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## WEST DEVON AUDIT COMMITTEE - TUESDAY, 10TH JUNE, 2014

Agenda, Reports and Minutes for the meeting

### Agenda No    Item

1.    **Agenda Letter** (Pages 1 - 6)

2.    **Reports**

Reports to Audit:

- a)    Item 5 - Internal Audit - Annual Report and Opinion on the adequacy of Internal Control 2013/2014 (Pages 7 - 24)
- b)    Item 6 - Effectiveness of the system of Internal Audit 2013/2014 (Pages 25 - 32)
- c)    Item 7 - Revision of the Contract Procedure Rules (Pages 33 - 78)
- d)    Item 8 - Code of Corporate Governance - Compliance Review 2013/2014 (Pages 79 - 118)
- e)    Item 9 - Planned Audit Fee for 2014/2015 (Pages 119 - 122)

3.    **Minutes** (Pages 123 - 128)

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## AGENDA – AUDIT COMMITTEE – 10<sup>th</sup> JUNE 2014

### PART ONE – OPEN COMMITTEE

**1. Apologies for absence**

**2. Declaration of Interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting.

**3. Items Requiring Urgent Attention**

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

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### MINUTES

**4. Confirmation of Minutes**

Meeting held on 15<sup>th</sup> April 2014 (previously circulated)

### OPERATIONAL

**5. Internal Audit – Annual Report and Opinion on the adequacy of Internal Control 2013/2014**

Joint report of the Chief Internal Auditor and Head of Finance & Audit 6

**6. Effectiveness of the system of Internal Audit 2013/2014**

Joint report of the Chief Internal Auditor and S151 Officer 24

**7. Revision of the Contract Procedure Rules**

Joint report of the S151 Officer, the Monitoring Officer and the Chief Internal Auditor 32

**8. Code of Corporate Governance – Compliance Review 2013/2014**

Joint report of the Head of Finance & Audit, the Monitoring Officer and the Chief Internal Auditor 78

**9. Planned Audit Fee for 2014/2015**

Report of Grant Thornton (External Auditors) 117

**10. Change of date of the Committee's Meeting in September 2014**

To agree a new date for the September Audit Committee Meeting

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

The Committee 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 the paragraph given below in bold type from Part I of Schedule 12(A) to the Act.”

This document can be made available in large print, Braille, tape format, other languages or alternative format upon request. Please contact the Committee section on 01822 813662 or email [arose@westdevon.gov.uk](mailto:arose@westdevon.gov.uk)

## **STRATEGIC RISK ASSESSMENT**

### **Reports to Members**

Members will be aware of the requirement to take account of strategic risk in decision making. This note is designed to support Members consider strategic risks as part of the assessment of reports from officers.

There are an increasing number of issues that we have a statutory requirement to take into account which affect all aspects of the Council's policies and service delivery (e.g. Human Rights Act). There are also discretionary issues we choose to highlight in our reports (e.g. Financial Implications, and Impact on Council Priorities and Targets). Common Law duty requires Local Authorities to take into account all things they need to take into account! The Courts hearing Judicial Review applications make this their starting point in deciding whether any decision is reasonable.

Officers have a responsibility to assess the implications of recommendations to Members. Members should ensure that before making a decision they have undertaken a similar consideration relating to the risks associated with the report.

Examples of risk to be considered:-

#### **Statutory Requirement :**

- Equalities and Discrimination, particularly Race Equality. (Consider the impact on each of the following equality areas: Race, Religion and Belief, Gender, Sexual Orientation, Disability, Age)
- Human Rights
- Crime and Disorder
- Health and Safety
- Employment Legislation
- Data Protection
- Freedom of Information
- Corporate activity with an impact on Areas of Outstanding Natural Beauty, National Parks, Sites of Special Scientific Interest, and biodiversity

#### **Corporate Requirement :**

- Impact on Council's Reputation
- Impact on Priorities, Cross-Cutting themes, Targets and / or Commitments
- Impact on Standing Orders / Financial Regulations
- Impact on Council's Assets
- Financial Risks
- Compliance with National Policies and Guidance
- Impact on Sustainability

Members' attention is drawn to the Risk Assessment section within each report. Members are encouraged to consider whether the report has satisfactorily identified all likely negative impacts and mitigating action that will be taken. Members also need to consider the opportunities presented by actions, noting that any change entails an element of risk. The challenge is to effectively manage that risk.

## RISK SCORING MATRIX

Impact/Severity		Target impact	Stakeholder impact	Finance impact
1	Insignificant	Low impact on outcome & target achievement & service delivery	Low stakeholder concern	Low financial risk
2	Minor	Minor impact on outcome & target achievement & service delivery	Minor stakeholder concern	Minor financial risk
3	Moderate	Moderate outcome & target achievement & service delivery	Moderate stakeholder concern	Moderate financial risk
4	Serious	High impact on outcome & target achievement & service delivery	High stakeholder concern	High financial risk
5	Very serious	Very high impact on outcome & target achievement & service delivery	Very high stakeholder concern	Very high financial risk
Likelihood/Probability		Risk	Opportunity	
1	Very low	Negligible chance of occurrence; has not occurred	Possible opportunity yet to be investigated with low likelihood of success	
2	Low	Low chance of occurrence; has occurred infrequently but within internal control	Opportunity being investigated with low likelihood of success	
3	Medium	Equal chance of occurrence or non occurrence; could occur more than once and be difficult to control due to external influences	Opportunity may be achievable with careful management	
4	High	More likely to occur than not occur; has occurred more than once and difficult to control due to external influences	Good opportunity which may be realised	
5	Very high	Very high chance of occurrence but not a certainty; has occurred recently	Clear reliable opportunity with reasonable certainty of achievement	

**Risk score = Impact/Severity x Likelihood/Probability**

<b>Likelihood</b>	5	5	10	15	20	25
	4	4	8	12	16	20
	3	3	6	9	12	15
	2	2	4	6	8	10
	1	1	2	3	4	5
	0	1	2	3	4	5
<b>Impact</b>						

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AGENDA ITEM <b>5</b>
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## WEST DEVON BOROUGH COUNCIL

AGENDA ITEM <b>5</b>
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<b>NAME OF COMMITTEE</b>	<b>Audit Committee</b>
<b>DATE</b>	<b>10<sup>th</sup> June 2014</b>
<b>REPORT TITLE</b>	<b>INTERNAL AUDIT – ANNUAL REPORT and OPINION ON THE ADEQUACY OF INTERNAL CONTROL 2013/14</b>
<b>Report of</b>	<b>Chief Internal Auditor; and Head of Finance and Audit (S.151 Officer)</b>
<b>WARDS AFFECTED</b>	<b>All/Corporate</b>

**Summary of report:**

The purpose of this report is to summarise and inform members of the principal activities of the Internal Audit team for West Devon Borough Council 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, the Annual Governance Statement; and the three previous quarterly reports for 2013/14 on progress against the audit plan.

**Financial implications:**

The internal audit costs for the year are as budgeted.

**RECOMMENDATION:**

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:**

**For further information concerning this report, please contact:**

Allan Goodman, Chief Internal Auditor [allan.goodman@southhams.gov.uk](mailto:allan.goodman@southhams.gov.uk)  
 Lisa Buckle, Head of Finance and Audit and S.151 Officer

## 1. BACKGROUND

- 1.1 The Terms of Reference (Charter) for Internal Audit were presented to the Audit Committee in April 2013 (Minute reference \*AC 34 refers) and cover:

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

- 1.2 The Audit Strategy was updated for 2013/14 and was approved by the Audit Committee in April 2013 (Minute reference \*AC 34 refers) and 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*

- 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 6: Minute reference \*AC 18 refers).

