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West Devon
Borough
Council

WEST DEVON COUNCIL - TUESDAY, 31ST JULY, 2012

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Summons Letter** (Pages 1 - 6)

2. **Reports**

Reports to Council:

a) Item 10 - To receive the report of the Deputy Monitoring Officer on the appointment of Members to the new Standards Committee (Pages 7 - 28)

3. **Minutes** (Pages 29 - 36)

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Rule 21

9. To receive the Minutes of the following Committees, to note the delegated decisions and to consider the adoption of those Minutes which require approval

- (i) **Audit Committee**
Meeting held on 2nd July 2012 23

Unstarred Minute to agree

Members are recommended to agree:

AC 2 Joint Anti Money Laundering Policy

The revised Anti Money Laundering Policy, presented as Appendix A to the report, be approved and adopted as presented.

- (ii) **Community Services Committee**
Meeting held on 26th June 2012 27

Unstarred Minutes to agree

Members are recommended to agree:

CS 3 Annual Review of the Connect Strategy and Delivery Plans

The Connect Strategy annual update for 2012/2013 be approved and adopted.

CS 7 Private Sector Renewal Policy

The Private Sector Renewal Policy for the period 2012 – 2015 as presented in Appendix to the report, be approved and adopted.

- (iii) **Overview & Scrutiny Committee**
Meeting held on 12th June 2012 33

Meeting held on 10th July 2012 36

- (iv) **Planning & Licensing Committee**
Meeting held on 22nd May 2012 39

Meeting held on 19th June 2012 44

- (v) **Standards Committee**
Meeting held on 12th June 2012 54

Unstarred Minutes to agree

Members are recommended to agree:

SC 3 Annual Monitoring Report of the Standards Committee 2011/2012

Standards Committee's Annual Report as presented be approved and adopted.

SC 4 Monitoring Officer Annual Report 2011 – 2012

The Monitoring Officer's Annual Report be approved and adopted.

10. To receive the report of the Deputy Monitoring Officer on the appointment of Members to the new Standards Committee (politically balanced) and to make the following decisions:
- (i) the appointment Chairman and Vice-Chairman
 - (ii) the appointment of Sub-Committees
 - (iii) consideration of the Independent Persons' remuneration
 - (iv) the co-option of parish representatives; and,
 - (v) that the Constitution be updated accordingly. **To follow**
11. To Order the affixing of the Common Seal
For the information of Members, a list of documents sealed by the Council and witnessed by the Mayor and the Chief Executive during the period 30th March 2012 to is attached.

PART TWO – ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED (if any).

If any, the Council is recommended to pass the following resolution:

“RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting on the grounds that exempt information may be disclosed as defined in Part I of Schedule 12(A) to the Act.”

Dated this 23rd day of July 2012



Chief Executive

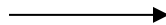
West Devon Borough Council Members' Code of Conduct Declarations of interest

If you are in any doubt about what to do, please seek advice

Do you have an interest in any item?



Is it a **Personal** interest?



A **Personal** interest is one that:

- you should include on your Register of Interests or
- where well-being or financial position of you, members of your family or someone with whom you have a close association is likely to be affected by the interest more than it affects:
- majority of inhabitants of the ward or electoral division affected by the decision, or
- inhabitants of the Council's area

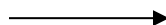
If you have a **Personal** interest you must **declare** it (and **the nature of the Interest**) at the meeting before the matter is discussed or as soon as you become aware of it, unless an exemption applies (see over page).



If you have a **Personal** interest you may still take part in the meeting and vote **unless** the interest is also **Prejudicial**. A **Prejudicial** interest is a matter for you to decide.



Do you have **Prejudicial** interest?



Your personal interest will also be **prejudicial** if all these conditions are met:

- Matter is not **exempt** (see over page)
- Matter affects your financial interests or relates to a **licensing or regulatory** matter, and
- a member of the public, who knows the relevant facts, would **reasonably think that your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

If you have a **Prejudicial** interest you must **declare** it (and **the nature** of the interest) as soon as it becomes apparent to you, and **withdraw** from the room where the meeting is being held (unless you are allowed to make representations – see over page).

→
Page 4

West Devon Borough Council Members' Code of Conduct (see part 5 of the Constitution)

Personal Interests - You will have a **personal interest** in a matter if:

- anything that you should have mentioned in your Register and/or
- the well-being or financial position of you, members of your family, or people with whom you have a close association

is likely to be affected by the business of the Council more than it would affect the **majority of the inhabitants** of the ward or electoral division affected by the decision, or the inhabitants of the Council's area.

Exemption - An exemption applies where your **personal interest** arises solely from your membership (or position of control/management) on any body to which you were appointed/nominated by the Council or any other body exercising functions of a public nature. In such cases (unless you have a prejudicial interest) you only need to declare your interest if and when you speak on a matter.

