheet was held in the Finance Department but any payments over £500 were listed on the Council website. The Monitoring Officer added that the Legal Department held records of all contracts awarded;
- (d) A Member asked if green procurement had been considered when the Procurement Rules were written and drew the Committee's attention to a document she had previously circulated that set out the benefits of green procurement. Officers responded that they would ensure that the Procurement Officer was aware of the document but also advised that the Procurement Rules as set out were a set of minimum standards;
- (e) Members felt that para 8.1.1 of the Procedure Rules was not clear and requested that this be rewritten for clarity prior to being considered for approval at the Special Council meeting on 19 June 2014;
- (f) Members discussed Development Agreements and the Chief Internal Auditor provided clarity on Development Agreements and Concession Contracts.

It was then:

RESOLVED

That Council be **RECOMMENDED** that the Contract Procedure Rules (as shown in appendix A of the presented report) be approved and included in the Council's Constitution, subject to amendment of para. 8.1.1 for clarity.

[Note: the revised Contract Procedure Rules will be available as an electronic appendix on the Council website to these minutes and available in hard copy on request]

A.09/14 **CODE OF CORPORATE GOVERNANCE – 2013/14 COMPLIANCE REVIEW**

The Committee considered a report that informed Members of the results of the 2013/14 compliance review of the 2011 Code of Corporate Governance. The Code described South Hams District Council's intention to discharge its responsibilities, and how the Code would be tested and monitored annually.

Following a brief discussion, it was then:

RESOLVED

That the findings of the 2013/14 Compliance Review of the Council's Code of Corporate Governance 2011 be noted, including the significant governance issues to be taken to the Annual Governance Statement.

(Meeting commenced at 2.00 pm and finished at 3.35 pm)

Chairman

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