### *Annual Governance Statement (AGS)*

- 1.3 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 22<sup>nd</sup> July 2014) 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 of this report.***

Appendix A shows that of 24 reports issued and the 25 Opinions given, which were graded: **1 Excellent, 20 Good, 4 Fair and 0 Poor.**

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 (minute reference AC 35 refers).

### Local and National Risk Based Amendments to the Plan

2.2 The audit plan is continuously reviewed and updated to reflect emerging risks, and these are incorporated into the audit plan either through the contingency days or by change to the plan, depending on the significance.

2.3 There has been one amendment to the 2013/14 plan; Homelessness and Housing Enabling have been split into separate audits to reflect the different management responsibilities.

2.4 As reflected in the report to this Committee on the Effectiveness of the System of Internal Audit, 100% of the audit plan (100% of South Hams equivalent) 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.

### Non Compliance with Contract or Financial Procedure Rules

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

### Fraud, Corruption or Bribery and Whistle blowing

2.8 No actual, suspected or allegations of fraud, corruption or bribery have been identified during 2013/14, outside of benefit fraud.

2.9 We are unaware of any whistle blowing reports in 2013/14.

2.10 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'.

2.11 The Council also informed the Audit Commission in their annual fraud survey that for 2013/14 there were 12 cases of sanctioned benefit fraud, with a total value of £51,932. Five of these cases were prosecuted and the offender sentenced. To put this in context the Council has 4,387 live housing benefit claims with a total value paid in 2013/14 of £17.2 million.

2.12 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 6)

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.

### 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 :

<b>Corporate priorities engaged:</b>	All/Corporate
<b>Statutory powers:</b>	Accounts and Audit Regulations 2011
<b>Considerations of equality and human rights:</b>	There are no specific equality and human rights issues arising from this report.

<b>Biodiversity considerations:</b>	There are no specific biodiversity issues arising from this report.
<b>Sustainability considerations:</b>	There are no specific sustainability issues arising from this report.
<b>Crime and disorder implications:</b>	There are no specific crime and disorder issues arising from this report.
<b>Background papers:</b>	CIPFA Code of Practice for Internal Audit in Local Government 2006; WDBC 5-year Audit Plan 2010/11 to 2014/15; SHDC 5-year Audit Plan 2010/11 to 2014/15.
<b>Appendices attached:</b>	<b>Appendix A:</b> Audit Plan 2013/14 <b>Appendix B:</b> Planned Audit 2013/14 – Final Reports: Summary of Results

### STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Opportunity to 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 gains assurance from the work of internal audit. This will result in no additional charges being requested 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 may gain no assurance from the work of internal audit, potentially resulting in requests for 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, should significant resource issue arise.	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 started	Issued in draft	Management comments received	Finalised	Opinion (finalised reports only)				Comments
						Excell'nt	Good	Fair	Poor	
MAS & Budgetary Control	2	■	■	■	■		■			Summary to Audit Committee - June 2014
Creditor Payments	4	■	■	■	■		■			Summary to Audit Committee - June 2014
Payroll	4	■	■	■	■		■			Summary to Audit Committee - April 2014
Council Tax	6	■	■	■	■		■			Summary to Audit Committee - April 2014
Business Rates (NDR)	6	■	■	■	■		■			Summary to Audit Committee - April 2014
Benefits	7	■	■	■	■			■		Summary to Audit Committee - June 2014
Migration of Data to Northgate	3	■	■	■	■		■			Summary to Audit Committee - September 2013
Debtors	2	■	■	■	■		■			Summary to Audit Committee - June 2014
Treasury Management	2	■	■	■	■	■				Summary to Audit Committee - April 2014
<b>Main Financial Systems</b>	<b>36</b>									
Contracts	4	■	■	■	■		■			Summary to Audit Committee - April 2014
<i>Homelessness</i>	4	■						■		Summary to Audit Committee - June 2014
<i>Housing Enabling</i>	-	■					■			Summary to Audit Committee - June 2014
Private Sector Housing Renewal	4	■	■	■	■		■			Summary to Audit Committee - December 2013
Customer Services/Cash Collection	2	■					■			Summary to Audit Committee - June 2014
Use of Internet and Email	3	■	■	■	■		■			Summary to Audit Committee - December 2013
ICT / Computer Audit	3						■			Summary to Audit Committee - June 2014
<b>Other Systems &amp; Audit Work</b>	<b>20</b>									
Data Quality incl. PIs	5	■	■	■	■		■			Summary to Audit Committee - April 2014

Progress Against the 2013/14 Internal Audit Plan

APPENDIX A

Projects agreed in the Audit Plan	Planned Number of Days	Fieldwork started	Issued in draft	Management comments received	Finalised	Opinion (finalised reports only)				Comments
<b>Other Systems &amp; Audit Work (continued)</b>	<b>20</b>									
Corporate Governance System of Internal Control (SIC) & Annual Governance Statement (AGS)	5	■	■	■	■	-	-	-	-	Review of the Code of Corporate Governance presented to June 2013 Audit Committee under separate cover. Report to the July 2013 Audit Committee for recommendation to Council of the Annual Governance Statement.
Risk Management	2	■	■	■	■		■			Summary to Audit Committee - June 2014
Safeguarding Children Shared Services	3	■	■	■	■		■			Summary to Audit Committee - April 2014
Shared Services	5	■	■	■	■		■			Summary to Audit Committee - September 2013
Use of Agency Staff	3	■	■	■	■			■		Summary to Audit Committee - December 2013
<b>Non Financial</b>	<b>23</b>									
Specific Counter Fraud Work	3	■	■	■	■		■			Summary to Audit Committee - April 2014
<b>Counter Fraud</b>	<b>3</b>									
Follow Up of Previous Year's Audits	5	2.4 days used	-	-	-	-	-	-	-	



Progress Against the 2013/14 Internal Audit Plan

APPENDIX A

Projects agreed in the Audit Plan	Planned Number of Days	Fieldwork started	Issued in draft	Management comments received	Finalised	Opinion (finalised reports only)				Comments
Follow Up & Contingency (continued)										
Contingency (Unplanned)	5	5.8 days used	-	-	-	-	-	-	-	Minor control and governance issues, advice on financial controls and procurement procedures given to service officers at all levels and contribution to various draft policies & strategies. <ul style="list-style-type: none"> <li>Review and process of 11 Exemption applications from Contract Procedure Rules;</li> <li>Additional individual internet and e-mail monitoring as requested my managers;</li> <li>Audit Commission fraud survey;</li> <li>Contribution to update of report writing guidance;</li> <li>Car parking – fee setting governance;</li> <li>Finance shared service – related work and advice. Share of T18 initially charged in full to SH, to be adjusted at year end;</li> <li>Letter to member of the public re Planning post, printing and stationery;</li> <li>Contractors published accounts;</li> <li>Use of DWP CIS system – advice;</li> <li>Discretionary Housing Payments;</li> <li>Audit Commission: Protecting the Public Purse 2013 checklist.</li> </ul>
Follow Up & Contingency	10									
Management & Supervision	13	11.5 days used	-	-	-	-	-	-	-	Planning; Monitoring; Supervision; File Review; Preparing Reports for, and attending, the Audit Committee; Preparing and co-ordinating the Audit Committee workshop; Meetings with the Section 151 Officer; Meetings with the Section 151 and Monitoring Officers; Liaison with the external auditor; etc
Management & Supervision	13									
<b>Overall Total</b>	<b>105</b>									