Personal Interests include:

- Your membership/position of control/management in bodies to which the Council appointed/nominated you, or any bodies exercising functions of a public nature, directed to charitable purposes or whose principal purposes include influence of public opinion or policy, including any political party or trade union;
- Your job(s) or business(es), and the name of your employer;
- Name of any person who has made a payment towards your election expenses or expenses you have incurred in carrying out your duties;
- The name of any person, company/other body which has a place of business/land in the Council's area and in which you have a shares of more than £25,000/stake of more than 1/100th of the share capital of the company;
- Any contracts with the Council between you, your firm or a company (of which you a paid director) for goods, services or works.
- Any gift/hospitality estimated to > £25 and the name of the person who gave it to you;
- Any land/property in the Council's area in which you have a beneficial interest (or a licence to occupy) including the land and house you live in, any allotments you own or use.

Definitions

- "**Well-being**" - condition of happiness and contentedness. Anything that could affect your quality of life, either positively or negatively, is likely to affect your well-being.
- "**Member of your family**" means a partner (i.e. your spouse/civil partner/someone you live with in a similar capacity), parent/parent-in-law, son/daughter, step-son/step-daughter, child of partner, brother/sister, grandparent/grandchild, uncle/aunt, nephew/niece, or the partners of any of these persons.
- Person with whom you have a "**close association**" means someone with whom you are in close regular contact over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour/ disadvantage when discussing a matter which affects them. It may be a friend, a colleague, a business associate or someone you know through general social contacts.

Prejudicial Interests - your personal interest will also be **prejudicial** if you meet conditions set out overleaf.

Exempt categories - you will **not** have a **Prejudicial** interest in a matter if it relates to:

(a) any **tenancy/lease** you hold with the Council (unless relating to your particular tenancy/lease); (b) **Schools** (meals/transport/travelling expenses): if parent/guardian of child in full time education or parent governor (unless relating to the school your child attends); (c) if you are receiving/entitled to **statutory sick pay**; (d) An **allowance/payment/indemnity** for members; (e) ceremonial honour given to members and (f) setting the council tax or precept.

Making representations - if you have a **Prejudicial** interest, you must declare that you have an interest and the nature of that interest as soon as the interest becomes apparent. You should leave the room unless members of the public are allowed to make representations, give evidence, or answer questions about the matter. If that is the case, then you can also attend the meeting for that purpose. However you must leave the room immediately you have finished and you cannot take part in the debate or vote.

Sensitive information

You may be exempt from having to declare sensitive information on your Register of interests in which case, although you must declare that you have an interest, you don't have to give any details about that interest on the register or to the meeting (please speak to the Monitoring Officer about this first).

Revised May 2007

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NAME OF COMMITTEE	Council
DATE	31 July 2012
REPORT TITLE	Appointments to the Standards Committee, consequential and other amendments to the Constitution
Report of	Monitoring Officer and Democratic Services Manager
WARDS AFFECTED	All

Summary of report:

- To make appointments to the new Standards Committee
- To approve consequential amendments to the Constitution including the remit for the Standards Committee
- Remuneration of the Independent Persons
- Amended call-in procedures for O&S

Financial implications:

It is unlikely that the new Code and local arrangements will be any more costly to operate than the previous standards regime. The interim allowance payable to the new role of Independent Persons is £1,053 p.a. and equates to the remuneration payable to the former Independent Chairman of the Standards Committee. A small saving may be made if a lower (or no payment) is made to the Independent Person.

RECOMMENDATIONS:

1. To appoint the Chairman, Vice Chairman and Members to the Standards Committee
2. To approve the amendments to the Constitution as set out in Appendix A in relation to the new Standards Committee's terms of reference
3. To approve the minor amendments to the Audit Committee's terms of reference at Appendix B
4. To approve the minor amendments to the Overview & Scrutiny Committee's terms of reference at Appendix C
5. To approve the streamlined and more transparent procedures for call-ins by the Overview & Scrutiny committee shown at Appendix D
6. To agree the remuneration (if any) to be payable to the Independent Persons

7. To invite Group Leaders to appoint named substitutes for the Joint Rural Broadband Working Group, the Joint Member Development Steering Group and the Future Leisure Options Member/Officer Working Group.

Officer contact:

Catherine Bowen, Principal Solicitor and Monitoring Officer

Email: cbowen@westdevon.gov.uk or phone: 01822 813666

Darryl White, Democratic Services Manager

Email: Darryl.white@swdevon.gov.uk or phone 01803 861247

1. BACKGROUND

- 1.1 On 26 June 2012, the Council agreed new governance arrangements under the Localism Act 2011. The Council agreed to appoint a new Standards Committee to be responsible for the new standards functions and adopted a new Code of Members' Conduct.
- 1.2 This report deals with appointments to the new Standards Committee, and consequential amendments to the Constitution (including Overview & Scrutiny call-in procedures) and further consideration of the remuneration for 'Independent Persons'.