## Planned Audit 2013/14 – Final Reports

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

**Migration of Data to Northgate** 24<sup>th</sup> May 2013 **Good**

**Building Control (Follow Up of 2012/13)** Issued 16<sup>th</sup> July 2013 **Unchanged at Good.**

**Shared Service Recharges** Issued 17<sup>th</sup> July 2013 **Good**

### December 2013 Audit Committee

**Use of Agency Staff** Issued 16.08.2013 **Fair**

**Use of Internet and Email** Issued 06.09.2013 **Good**

**Data Protection &**

**Freedom of Information (Follow Up of 2010/11 Audit)** Issued 23.10.2013 **Data Protection – Fair; Freedom of Information - Good**

**Private Sector Housing Renewal** Issued 29.10.2013 **Good**

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

**April 2014 Audit Committee**

- Contracts** Issued 19.11.2013 **Good**
- Payroll** Issued 27.11.2013 **Good**
- Safeguarding (Children)** Issued 25.11.2013 **Good**
- Data Quality and Performance Indicators** Issued 17.12.2013 **Good**
- Treasury Management** Issued 18.12.2013 **Excellent**
- Counter Fraud Work** Issued 06.01.2014 **Good**
- Council Tax** Issued 12.02.2014 **Good**
- NDR (Business Rates)** Issued 26.02.2014 **Good**

**June 2014 Audit Committee**

Subject	Audit Findings	Management Response
<p><b>Risk Management</b> Issued 03.04.2014</p>	<p><b>Good</b></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 &amp; Safety Advisor has 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>

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Planned Audit 2013/14 – Final Reports (continued)

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Subject	Audit Findings	Management Response
<p><b>Benefits</b> Issued 02.04.2014</p>	<p><b>Fair</b> The benefits system ensures that the right people are paid the right amount of benefit at the right time. 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"> <li>• 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;</li> <li>• We have identified issues in the area of assessment of benefit claims relating to verification and review;</li> <li>• 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;</li> <li>• 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.</li> </ul>	<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 &amp; Customs and local councils, including officers.</p>

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

Subject	Audit Findings	Management Response
<p><b>Main Accounting and Budgetary Control</b> Issued 14.04.2014</p>	<p><b>Good</b></p> <p>We can confirm that controls over the main accounting system and budgetary control appear to be working satisfactorily based upon the work carried out.</p> <p>The main issues where action can be taken to further strengthen controls include:</p> <ul style="list-style-type: none"> <li>• The daily 'GL Online Reconciliation' for the bank reconciliation has been completed and confirmed as reconciled daily. It feeds a daily and cumulative bank reconciliation spreadsheet additional check to the ledger. However, due to other high priority work demands (new Financial software project), this part of the reconciliation is falling behind and there has been no time to investigate variations; and</li> <li>• A programme to align as many processes and procedures as possible with South Hams District Council finance team has commenced with the introduction of a single shared Financial Information System (FIS) across SHDC and WDBC, due to be live before the end of the current financial year 2013/14.</li> </ul>	<p>The Chief Revenue Accountant will introduce a check at the end of each month to ensure that the additional part of the Bank Reconciliation is balanced with the ledger and overseen regularly. Update: a full reconciliation of the bank to the general ledger has been completed to 31<sup>st</sup> March 2014.</p> <p>The Chief Revenue Accountant will continue to consult with the Audit team as process changes are made across both Councils.</p>
<p><b>Creditors</b> Issued 28.04.2014</p>	<p><b>Good</b></p> <p>Our conclusion is that the creditors system is fulfilling the purpose for which it is intended, namely paying the right people the right amount at the right time, with these transactions appropriately accounted for.</p> <p>Work continues on the alignment of process with South Hams Finance team</p> <p>We noted that the Council's website is not currently holding any information for payments exceeding £500 since June 2013, a similar finding was identified in our previous audit report.</p>	<p>Due to the loss of an officer in the service this was delayed at the time and the information is now up to date and promptly published.</p>

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

Subject	Audit Findings	Management Response
<b>Debtors</b> Issued 28.04.2014	<b>Good</b> It should be noted that the opinion is provided based on the limited testing undertaken, a walkthrough test. For this reason, and the issue raised below, the opinion cannot be upgraded to an Excellent, but this may occur at the next full audit. Further progress on improving the system has been made during 2013/14, including aligning of processes and procedures with South Hams District Council. Our recommendations from this audit cover: <ul style="list-style-type: none"> <li>• Continuing the progress being made by both authorities to improve sharing of processes, improving recovery and enforcement and bailiff services and contracts; and</li> <li>• Providing clear debt policies and recovery procedures for customers on the Council website.</li> </ul>	Agreed, a shared approach is in place with South Hams and this will include a joint debtor recovery policy, although the changes expected with T18 will further focus the effort in the coming months.
<b>Cash Collection</b> Issued 07.05.2014	<b>Good</b> The above audit opinion is given based on the work we have carried out at Kilworthy Park and Okehampton and the main issue identified related to levels of insurance.	We have contacted the insurers and are awaiting their reply. We will undertake the relevant action based on their response.

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

Subject	Audit Findings	Management Response
<p><b>Computer Audit – Installation and Healthcheck</b> Issued 07.05.2014</p>	<p><b>Good</b></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"> <li>• Joint Acceptable Use Agreements;</li> <li>• User agreement for portable media;</li> <li>• Internal use of Social Media for ‘monitoring’;</li> <li>• Use of the internet for live television and radio; and</li> <li>• The shared ICT Business Continuity Plan.</li> </ul> <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.</p> <p>Revised policies will be provided to staff.</p> <p>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><b>Housing Strategy and Enabling</b> Issued 05.2014</p>	<p><b>Good</b></p> <p>The Council has set aside £350,000 from its capital budget but no expenditure was made in 2013/14 due to a lack of suitable sites. For 2014/15 to 2017/18 a further £200,000 is to be added, to help develop suitable sites in the future. The report raised minor issues relating to revenue spend and plans for income generation.</p>	<p>Action plan agreed.</p>

Planned Audit 2013/14 – Final Reports (continued)

Subject	Audit Findings	Management Response
<p><b>Homelessness</b> Issued 23.05.2014</p>	<p><b>Fair</b></p> <p>We have concluded that the Housing Advice team do their best to ensure that the Homelessness legislation is adhered to, both for the Council and for the homeless applicants. This is based on our review of a sample of applications but did not include asking the clients for their view of the service.</p> <p>Relatively minor documentation issues have been reported but the most significant finding is the non compliance with the aging recharging policies for clients to contribute to the costs of temporary accommodation.</p> <p>Clients benefits are correctly credited to the costs of homelessness but the element of accommodation costs not covered by benefits and clients not in receipt of benefits are not invoiced for their contribution.</p> <p>The reason cited for this is insufficient resources to administer and particularly chase payment from those least able to afford to pay. We have recommended that either the Policy is adhered to or the consent of the Head of ICT and Customer Services and the S.151 Officer is obtained to amend the Policy.</p>	<p>The Housing Advice Team Leader is currently collating examples of best practice around temporary accommodation charging policies to inform our updated Policy.</p> <p>The Housing Team Manager will seek the approval of the Head of ICT &amp; Customer and S.151 Officer prior to implementation.</p>



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

Subject	Comments
<b>Compliance Review of the Code of Corporate</b>	Member report setting out the work done to review the Council's compliance with its Code of Corporate Governance, in line with the CIPFA/SOLACE guidance, presented to the June 2013 Audit Committee. Issues raised are included in the Annual Governance Statement which was presented to the Audit Committee at the meeting of July 2013.
<b>System of Internal Control (SIC), and Annual Governance Statement (AGS)</b>	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.
<b>Exemptions to Financial Procedure Rules</b>	See table at Appendix A.

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

### September 2013 Audit Committee

Shared Services Recharges 2012/13 - Mainly implemented.

### December 2013 Audit Committee

Use of Internet and Email 2012/13 - Mainly implemented

Data Protection & Freedom of Information 2010/11 - Some implementation

Private Sector Housing Renewal 2012/13 – Mainly implemented.

### April 2014 Audit Committee

Treasury Management - 2012/13 Cleared – no recommendations made.

Business Rates (NDR) - 2012/13 Mainly implemented

Council Tax - 2012/13 Mainly implemented.

Data Quality and Performance Indicators - 2012/13 Mainly implemented.

Payroll - 2012/13 Mainly implemented.

### June 2014 Audit Committee

Subject	Comments
Computer Audit – 2012/13	Some implementation. 6/11 recommendations repeated mainly relating policies being worked on with Devon County and other Councils.
Debtors – 2012/13	Some implementation. 2/3 recommendations repeated covering aligning of debt collection policy.

**June 2014 Audit Committee (continued)**

<b>Subject</b>	<b>Comments</b>
Creditors – 2012/13	Implemented.
Main Accounting and Budgetary Control – 2012/13	Mainly implemented. 1/3 recommendations reported again relating to timely completion of the bank reconciliation.
Benefits – 2012/13	Some implementation. 9/13 recommendations repeated covering action on some individual claims and a variety of other issues.
Risk Management – 2011/12	Mainly implemented. 5/12 recommendations reported again but relating to operational risk registers and publicising risk management.

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

<b>Subject</b>	<b>Comments</b>
Partnership Management	Implemented.
Asset Management	Meeting to be arranged.
Procurement	Revised implementation dates agreed. Cleared
Academy to Northgate Migration	Followed up with 2013/14 Council Tax, NDR and Benefits audits.
Inventories	Mainly implemented. Computer inventory followed up in 2013/14 computer audit.
Commercial Rents	Memo sent, no reply received. Meeting to be arranged.
Building Control	Follow up with Teignbridge Internal Audit. New report issued with 3 revised implementation dates.
Contract Management (Follow Up of 2011/12 audit)	Some points cleared remainder followed up with 2013/14 audit.
Environment Management	Memo sent. Two revised implementation dates agreed.

<b>NAME OF COMMITTEE</b>	<b>Audit Committee</b>
<b>DATE</b>	<b>10<sup>th</sup> June 2014</b>
<b>REPORT TITLE</b>	<b>EFFECTIVENESS OF THE SYSTEM OF INTERNAL AUDIT - 2013/14</b>
<b>Report of</b>	<b>Chief Internal Auditor; and S.151 Officer.</b>
<b>WARDS AFFECTED</b>	<b>All/Corporate</b>

**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 for Public Finance and Accountancy’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, South Hams 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.

**RECOMMENDATION:**

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:**

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

## **1. BACKGROUND**

- 1.1 The Terms of Reference for Internal Audit were presented to the Audit Committee in April 2013 (Minute reference \*AC 34) and cover:

Statutory Requirements  
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 \*AC 34) and covers:

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

## **2. 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;
- Reliance on Internal Audit by the external auditor;
- Client and management opinion; and
- The 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 the 22nd 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 and any gaps identified closed.

- 2.5 At the September 2013 Audit Committee members accepted the view that the audit approach 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 6: Minute reference \*AC 18 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 PSIA's;
- Defining of the 'Board' – for West Devon Borough 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 West Devon 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 PSIA's'.

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 West Devon Borough Council for 2013/14, which was presented to the April 2014 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 The audit team issue a satisfaction survey 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. An option for completion electronically has also been provided.
- 2.13 Satisfaction surveys received for 2013/14 are satisfactory, with 98.6% of the responses from 6 returns (100% from 14 returns at South Hams) marking us good or excellent 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 2011/12
	%	%	%	%	%
<b>Audit Planning</b> - Consultation; Objectives.	90.5	9.5	100	90	100
<b>Quality of Audit Report</b> Clarity; Accuracy; Value; Presentation.	92.9	7.1	100	90	97.2
<b>Communication</b> Feedback; Helpfulness; Professionalism; Timeliness.	97.1	2.9	100	90	96.7
<b>Overall %</b>	<b>94.0</b>	<b>6.0</b>	<b>100</b>	<b>90</b>	<b>98.6</b>

There were no ‘poor’ markings and the following positive comments were made by managers:

- *‘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.*

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 in producing the plan for the year and at the commencement of each individual audit. Wherever possible these areas are included in the audit work undertaken.

### 3. 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 was as follows:

*Table 2: Number of audit reports issued*

Audit Year	Number of Reports by Type		
	Main Financial Systems	Other systems/ Establishments	Annual Total
2013/14	8	16	24
2012/13	8	13	21
2011/12	8	11	19
2010/11	8	9	17

- 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.

- 3.6 The following table shows that Internal Audit is meeting its targets, as set out below:

*Table 3: Internal Audit Performance against Targets 2013/14*

Performance Indicator	Target	2013/14	2012/13
Assurance provided to the external auditor by the work of Internal Audit	Yes	Yes	Yes
<b>Timeliness of reports:</b>			
% of draft reports issued within 10 working days of the audit completion	90%	96%	100%
% of final reports issued within 10 working days of discussion on the draft	90%	100%	100%

<b>% of Audit Plan Completed</b>			
% of Audit Planned days completed, against target	95%	100%	100%

Source: Internal Audit Strategy 2013/14

### Resources and Skills

- 3.1 The shared service internal audit team provided West Devon with the planned 105 days as reported to the Audit Committee.
- 3.2 An allowance of 18 sickness days was originally allowed for in the South Hams 2013/14 Internal Audit Plan, 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).
- 3.3 Training and professional updates provided to members of the team during the year (3.3 days in total) 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)
- Audit Management Software demonstration

#### Auditor:

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

## **4. OTHER PARTNERS**

### *South Hams District Council*

- 4.1 2013/14 is the fourth year of the provision of an internal audit service for West Devon Borough Council (WDBC) shared with South Hams District Council. A total of 121 days of audit work was carried out, which was the 105 days of planned audit plus additional work on T18 Transformation Programme, Housing Enabling etc.
- 4.2 The relevant charges have been made to and paid by West Devon to South Hams and at £25,983 are within the budgeted £27,931 and providing an annual saving of £10,000 to the West Devon Borough Council.
- 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.



4.4 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 has not been reversed. This constitutes an extended collaboration and the mutual assurance of the high priority parts of the Councils' audit plans in times of crisis, subject to approval by the two Audit Committee Chairmen.

4.5 The majority of the proposals for the extended collaboration have been completed or are continuing and include sharing of information, audit programmes, best practice, attending and feeding back seminars.