2. APPOINTMENTS

- 2.1 The Council must appoint a Chairman, Vice Chairman and seven other Borough Council Members to the new Standards Committee which is to be politically balanced. The Standards Committee will appoint sub-committees of three Members to deal with specific standards cases.
- 2.2 Members are requested to consider co-opting up to two parish/town council representatives to the Standards Committee (whether the parish representatives on the former Standards Committee or by inviting parish/town councils to nominate new representatives). Previously, the rules required the Council to appoint parish representatives to the Standards Committee with the same rights as Borough Council Members in debate and decision-making. There is no such requirement under the new rules, but the Council may co-opt parish/town councillors to the Standards Committee to participate in an advisory capacity only on parish or town council issues. The benefit of co-opting such members would be to ensure that the Committee had access to experience and local knowledge of parish matters.
- 2.3 Some Members have also requested that for meetings of the Joint Rural Broadband Working Group, Joint Member Development Steering Group and the Future Leisure Options Member/Officer Working Group, Group Leaders should be invited to appoint named substitutes. Once appointed, the Members felt that

costs should then be controlled by attendance at these meetings being restricted to the appointed Members and substitutes only.

3. AMENDMENTS TO THE CONSTITUTION

3.1 Attached at Appendix A is the draft remit for the new **Standards Committee** for Members' consideration. The Committee's terms of reference include:

- the continuing duty to promote high standards of governance and the Code of Conduct;
- responsibility for consideration of complaints (about Borough and parish/town councillors) referred by the Monitoring Officer;
- responsibility for dealing with investigation reports and hearings into complaints of misconduct by Borough and parish/town councillors
- granting dispensations to Borough Members; and,
- recommending sanctions or other action.

3.2 Attached at Appendix B is an amended **Audit Committee** remit. Amendments are shown shaded grey. Amendments include the function of overview of the Constitution (previously the responsibility of the old Standards Committee) together with some minor amendments required by the Chief Auditor to ensure compliance with current rules and practices.

3.3 Attached at Appendix C are the amended terms of reference for the **Overview & Scrutiny Committee**. Amendments are shown shaded grey. The remit now includes responsibility for an overview of Corporate Complaints and Ombudsman Complaints which were previously within the old Standards Committee remit.

3.4 Attached at Appendix D are the **Procedure Rules for the Overview & Scrutiny Committee**. Proposed amendments are shown shaded grey and include more streamlined and transparent arrangements for call-ins. Notably, it is proposed that the practice of producing Decision Notices will be replaced by circulating the minutes of the Resources Committee and the Community Services Committee two working days after a meeting date. In addition, these minutes will be sent out to all Members and not just those Members of the Overview & Scrutiny Committee.

4. REMUNERATION FOR INDEPENDENT PERSONS

4.1 At the Council meeting on 26 June 2012, Members appointed (for a transitional period to July 2013) the Independent Chairman of the previous Standards Committee as 'Independent Person', and agreed that the Monitoring Officer take steps to recruit a further Independent Person. The Council has discretion to remunerate the Independent Persons and, as an interim measure, Council agreed to award £1,053 p.a. which equates to the remuneration previously awarded (under the Members' Allowance Scheme) to the former Independent Chairman. Comparisons with other Devon authorities show that this interim

payment is higher than other councils whose payments range between £500 per annum per Independent Person, to no payment at all. One Council is referring the question of remuneration to the Independent Remuneration Panel. The Monitoring Officer will have details of the other Devon authorities' rates of payment available at the meeting.

- 4.2 Members are requested to review the interim payment arrangements for the Independent Person(s) and agree the rate payable until the Annual Meeting in May 2013.

5. LEGAL IMPLICATIONS

- 5.1 The Localism Act 2011 abolished the standards regime established under the Local Government Act 2000 and introduced new provisions in relation to standards.
- 5.2 The Council may co-opt other members to its committees under the Local Government Act 1972
- 5.3 The Council is responsible for making appointments to committees and bodies and approving amendments to the Constitution

6. FINANCIAL IMPLICATIONS

- 6.1 It is unlikely that the new standards arrangements will be any more costly to operate than the previous standards regime. The interim payment to the new role of Independent Persons is £1,053 p.a. and equates to the remuneration payable to the former Independent Chairman of the Standards Committee. A small saving may be made if a lower or no payment is made to the Independent Person.

7. RISK MANAGEMENT

- 7.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

8. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	As set out in paragraph 5
Considerations of equality and human rights:	These will be considered in relation to the local arrangements to be made under the new standards regime
Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable

Crime and disorder implications:	Not applicable
Background papers:	Council report 26 June 2012
Appendices attached:	Appendix A – Standards Committee remit Appendix B – Audit Committee remit Appendix C – Overview & Scrutiny remit Appendix D – Overview & Scrutiny Procedure Rules

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			
	Failure to appoint to the Standards Committee	If no appointments are made then the Council will not be able to deal with complaints referred by the Monitoring Officer or deal with investigations or hearings in to allegations of misconduct	4	2	8	↔	Recommendations for appointment have been made and terms of reference drafted for the Standards Committee	Monitoring Officer
Page 12	Failure to make consequential amendments to the Constitution	Incomplete or inadequate arrangements in place to deal with the council's functions	4	2	8	↔	Amendments have been made to the Constitution for Council approval	Monitoring Officer

Direction of travel symbols ↓ ↑ ↔

Standards Committee

Composition

1. Membership of the Standards Committee

- a. The Standards Committee shall comprise nine Members of the Council
- b. The Chairman and Vice Chairman shall be appointed by the Council in accordance with the Council's Procedure rules in Part 4 of the Constitution.
- c. the Council may co-opt up to two parish / town council representatives from a parish/town council in the Borough

2. Membership of Sub-committees of the Standards Committee

- The Standards Committee shall appoint sub-committees of three members to deal with specific standards complaints
- Sub-committees will consult (where co-opted) parish / town councillors in decisions relating to town or parish councillors

3. Quorum for the Standards Committee and its sub-committees:

- **Three** members for the duration of the meeting.