**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 3.6 above.

**7. RISK MANAGEMENT**

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

<b>Corporate priorities engaged:</b>	All/Corporate
<b>Statutory powers:</b>	Local Government Finance Act 1972 Accounts and Audit Regulations 2011
<b>Considerations of equality and human rights:</b>	No specific equality and human rights issues arising from this report.
<b>Biodiversity considerations:</b>	No specific biodiversity issues arising from this report.
<b>Sustainability considerations:</b>	No specific sustainability issues arising from this report.
<b>Crime and disorder implications:</b>	No specific crime and disorder issues arising from this report.
<b>Background papers:</b>	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; WDBC 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.
<b>Appendices attached:</b>	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 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. 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.

AGENDA  
ITEM

**7**

## WEST DEVON BOROUGH COUNCIL

AGENDA  
ITEM

**7**

<b>NAME OF COMMITTEE</b>	<b>Audit Committee</b>
<b>DATE</b>	<b>10<sup>TH</sup> June 2014</b>
<b>REPORT TITLE</b>	<b>REVISION of the CONTRACT PROCEDURE RULES</b>
<b>Report of</b>	<b>S.151 Officer Monitoring Officer Chief Internal Auditor</b>
<b>WARDS AFFECTED</b>	<b>All/Corporate</b>

### 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](mailto: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 September 2011.
- 1.3 The previous version, September 2011, was 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'. *(Removed by the June Audit Committee pending further information at a later date)*

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 to be shared with South Hams, 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:

<b>Corporate priorities engaged:</b>	All/Corporate
<b>Statutory powers:</b>	Section 135 Local Government Act 1972; and Accounts and Audit Regulations 2011.
<b>Biodiversity considerations:</b>	No specific biodiversity issues arising from this report.
<b>Sustainability considerations:</b>	No specific sustainability issues arising from this report.
<b>Crime and disorder implications:</b>	No specific crime and disorder issues arising from this report.
<b>Background papers:</b>	Constitution: Contract Procedure Rules CIPFA: Contract Procedure Rules - Guidance and Template 2006
<b>Appendices attached:</b>	<b>Appendix A:</b> 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 ↓ ↑ ↔



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



## CONTENTS

### A BRIEF GUIDE TO CONTRACT PROCEDURE RULES and DEFINITIONS

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## A BRIEF GUIDE TO CONTRACT PROCEDURE RULES AND

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)

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

S.151 Officer and Monitoring Officer

## DEFINITIONS

Term	Definition
<b>Agent</b>	A person or organisation acting on behalf of the Council or on behalf of another organisation.
<b>Award Criteria</b>	The criteria by which the <i>Contract is to be awarded to the successful Tenderer</i> (see further Rules 10 and 11.2e).
<b>Award Procedure</b>	The procedure for awarding a <i>Contract</i> as specified in Rules 8, 10 and 15.
<b>Bid</b>	<i>A Supplier's proposal submitted in response to the Procurement Documentation</i>
<b>Bond</b>	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.
<b>Code of Conduct (Officers)</b>	The code regulating conduct of Officers, available on the Council's Intranet.
<b>Code of Conduct (Members)</b>	As set out in the Constitution – Part 5.
<b>Concession Contracts</b>	<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 - seek CPO advice.</i>
<b>Constitution</b>	The constitutional document approved by the Council which: <ul style="list-style-type: none"> <li>• Allocates powers and responsibility within the Council and between it and others</li> <li>• 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.</li> <li>• Available on the Internet</li> </ul>
<b>Consultant/ Consultancy</b>	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.
<b>Contract</b>	<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>
<b>Contracting Decision</b>	Any of the following decisions: <ul style="list-style-type: none"> <li>• Withdrawal of <i>Invitation to Tender</i></li> <li>• Whom to invite to submit a <i>Quotation</i> or <i>Tender</i></li> <li>• <i>Shortlisting</i></li> <li>• Award of <i>Contract</i></li> <li>• Any decision to terminate a <i>Contract</i></li> <li>• <i>Any decision to extend or vary a Contract.</i></li> </ul>

## DEFINITIONS

Term	Definition
<b>Contract Notice</b>	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> .
<b>Corporate Contract</b>	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 <b>Contracts let by the Council and/or Contracts or Framework Agreements let by other organisations to which the Council has access.</b>
<b>Corporate Procurement Officer (CPO)</b>	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.
<b>Dynamic Purchasing System</b>	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.
<b>Electronic Auction</b>	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
<b>Executive/ Committees</b>	The Council's Executive/Committees as defined in the <i>Constitution</i> .
<b>EU Procedure</b>	The procedure required by the EU where the <i>Total Value</i> exceeds the <i>EU Threshold</i> .
<b>EU Threshold</b>	The value at which the EU public procurement directives apply.
<b>European Economic Area</b>	The members of the European Union, and Norway, Iceland and Liechtenstein.
<b>Financial Procedure Rules</b>	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).
<b>Framework Agreement</b>	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.
<b>Government Procurement Agreement</b>	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.
<b>Head of Service/Director</b>	The officers defined as such in the <i>Constitution</i> .
<b>High Profile</b>	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
<b>High Risk</b>	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
<b>High Value</b>	A high-value purchase is where the value exceeds the <i>EU Threshold</i> values.
<b>Interests</b>	<p>Is a connection to another person or organisation that meets any of the following criteria:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) Employment by a Supplier of the individual or a close relative of the Individual; and/or</li> <li>(c) Provision of services to a Supplier by the Individual or by the firm the individual is associated with, and/or</li> <li>(d) Connection with, whether prejudicial or otherwise, any person/s said to be affected by the outcome of a procurement process.</li> </ul>
<b>Invitation to Tender (ITT)</b>	<i>Invitation to Tender</i> documents in the form required by these Contract Procedure Rules.
<b>Key Decision</b>	Decisions that are defined as key decisions in the <i>Constitution</i> .
<b>Monitoring Officer</b>	As identified in the Constitution. The Monitoring Officer or the Monitoring Officer's formally nominated deputy
<b>Nominated Suppliers</b>	Those persons specified in a main <i>Contract</i> for the discharge of any part of that <i>Contract</i> .
<b>Non-commercial Considerations</b>	<ul style="list-style-type: none"> <li>(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').</li> <li>(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.</li> <li>(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</li> <li>(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').</li> <li>(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.</li> <li>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.</li> <li>(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.</li> </ul> <p><i>Continued overleaf.</i></p>

## DEFINITIONS

Term	Definition
<b>Non-commercial Considerations (Continued)</b>	(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
<b>Officer</b>	The officer designated by the <i>Head of Service</i> to deal with the <i>Contract</i> in question.
<b>Parent Company Guarantee</b>	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.
<b>Portfolio Holder</b>	A member of the <i>Executive/Committees</i> to whom political responsibility is allocated in respect of specified functions.
<b>Pre-Qualification Questionnaire (PQQ)</b>	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.
<b>Priority Services</b>	Those services required to be tendered as defined in the EU public procurement directives.
<b>Procurement Documentation</b>	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.
<b>Procurement Strategy</b>	The document setting out the Council's approach to procurement and key priorities for-a <i>specified period of time</i> .
<b>Purchasing Guidance</b>	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 <i>Procurement Tool</i> .
<b>Quotation</b>	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.
<b>Relevant Contract</b>	Contracts to which these Contract Procedure Rules apply (see Rule 4).
<b>S.151 Officer</b>	The officer as may be designated S.151 Officer by the Council in line with the Constitution, including the appointed Deputy S.151 Officer.
<b>Selection Criteria</b>	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
<b>Service Manager</b>	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.
<b>Shortlisting</b>	The process of selecting <i>Suppliers</i> who are to be invited to quote or bid or to proceed to final evaluation.
<b>Standstill</b>	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>
<b>Sub-Contractors</b>	Those persons specified in a main <i>Contract</i> for the discharge of any part of that <i>Contract</i> .
<b>Supplier</b>	Any person who asks or is invited to submit a <i>Quotation</i> or <i>Tender</i> .
<b>Teckal</b>	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
<b>Tender</b>	A <i>Supplier's</i> proposal submitted in response to the <i>Invitation to Tender</i>
<b>Tender Register Pro Forma</b>	The log kept by the <i>Monitoring Officer</i> to record details of <i>Tenders</i> (see Rule 13.5).
<b>Total Value</b>	<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, <b>including any permitted extensions</b></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><b>(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</b></p> <p><b>(e) Where the <i>Contract</i> is to be executed over a period for goods or services and</b></p> <ul style="list-style-type: none"> <li>• a series of contracts; or</li> <li>• a <i>Contract</i> which under its terms is renewable is entered into</li> </ul> <p><b>(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</b></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
<b>Total Value (Continued)</b>	<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>
<b>TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)</b>	<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>
<b>Value for Money</b>	<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:

<b>Total Value (excl. VAT)</b>	<b>Exemption Authorised By</b>
£7,500–£50,000	<i>Internal Audit Monitoring Officer S.151 Officer</i>
£50,001–EU Threshold	<i>Corporate Procurement Officer (Internal Audit in his/her absence) Monitoring Officer S.151 Officer</i> <b>South Hams</b> - Leader or Deputy Leader <b>West Devon</b> - 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

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](http://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** of a *Contract* is the whole of the value or estimated value (in money or equivalent value) for a single purchase in the following circumstances:

- (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 (four years).
- (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* for goods or services is to be carried out over a period of time:
  - as a series of contracts (which might otherwise be disaggregated); or
  - as a *Contract* which under its own terms and conditions is renewable.
- (f) The value of the scheme or contracts which may be awarded as a result of a feasibility study.
- (g) The **Total Value** of all contracts expected to be placed under a *Framework Agreement*.
- (h) The **Total Value** of all contracts expected to be placed under a *Dynamic Purchasing System*.

The **Total Value** shall be that part of the main *Contract* to be fulfilled by the *Nominated Supplier or Sub-contractor*.

In addition to the above, *Officers* need to be aware that there is a wider corporate procurement interest where there are a number of requirements over a given period for purchases that have similar characteristics or are for the same type of goods and services e.g. consultants carrying out similar activities in the same or different service areas. See also paragraph 2.1.2 on the required use of corporate contracts where they exist.

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*.

## SECTION 3: CONDUCTING PURCHASES

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.

<b>Total Value (excl. VAT)</b>	<b>Award Procedure</b>	<b>Short listing</b>
(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 Head of Service 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.
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 Head of Service in consultation with the <i>Corporate Procurement Officer</i>
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 <i>Head of Service (responsible for ICT)</i> in consultation with the <i>Corporate Procurement Officer</i>

## SECTION 3: CONDUCTING PURCHASES

- 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 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.

## SECTION 3: CONDUCTING PURCHASES

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 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:

## SECTION 3: CONDUCTING PURCHASES

- 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
  - 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)



## SECTION 3: CONDUCTING PURCHASES

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 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.

## SECTION 3: CONDUCTING PURCHASES

- (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.
  - (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.

## SECTION 3: CONDUCTING PURCHASES

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
- 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.

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### **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;
- 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.

## SECTION 3: CONDUCTING PURCHASES

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.*

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—

### SECTION 3: CONDUCTING PURCHASES

- 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*.

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:

<b>Total Value</b>	<b>Method of Completion</b>	<b>By</b>
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 <b>head of ICT</b> , 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:

<b>Project Total Value excl. VAT</b>	<b>Overspend excl. VAT</b>	<b>Authorised By</b>
Up to £500,000	£25,000 to £50,000	S.151 Officer Head of Assets With retrospective reporting to the Executive/Committees within the quarterly monitoring report.
Up to £500,000	Exceeds £50,000	Executive/Committees
Over £500,000	10%	Executive/Committees

## 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.*



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**8**

## WEST DEVON BOROUGH COUNCIL

AGENDA  
ITEM  
**8**

<b>NAME OF COMMITTEE</b>	<b>AUDIT COMMITTEE</b>
<b>DATE</b>	10 <sup>th</sup> June 2014
<b>REPORT TITLE</b>	<b>CODE OF CORPORATE GOVERNANCE – COMPLIANCE REVIEW 2013/14</b>
<b>REPORT OF</b>	<b>Head Of Finance &amp; Audit (S.151 Officer), Monitoring Officer, and Chief Internal Auditor</b>
<b>WARDS AFFECTED</b>	<b>All/Corporate</b>

**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 West Devon Borough 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 2006 and 2011 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. Significant issues raised in this report will be reflected in the Annual Governance Statement.

**Financial implications:**

None: within existing budgets.

**RECOMMENDATIONS:**

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

**Officer contact:**

For further information concerning this report, please contact:  
 Lisa Buckle, Head of Finance & Audit and S.151 Officer  
 Allan Goodman, Chief Internal Auditor (01803) 861375 or email  
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## **1. BACKGROUND**

- 1.1 CIPFA/SOLACE 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 revised Code of Corporate Governance approved by the Audit Committee in June 2008.
- 1.2 The document describes 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;
  - 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 by the Council in April 2011.
- 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, nor 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 West Devon 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 2013/14 Review**

- 1.14 The Appendices A to F sets 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 print (blue where available in colour) indicates a change compared with the 2011/12 review to enable members to readily identify new entries to this document;** text not in bold blue 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.

**2. ANNUAL GOVERNANCE STATEMENT 2013/14**

2.1 The results of the annual review described above are to 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>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>Internally this is known as the T18 Transformation Programme.</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
<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>	<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>  <i>Monitoring Officer 31st December 2014</i>
<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>	<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>  <i>Monitoring Officer 31st December 2014</i>

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 Constitution may benefit from the inclusion of a 'Members Planning Code of Good Practice', which would aim to promote good practice and ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.</i>	<i>The Monitoring Officer should arrange for a 'Members Planning Code of Good Practice' to be included in the Constitution, to be aligned as far as possible with an equivalent document at South Hams.</i>  <i>Monitoring Officer 31<sup>st</sup> December 2014 In time for 2015 Constitution update</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 Monitoring Officer 30th September 2014</i>

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

2.5

### 3. PROGRESS on the 2012/13 ACTION PLAN

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

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

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><b>Data Quality Strategy</b> The Council's Data Quality Strategy should be reviewed and updated and the appropriate approval sought for any revised document.</p>	<p>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.</p>

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><b>Overarching Agreement</b> 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. 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><b>Onward Delegation</b> 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><b>Partnership Framework</b> The Council's Partnership Framework, Policy and Guidance and reporting requirements would benefit from a review and update as a shared approach with South Hams District 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 South Hams District Council.</p>	<p>Implemented. The appropriate officer was appointed and has completed:</p> <ul style="list-style-type: none"> <li>• A new Partnership Policy approved by the Resources Committee;</li> <li>• Supplementary guidance to officers involved with partnerships;</li> <li>• A partnership register and identification of significant partnerships; and</li> <li>• Preparation for an annual report to Overview and Scrutiny in late summer/autumn of 2014.</li> </ul>