4. Roles and functions of the Standards Committee

- a. To promote and maintain high standards of conduct by Councillors and co-opted Members;
- b. To assist Councillors and co-opted Members to observe the Members' Code of Conduct;
- c. To advise the Council on the adoption or revision of the Members' Code of Conduct, and on matters relating to the ethical conduct of the Council and its Members;
- d. To advise and train Councillors and co-opted Members on matters relating to the Code of Conduct;

- e. To grant dispensations to Borough Councillors (and where relevant, co-opted Members to the Borough Council) from requirements relating to Disclosable Pecuniary interests in the following circumstances:
 - i. Where many members of the decision-making body have a Disclosable Pecuniary Interest that Political balance would be affected
 - ii. It is in the interests of the inhabitants that a dispensation be granted or
 - iii. It is appropriate to grant a dispensation
1. To consult the Independent Person(s) in relation to matters referred for investigation and hearings
2. To consider complaints alleging a breach of the Code of Conduct by Borough Councillors (and any co-opted members where relevant) and those members of town and parish councils in the Borough of West Devon.
3. To receive Investigation reports and to carry out hearings in respect of allegations of misconduct for Borough members (and co-opted members where relevant) and town/parish council members and to recommend sanctions or other recommendations/actions

Roles and functions of the Standards sub-committees

- To consider complaints alleging members' breach of the Code of Conduct; as referred by the Monitoring Officer
- To receive investigation reports and carry out Hearings in respect of allegations of misconduct

Budget

To have authority for spending within the allocated budget.

Annual Review

The Standards Committee shall report annually to Council on its performance and achievements.

Audit Committee

1. Composition

Membership:

Number: The Audit Committee will comprise **three Members** appointed under its normal procedures.

Eligibility: with the exception of the Chairman and Vice Chairman of the Resources Committee, all Members are eligible to be members of the Committee.

Co-optees: The Committee shall be entitled to recommend to the Council the appointment of co-opted members.

2. Responsibilities

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

Audit

Internal Audit

To consider:

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

To promote:

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

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

External Audit

To consider:

- The External Auditor's Annual Letter and other relevant external audit reports
- External Audit work to ensure that it gives value for money
- The External Audit plans
- Reports dealing with the management and performance of the external audit service providers
- Commission work from external audit and monitor audit performance other specific reports as agreed with the External Auditor in association with the s151 Officer
- To liaise with the Audit Commission (or relevant government appointed body) over the appointment of the Council's External Auditor

Accounts

- To review and approve the Annual Statement of Accounts and to consider whether appropriate accounting policies have been followed
- To consider the External Auditor's report on the annual audit of accounts

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

Regulatory Framework

To:

- Maintain an overview of the Council's Constitution in respect of the Financial Procedure Rules and Contract Procedural Rules
- Recommend to Council the adoption of:
 - A code of Corporate Governance
 - Antifraud, Corruption and Bribery Strategy
 - Anti Money Laundering Policy
 - Risk Management Policies
- Oversee the Statement of Internal Control and Annual governance Statement
- Review Risk Management policies and programmes
- Review the Code of Corporate Governance

- To monitor Value for Money (including benchmarking)

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

Review and Scrutiny of Strategies

To monitor:

- Risk Management Strategy
- The Assurance Framework (including Statement of Internal Control)
- Code of Corporate Governance
- Antifraud, Corruption and Bribery Strategy
- Anti Money Laundering Policy
- Whistle-blowing Policy
- Treasury Management Strategy
- Investment Strategy

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

2. Budget

To have authority for spending within the allocated budget.

3. Review

The Audit Committee will undertake an annual review of its performance as part of the system of internal audit.

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Overview and Scrutiny Committee

General role

Within its terms of reference, the Overview and Scrutiny Committee will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the Council and any committee or joint committee in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iii) make reports and/or recommendations to the Council and/or its Committees and/or any joint committee on matters which affect the Council's area or the inhabitants of that area.

Specific functions

(a) Policy development and review

The Overview and Scrutiny Committee may:

- (i) review existing policy and recommend changes to such policy or the creation of new policy;
- (ii) assist the Council in the development of its **Budget and Policy Framework** by in-depth analysis of policy issues;
- (iii) conduct research, involve the community and carry out other consultation in the analysis of policy issues and possible options;
- (iv) consider and implement ways to encourage and enhance community participation in the development of policy options;
- (v) question members of committees and senior officers about their views on issues and proposals affecting the area; and
- (vi) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (vii) **Regulation of Investigatory Powers** – to review the Council's RIPA Policy and its use annually
- (viii) Consider internal reports on the use of RIPA on a quarterly basis.