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
<p><b>Members Planning Code of Good Practice</b>            The Constitution may benefit from the inclusion of a 'Members Planning Code of Good Practice', which would aim to promote good practice and ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.            The Monitoring Officer should arrange for a 'Members Planning Code of Good Practice' to be included in the Constitution, to be aligned as far as possible with an equivalent document at South Hams.</p>	<p>Repeated in action plan at section 2 above.            Work on this document is in progress but not completed due to time restraints and the Monitoring Officer's other high priority work pressures.</p>

Principle 6: Engaging with local people and other stakeholders to ensure robust public accountability:

Compliance Review Findings for this Principle	Action Plan with Responsible Officer & Target Date
<p><b>Overview and Scrutiny Annual Report</b>            The Constitution requires that the Overview &amp; Scrutiny Committee must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.            The Council Agendas for 2012/13 did not carry a 2011/12 annual report for the Committee as had been intended.            The Democratic Services Manager should arrange for an Overview and Scrutiny Annual Report to be presented to Council as required by the Constitution.</p>	<p>Implemented.            The annual report of the Overview and Scrutiny Committee for 2012/13 was presented to the Council meeting of 30<sup>th</sup> July 2013.</p>

#### 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 appear in a table following these other considerations:

<b>Corporate priorities engaged:</b>	The report meets all of the corporate priorities.
<b>Statutory powers:</b>	Accounts and Audit Regulations 2011
<b>Considerations of equality and human rights:</b>	No specific equality and human rights issues arising from this report.
<b>Biodiversity considerations:</b>	No specific biodiversity issues arising from this report.
<b>Sustainability considerations:</b>	No specific sustainability issues arising from this report.

<b>Crime and disorder implications:</b>	No specific crime and disorder issues arising from this report.
<b>Background papers:</b>	<ul style="list-style-type: none"> <li>• The Council’s Code of Corporate Governance 2011;</li> <li>• CIPFA/SOLACE (2012) Delivering Good Governance in Local Government;</li> <li>• CIPFA/SOLACE Application Note to Delivering Good Governance in Local Government: a Framework: March 2010;</li> <li>• CIPFA Statement on the Role of the Chief Financial Officer in Public Service Organisations – June 2009;</li> <li>• CIPFA/SOLACE (2007) Delivering Good Governance in Local Government – Framework;</li> <li>• CIPFA/SOLACE (2007) Delivering Good Governance in Local Government – Guidance Note for English Authorities.</li> </ul>
<b>Appendices attached:</b>	<p><b>Appendix A</b> – 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><b>Appendix B</b> – Principle 2: Members and officers working together to achieve a common purpose with clearly defined functions and roles;</p> <p><b>Appendix C</b> – Principle 3: Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour;</p> <p><b>Appendix D</b> – Principle 4: Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;</p> <p><b>Appendix E</b> – Principle 5: Developing the capacity and capability of Members and officers to be effective; and</p> <p><b>Appendix F</b> – 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			
Page 87	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 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.
	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 monitor the effective development and operation of risk management and corporate governance in the Council'.</p>	Audit Committee; S.151 Officer; Monitoring Officer; 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	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>	The Council; Audit Committee; S.151 Officer; Monitoring Officer; Chief Internal Auditor.

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"> <li>Develop and promote the Council’s purpose and vision;</li> <li>Review on a regular basis the Council’s vision for the local area and its impact on its governance arrangements;</li>   <li>Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners;</li> </ul>	<p><b>Purpose and Vision</b></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. <b>These are to be reviewed in early 2014/15.</b></p> <p>The Priorities are confirmed in Article 6 of the Constitution and are published on the Council’s website.</p> <p><b>‘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</b></p> <p><b>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.</b></p> <p><b>Partnerships</b></p> <p><b>Article 9</b> 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.</p> <p><b>The Resources Committee 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 .</b></p> <p><b>Connect Partnership</b></p> <p>On 26th July 2011, the Council 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 Delivery Group comprising of the key stakeholders monitor plans and report to a Connect Partnership Board etc. <b>A Connect Strategy ‘Annual Update’</b></p>

*was published in 2013/14 and is available on the Council's website.*

**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"> <li>Publish an annual report on a timely basis to communicate the Council's activities and achievements, its financial position and performance.</li> </ul>	<p><b>Publishing Activities and Achievements</b></p> <p><i>The Council's magazine, 'West Devon 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>The magazine and many other news items are available on the Council's web site, and 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>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><b>Financial Statements</b></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 4: Financial Procedure Rules).</p> <p>They are produced in line with the requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA).</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>
<p>b) Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> <li>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;</li> <li>Put in place effective arrangements to identify and deal with failure in service delivery.</li> </ul>	<p><b>Quality of Service and Data</b></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.</p> <p><i>The Strategy was updated in 2013 and approved by the Senior Management Team in December 2013.</i></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. (Continued)</p>	<ul style="list-style-type: none"> <li>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;</li> <li>Put in place effective arrangements to identify and deal with failure in service delivery.</li> </ul>	<p><b>Quality of Service and Data</b></p> <p>The Council’s 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 (Overview and Scrutiny).</p> <p>The performance 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><b>Failure in Service Delivery</b></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 was updated in December 2011 linked to the introduction of internal complaint management software. <b>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.</b></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>Continued overleaf.</p>	<ul style="list-style-type: none"> <li>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.</li> </ul>	<p><b>Performance and Value for Money</b></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.</p> <p>The targets set within these plans will be achievable and realistic delivering outcomes for local communities. Progress against targets will be reported regularly to the Connect Partnership Board and the Overview and Scrutiny Committee.</p> <p>The Council’s external auditor’s latest ‘Annual Audit Letter’ for 2012/13 was presented to the December 2013 Audit Committee. This report says that ‘An unqualified Value for Money conclusion was issued in respect of the Council’s arrangements to secure economy, efficiency and effectiveness in its use of resources’ for the year ending 31</p>

March 2013'.  
The letter is made available on the Council's website.