- (ix) Review the Connect Strategy and Delivery Plans with half yearly reports on progress, achievements and challenges and updates.
- (x) **Complaints:** to oversee and review the Council's Corporate Complaints Policy and to have an overview of the Ombudsman Complaints including the Annual Letter

(b) **Scrutiny**

The Overview and Scrutiny Committee may:

- (i) review and scrutinise the performance of committees and Council officers and decisions made both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question members of committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects when necessary;
- (iv) exercise the right to call-in, for re-consideration, decisions made but not yet implemented by any committee, where appropriate;
- (v) make recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (vi) review and scrutinise, with or without others, the performance and activities of other public bodies in the area on any relevant, general or specific issue; and
- (xi) question and gather evidence from any person (with their consent) when necessary.
- (xii) Scrutinise the work of the Community Safety Partnership (and the partners who comprise it, insofar as their activities relate to the Partnership)
- (xiii) Scrutinise and investigate matters referred to O&S by any Member on Crime & Disorder issues of local concern raised under Councillor Call for Action

(c) **Performance Management**

The Overview & Scrutiny Committee shall be responsible for overseeing performance management of the Council, including the process of continuous improvement.

The Overview and Scrutiny Committee may:

- (i) oversee the co-ordination and conduct of the Best Value process in accordance with Section 5 of the Local Government Act 1999;
- (ii) take an overview of the performance monitoring throughout the authority and make recommendations;
- (viii) where appropriate, make recommendations to the relevant committee or to Council;

but the responsibility for service performance rests with individual committees.

Partnership arrangements

The Overview & Scrutiny Committee shall be responsible for the monitoring of partnership arrangements in accordance with the Council's Partnership Policy.

(e) **Finance**

The Overview and Scrutiny Committee shall exercise overall responsibility for the finances made available to it.

(f) **Annual report**

The Overview and Scrutiny Committee shall report annually to Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

Proceedings of Overview and Scrutiny Committees

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the [Overview and Scrutiny Procedure Rules](#) set out in Part 4 of this Constitution.

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Overview and Scrutiny Procedure Rules

The Council Procedure Rules as set out in Part 4(1) of this Constitution shall apply to the Overview and Scrutiny Committee and its sub-committees unless otherwise specified by these Rules.

1. Overview and Scrutiny Committee

1.1 The Council will appoint one Overview and Scrutiny Committee as set out in the terms of reference in Part 3.

2. Terms of Reference

2.1 The terms of reference of the Overview and Scrutiny Committee shall be:

2.2 The performance of all overview and scrutiny functions on behalf of the Council including those functions specified in the terms of reference set in the Part 3 .

3. Membership

3.1 **Number:** The Committee shall consist of ten Members of the Council appointed under its normal procedures.

3.2 **Eligibility:** With the exception of the Mayor, all Members of the Council shall be eligible to be members of the Committee. However, no Member shall be involved in scrutinising a decision taken by a committee of which, at the time of the decision, he/she is a voting member.

3.3 **Chairman:** The Chairman and Vice Chairman shall be appointed by Council in accordance with the Council Procedure Rules in Part 4 of the Constitution.

3.4 **Co-optees:** The Committee shall be entitled to recommend to the Council the appointment of co-opted members.

4. Powers and Duties

4.1 **Sub-Committees:** The Overview and Scrutiny Committee shall have the power to appoint such sub-committees as it considers appropriate to discharge its functions. These Procedure Rules, including those on eligibility for membership, shall apply to any such sub-committee.

- 4.2 **Task and Finish Groups:** The Committee shall have the power to appoint and discontinue Task and Finish Groups.
- 4.2.1 The Task and Finish Groups shall be appointed to undertake such work and within such time-scales as may be specified by the Committee.
- 4.2.2 All Members of the Council are eligible for membership of the Task and Finish Groups.
- 4.2.3 The Committee in consultation with leaders of the political groups shall establish the membership of the Task and Finish Groups.
- 4.2.4 Task and Finish Groups shall report to the Overview and Scrutiny Committee.
- 4.3 **Work programmes:** The Committee shall be responsible for setting its own work programme.
- 4.4 **Agenda Items:** Any member of the Committee shall be entitled to give notice to the Chairman that s/he wishes an item to be included on the next appropriate agenda and the Chairman shall arrange for this to be done.
- 4.5 **Consideration of Overview and Scrutiny Reports:** The Chief Executive will ensure that reports of the Overview and Scrutiny Committee are placed on the agenda for the appropriate committee or Council Summons if appropriate for consideration, and in the case of a joint committee referred to that committee.
5. **Overview**
- 5.1 The terms of reference in relation to overview functions are set out in the terms of reference in Part 3.
- 5.2 **Policy Review/Development:** In relation to the review or development of Council policies, the Overview and Scrutiny Committee may make proposals for consideration by the relevant committees, joint committees or Council if appropriate.
- 5.3 The Committee may receive requests from the Council and committees to review particular areas of Council activity. The Committee, having regard to its work programme, shall consider and respond to such requests.
- 5.4 The Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist it in this process. It may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that it reasonably considers necessary to inform its deliberations.

6. Scrutiny

- 6.1 The terms of reference in relation to scrutiny functions are set out in the terms of reference in Part 3.
- 6.2 **Proposed decisions:** To assist with the function of scrutiny, members of the Overview and Scrutiny Committee shall be sent copies of the Council Summons and agenda of all committees.
- 6.3 **Call-in of decisions:** Call-in should only be used in exceptional circumstances, e.g. where members of the Overview and Scrutiny Committee have evidence which suggests that a committee did not take the decision in accordance with the principles set out in Article 6 (Decision Making).
- 6.3.1 Call-in will not apply to decisions of individual applications under development control, licensing, registration, consents or other permissions where there is a statutory right of appeal.
- 6.3.2 When a decision is made by the Resources Committee or the Community Services Committee, the minutes of that meeting a notice of the decision shall be published (where possible by electronic means) and shall be available at the main offices of the Council normally within two working days of the meeting date being made. All members of the Council Overview and Scrutiny Committee will be sent copies of the minutes notice, within the same timescale.
- 6.3.3 These minutes notice will bear the date on which it is published and will specify that any the decisions will come into force, and may then be implemented, on the expiry of three working days after the publication of the minutes decision, unless Members of the Overview and Scrutiny Committee objects to it and call it in.
- 6.3.4 During that period, the Chief Executive shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested by the Chairman or any three members of the Committee, and shall then notify the all Members relevant committee of the call-in.
- 6.3.5 The Chief Executive shall call a meeting of the Overview and Scrutiny Committee on such date as s/he may determine, where possible after agreement with the Chairman of the Committee, and in any case within five working days of the decision to call-in.
- 6.3.6 If having considered the decision, the Overview and Scrutiny Committee remain concerned about it then the Committee may set out in writing the nature of their concerns and refer the decision back to the committee for re-consideration or refer the matter to Council for determination. If the matter is referred back to a committee or Council, that body shall determine at the earliest practicable opportunity whether or not to amend the decision.

6.3.7 If, following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the committee or to Council, the decision shall take effect on the date of the Overview and Scrutiny meeting or the expiry of that further five working day period, whichever is the earlier.

6.4 **Urgency:** The call-in procedure set out above shall not apply where the decision being taken by a committee is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interest. Where the record of the decision, and notice by which it is made public, states that in the opinion of the Chief Executive the decision is an urgent one, it will not be subject to the call-in process.

7. Performance Management

7.1 The terms of reference in relation to Performance Management and continuous improvement functions are set out in the terms of reference in Part 3.

8. Meetings

8.1 **Frequency:** There shall be at least four meetings of the Committee in each year. In addition, other meetings may be called in accordance with the Council's Procedure Rules as set out in Part 4 of this Constitution.

8.2 **Quorum:** The quorum for the Committee shall be **four members**.

8.3 **Attendance by Others:** The Overview and Scrutiny Committee may:

- (i) require members and Senior Officers of the Council to attend a meeting to answer questions and it is the duty of those persons to attend if so requested;
- (ii) request, but not compel, officers from partnership organisations to attend if so required;
- (iii) invite any person to attend to address the Committee or to discuss issues of local concern and/or to answer questions;
- (iv) pay any person attending a reasonable fee and expenses for doing so.

8.4 **Party Whip:** When considering any matter in respect of which a member of the Committee is subject to a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

8.5 **Procedure:** The Overview and Scrutiny Committee shall consider the following business:

- (i) minutes of the last meeting;
- (ii) declarations of interest (including whipping declaration);
- (iii) consideration of any matter referred to the Committee for a decision in relation to the calling in of a decision;
- (iv) responses of the committees to reports of the Overview and Scrutiny Committee; and
- (v) the business otherwise set out on the agenda for the meeting.

8.5.1 The Committee may adopt its own procedures as it so chooses when carrying out a review or conducting an investigation.

8.5.2 Following any investigation or review, the Committee shall prepare a report, for submission to the relevant committee, joint committee and/or Council as appropriate.

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Agenda Item 3

At the Meeting of the **WEST DEVON BOROUGH COUNCIL** held in the **COUNCIL CHAMBER, KILWORTHY PARK, TAVISTOCK** on **TUESDAY** the **31ST** day of **JULY 2012** at **4.30pm** pursuant to Notice given and Summons duly served.

Present Cllr C R Musgrave – The Mayor (In the Chair)

Cllr S C Bailey	Cllr R E Baldwin
Cllr M J R Benson	Cllr W G Cann
Cllr A Clish-Green	Cllr D W Cloke
Cllr M V L Ewings	Cllr C Hall
Cllr T J Hill	Cllr L J G Hockridge
Cllr D M Horn	Cllr A F Leech
Cllr C M Marsh	Cllr J R McInnes
Cllr J B Moody	Cllr N Morgan
Cllr M E Morse	Cllr D E Moyse
Cllr C R Musgrave	Cllr R J Oxborough
Cllr T G Pearce	Cllr P J Ridgers
Cllr L B Rose	Cllr R F D Sampson
Cllr P R Sanders	Cllr D K A Sellis
Cllr J Sheldon	Cllr E H Sherrell
Cllr D Whitcomb	Cllr D M Wilde

Chief Executive
Head of Corporate Services
Monitoring Officer
Democratic Services Manager

CM 33 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs K Ball and M E Morse

CM 34 DECLARATION OF INTEREST

Cllr D W Cloke in Item 3(i) (Confirmation of Minutes: Annual Meeting held on 15 May 2012) – personal as he was the Chairman of the Overview and Scrutiny Committee and he did not take part in the debate on this specific item.

CM 35 CONFIRMATION OF MINUTES

- (i) It was moved by Cllr P R Sanders, seconded by Cllr R E Baldwin and upon the motion being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the Council agree the Minutes of the Annual Meeting of Council held on 15 May 2012 as a true record, subject to Minute CM17(c) ‘Appointment of Representatives to the List of Outside Bodies for the Ensuing Year: South Devon and Dartmoor Community Safety Partnership’ being amended with the word *‘ballot’* replacing the words *‘show of hands’*.”

(NOTE: in relation to the Special Responsibility Allowance payable to the Chairman of the Overview and Scrutiny Committee, it was agreed that if the review by the Independent Remuneration Panel in the Autumn concluded that this role should receive a multiplier of 100% instead of 90%, then these additional monies should be backdated to 15 May 2012).

- (ii) It was moved by Cllr P R Sanders, seconded by Cllr R E Baldwin and upon the motion being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Council agree the Minutes of the Extraordinary Meeting of Council held on 15 May 2012 as a true record.”
- (iii) It was moved by Cllr P R Sanders, seconded by Cllr R E Baldwin and upon the motion being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Council agree the Minutes of the Extraordinary Meeting of Council held on 26 June 2012 as a true record.”

CM 36 COMMUNICATIONS FROM THE MAYOR

The Mayor had no communications to bring forward.

CM 37 BUSINESS BROUGHT FORWARD BY THE MAYOR

The Mayor reminded Members that he had agreed for one urgent item to be raised at this meeting, which related to the minutes of the meeting of the Resources Committee held on 24 July 2012. This item had been deemed urgent in light of the date constraints associated with the unstarred minutes arising from this meeting and would be taken as agenda item 9(vi) (Minute CM 38 f below refers).

In addition, the Mayor advised that it was also his intention for the part 2 report prepared by the Task and Finish Group on Leisure Connection Contract Conclusions & Recommendations, and previously discussed at the Overview and Scrutiny Committee meeting on 12 June 2012, to be considered at the end of this meeting (Minute CM 41 below refers)

CM 38 MINUTES OF COMMITTEES

a. Audit Committee – 2 July 2012

It was moved by Cllr D K A Sellis, seconded by Cllr D M Wilde and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 2 July 2012 meeting be received and noted, with the exception of Unstarred Minutes AC 2”.

In respect of the Unstarred Minute:

i. **AC 2 – Joint Anti Money Laundering Policy**

It was moved by Cllr D K A Sellis, seconded by Cllr D M Wilde and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the revised Anti Money Laundering Policy, presented as Appendix A to the report, be approved and adopted as presented.”

b. **Community Services Committee – 26 June 2012**

It was moved by Cllr R J Oxborough, seconded by Cllr R F D Sampson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 26 June 2012 meeting be received and noted, with the exception of Unstarred Minutes CS 3 and CS 7”.

In respect of the Unstarred Minutes:-

i. **CS 3 – Annual Review of the Connect Strategy and Delivery Plans**

It was moved by Cllr R J Oxborough, seconded by Cllr R F D Sampson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Connect Strategy annual update for 2012/13 be approved and adopted.”

ii. **CS 7 – Private Sector Renewal Policy**

It was moved by Cllr R J Oxborough, seconded by Cllr R F D Sampson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Private Sector Renewal Policy for the period 2012 – 2015 as presented in the appendix to the report, be approved and adopted.”

c. **Overview & Scrutiny Committee – 12 June 2012 and 10 July 2012**

It was moved by Cllr D W Cloke, seconded by Cllr S C Bailey and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 12 June 2012 meeting and the 10 July 2012 meeting be received and noted”.

d. **Planning & Licensing Committee – 22 May 2012 and 19 June 2012**

It was moved by Cllr C M Marsh, seconded by Cllr L B Rose and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 22 May 2012 meeting and the 19 June 2012 meeting be received and noted”.

e. **Standards Committee – 12 June 2012**

It was moved by Cllr A F Leech, seconded by Cllr D E Moyse and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the Minutes of the 12 June 2012 meeting be received and noted, with the exception of Unstarred Minutes SC 3 and SC 4”.

In respect of the Unstarred Minutes:-

i. **SC 3 – Annual Monitoring Report of the Standards Committee 2011/2012**

It was moved by Cllr A F Leech, seconded by Cllr D E Moyse and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the Standards Committee’s Annual Report (as presented to the meeting) be approved and adopted.”

ii. **SC 4 – Monitoring Officer Annual Report 2011/12**

It was moved by Cllr A F Leech, seconded by Cllr D E Moyse and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the Monitoring Officer’s Annual Report be approved and adopted.”

f. **Resources Committee – 24 July 2012**

It was moved by Cllr P R Sanders, seconded by Cllr R E Baldwin and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the Minutes of the 24 July 2012 meeting be received and noted, with the exception of Unstarred Minutes RC 4 and RC 5”.

In respect of the Unstarred Minutes:-

i. **RC 4 – Consideration of Future Leisure Provision Post 2014**

It was moved by Cllr P R Sanders, seconded by Cllr R E Baldwin and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that a provisional sum of up to £30,000 is set aside from General Unearmarked Revenue Reserves to fund external specialist advice to support, where necessary, the Council through the proposed strategic leisure service review, with an acknowledgement that further more detailed work may identify a need for additional funding at a later stage.”

ii. **RC 5 – West Devon and South Hams Communications Strategy 2012/2015**

It was moved by Cllr P R Sanders, seconded by Cllr R E Baldwin and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the Communications Strategy for 2012-2015 be approved.”

**APPOINTMENTS TO THE STANDARDS COMMITTEE,
CONSEQUENTIAL AND OTHER AMENDMENTS TO THE
CONSTITUTION**

A report was considered which sought to:-

- make appointments to the new Standards Committee;
- approve consequential amendments to the Constitution, including the remit for the Standards Committee;
- establish the rate of remuneration of the Independent Persons; and
- amend the Call-in procedures for the Overview and Scrutiny Committee.

In discussion, reference was made to:-

- (a) the wish for recommendation 7 of the presented report to be withdrawn to enable further discussions to take place between the Group Leaders;
- (b) a proposed amendment to the terms of reference of the Standards Committee and the Overview and Scrutiny Committee in relation to co-opting Members. A Member suggested that the wording in both sets of terms of reference should be amended to enable each Committee the authority to appoint co-opted Members themselves, rather than having to recommend these to Council. In addition, Council was assured that any such co-opting would not be for a fixed term, but could be undertaken flexibly on an ad-hoc basis;
- (c) the view that that the remuneration paid to the Independent Persons should be set at £500 each per annum.

It was then moved by Cllr P R Sanders, seconded by Cllr R F D Sampson and upon the motion being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that:-

1. the Standards Committee for the remainder of the 2012/13 Municipal Year comprise of:-

Cllr J R McInnes (Chairman)
 Cllr M V L Ewings (Vice-Chairman)
 Cllr R E Baldwin
 Cllr A Clish-Green
 Cllr D M Horn
 Cllr A F Leech
 Cllr J B Moody
 Cllr D E Moyse
 Cllr L B Rose

2. Cllr J Sheldon be appointed to serve on the Overview and Scrutiny Committee for the remainder of the 2012/13 Municipal Year;

3. the amendments to the Constitution (as set out in Appendix A to the presented agenda report) in relation to the new Standards Committee's terms of reference be approved, subject to the Committee being given the authority to appoint its own co-opted Members when deemed necessary;
4. the minor amendments to the Audit Committee's terms of reference (as set out in Appendix B to the presented agenda report) be approved;
5. the minor amendments to the Overview and Scrutiny Committee's terms of reference (as set out in Appendix C to the presented agenda report) be approved, subject to the Committee being given the authority to appoint its own co-opted Members when deemed necessary;
6. the streamlined and more transparent procedures for call-ins by the Overview and Scrutiny Committee (as set out in Appendix D to the presented agenda report) be approved; and
7. the remuneration for Independent Persons be set at £500 each per annum."

CM 40

COMMON SEAL

A copy of the documents signed by the Mayor during the period 31 May 2012 and 25 July 2012 was circulated to Members and noted by the Meeting.

As a general point, a Member wished to congratulate the Assets team on the number of employment units which were being filled, especially in light of the current economic climate.

It was then moved by Cllr E H Sherrell, seconded by Cllr P R Sanders and upon the motion being submitted to the Meeting was declared to be **CARRIED** and "**RESOLVED** that the Mayor and the Chief Executive (or deputies appointed by them) be authorised to witness the fixing of the seal on any documents for the forthcoming year".

CM 41

TASK AND FINISH GROUP ON LEISURE CONNECTION CONTRACT CONCLUSIONS AND RECOMMENDATIONS

It was moved by Cllr C R Musgrave, seconded by Councillor Cllr J R McInnes and upon the motion being submitted to the Meeting was declared to be **CARRIED** and "**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting for the debate that took place on this item of business on the grounds that exempt information may be disclosed under Paragraph 3 – Information relating to the financial or business affairs of any particular person including the authority holding that information – from Part I of Schedule 12(A) to the Act."

In discussion, the following points were raised:-

- (a) A number of Members wished to compliment the Task and Finish Group on both its work and the quality of the report produced;
- (b) Whilst its work had now been completed, Members of the Group did state that they would not be totally content until the Action Plan was produced for consideration at the next Community Services Committee meeting.

It was then moved by Cllr R E Baldwin, seconded by Cllr R J Oxborough and upon the motion being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that:-

1. the conclusions and recommendations contained within the report produced by the Task and Finish Group be accepted; and
2. Officers of the Council are asked to prepare an action plan for implementation to be submitted to the Community Services Committee meeting on 4 September 2012.”

(The Meeting terminated at 5.55 pm)

Mayor

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