**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.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> <li>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.</li> </ul>	<p><b><i>Performance and Value for Money(continued)</i></b></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.</p> <p>The targets set within these plans will be achievable and realistic delivering outcomes for local communities. Progress against targets will be reported regularly to the Connect Partnership Board and the Overview and Scrutiny Committee.</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. 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><b><i>A report to a Special Council meeting in November 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 South Hams District Council which will ensure quality services for customers and communities.</i></b></p> <p><b><i>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></b></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"> <li>• 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;</li> <li>• 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;</li> <li>• Ensure compliance with CIPFA’s Code on a Prudential Framework for Local Authority Capital Finance and CIPFA’s Treasury Management Code.</li> </ul>	<p><b>Financial Advice</b> 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. 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> <p><b>Prudential Financial Framework</b> The Council publishes a Medium Term Financial Strategy each year, which covers a four year period. That for period 2014/15 – 2017/18 was approved by the Resources Committee in September 2013. It is linked to the Council’s priorities and has regard to business planning – pressures and savings, government grant settlements, council tax and reserves. It also reflects the revenue implications of the capital programme. 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. Quarterly reports to the Resources Committee monitor income and expenditure against the approved budget. The annual Statement of Accounts includes the performance against the budget in the year and the impact on balances. The Capital Programme is approved by the Council on recommendation of the Resources Committee, who also receive monitoring reports on the progress being made on the Programme.</p> <p><b>Treasury Management</b> 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 full Council upon recommendation of the Audit Committee at the beginning of each year and an annual report at the end. Half yearly updates are also provided to the Resources Committee. Part 3 of the Constitution provides for the Audit Committee to monitor the effectiveness of the Treasury Management function. Its role is to review the Treasury Management Policy and procedures and make recommendations to the responsible body. Quarterly reports are therefore made to the Committee, with an annual report as required by the regulations (July annually).</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.</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>Internally this is known as the T18 Transformation Programme.</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"> <li>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;</li> <li>Set out a clear statement of the respective roles and responsibilities of other Council Members, Members generally and senior officers.</li> </ul> <ul style="list-style-type: none"> <li>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.</li> </ul>	<p><b>Member Roles and Responsibilities</b></p> <p><b>The Council’s Constitution</b> defines the roles and responsibilities of the Council, Committees and all other Member bodies, the Mayor, Members generally and senior officers. Its purpose is 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 of all Councillors, Article 4 the Full Council, Article 7 describes the role of the Committees (all are linked to the Delegation Scheme at Part 3) and Article 6 the Decision Making process, describes the principles of decision making and the Priorities.</p> <p>Article 9 <i>Officers</i> outlines the functions and areas of responsibility of senior officers, including the Chief Executive (as Head of Paid Service) <b>until 31.12.2013</b>, Directors and statutory officers (Section 151 and Monitoring Officers).</p> <p>It states that the Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. The Head of Paid Service will report to Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.</p> <p><b>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.</b></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 updated as required and presented to the Council for approval annually, through the Audit Committee.</p> <p><b>Status of the Chief Financial Officer (CFO)</b></p> <p>Article 9 and Part 4 of the Constitution demonstrates that the CFO reports directly to the Chief Executive as Head of Paid Service and attends meetings of the Senior Management Team with a status equivalent to other members. The Management</p>

Structure shows a shared management team with South Hams District Council.

**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"> <li>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;</li> </ul>	<p><b><i>Delegation Scheme/Collective Decision of the Council</i></b></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 Committees and other Council bodies.</p> <p>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><b><i>Delegation Scheme/Constitution</i></b></p> <p>The Council has entered into shared working arrangements with South Hams District Council under which some officer’s 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. <b><i>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></b></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 11 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 <b><i>via recommendation by the Audit Committee.</i></b></p> <p>West Devon Borough 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. <b><i>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></b></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"> <li>• Make a Chief Executive (Head of Paid Service) or equivalent responsible and accountable to the Council for all aspects of operational management;</li> <li>• 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;</li> <li>• Ensure that the Council's governance arrangements allow the CFO direct access to the CEO and to other leadership team members;</li> <li>• 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;</li> <li>• 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;</li> <li>• Ensure that 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</li> </ul>	<p><b>Leader and Chief Executive (Head of Paid Service)/Executive Directors</b></p> <p>Article 9 of the Constitution outlines the Chief Executive's functions and responsibilities Executive (and Head of Paid Service) <b>superseded by the Executive Directors</b> which are further detailed in the related job description, specification and signed secondment agreement with South Hams District Council for this 'shared' post.</p> <p>The Leader's role is described by Article 5 of the Constitution, as is that off the Mayor, and includes providing effective leadership by giving voice to the overall direction of the Council. The Leader is appointed at Annual Council for the coming year.</p> <p>The Chief Executive (Head of Paid Service) and the Leader meet on a regular weekly 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. This is the continuation of historical practice.</p> <p><b>From January 2014, the meeting has been held with the two Executive Directors.</b></p> <p><b>Chief Financial Officer (CFO)</b></p> <p>Article 9 of the Constitution states that the Council will appoint a Head of Finance &amp; Audit, who will be designated as the Chief Finance (S.151) Officer.</p> <p>Article 9 also sets out the functions of the statutory officers, the S.151 Officer and of the Monitoring Officer. It provides for the CFO to have direct access to the Chief Executive as Head of Paid Service and other management team leaders. 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.</p> <p>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> <p>Part 3 of the Constitution, Delegation Scheme includes Officers, also reflects statutory provisions. For the S.151 Officer this reference to the Financial Procedure Rules which includes the publication of the Council's audited annual Statement of Accounts and the budget for the coming year.</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</p>

appropriately, economically, efficiently and effectively; and has a line of professional accountability throughout the organisation;

advise Members and officers in their respective roles; and, will provide financial information to the media, Members of the public and the community .

**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"> <li>• Ensure that 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;</li> <li>• Ensure that budget calculations are robust and reserves adequate, in line with CIPFA guidance;</li> <li>• 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;</li> <li>• 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.</li> </ul>	<p><b>Chief Financial Officer (CFO)</b></p> <p>The CFO leads the promotion of good financial management including through the provision and publication of Financial and Contract Procedure Rules etc.</p> <p>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 South Hams District Council. This risk is mitigated by formally appointed Deputy S.151 Officers who are dedicated to each Council (not shared).</p> <p><b>Budgets</b></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.</p> <p>The budget proposals report to the Resources Committee 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 accounting system (General Ledger) and are supported with advice by a nominated accountant – a finance ‘buddy’. 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><b>Monitoring Officer</b></p> <p>Article 9 requires the Monitoring Officer to ensure lawfulness and fairness of decision making and contribute to corporate management.</p> <p>These responsibilities are reflected in the related job description and specification and also include responsibility for maintaining the Constitution, supporting the Standards Committee, provide advice etc.</p> <p>The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.</p>
<p>c) Ensuring relationships between the Council its partners and the public are clear so that each knows what to</p>	<ul style="list-style-type: none"> <li>• Develop protocols to ensure effective communications between Members and officers in their respective roles;</li> </ul>	<p><b>Communication between Members and Officers</b></p> <p>The Council’s Constitution defines the roles of Members and officers as discussed in previous paragraphs. Part 5 of the Constitution includes a Protocol on Councillor /</p>

<p>expect of the other.</p> <p><i>Continued overleaf.</i></p>		<p>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>
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**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> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> <li>• 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;</li> <li>• 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;</li> <li>• Ensure that effective mechanisms exist to monitor service delivery;</li> <li>• 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;</li> <li>• Establish a medium term business and financial planning process to deliver strategic objectives including:             <ul style="list-style-type: none"> <li>• a medium term financial strategy to ensure sustainable finances</li> </ul> </li> </ul>	<p><b>Remuneration of Members</b></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 Scheme of Members’ Allowances are considered initially by an Independent Panel appointed for that purpose which then makes recommendations to the Council. For 2013/14, the allowance was held at the 2012 level.</p> <p><b>Remuneration of Officers</b></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. 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. The policies can all be found on the Council’s Intranet.</p> <p><b><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></b></p> <p><b>Monitoring Service Delivery</b></p> <p>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><b>Vision, Strategic Plans etc.</b></p> <p>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><b>Business and Financial Planning</b></p> <p>The Council’s Medium Term Financial Strategy and annual budget process is described at Principle 1(c) Appendix A. Both are subject to regular review and monitoring.</p>

	<ul style="list-style-type: none"> <li>• a robust annual budget process that ensures financial balance</li> <li>• a monitoring process that enables this to be delivered;</li> </ul>	
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**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>	<p>Ensure that these are subject to regular review to confirm the continuing relevance of assumptions used.</p> <p>When working in partnership:</p> <ul style="list-style-type: none"> <li>• Ensure that Members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the Council;</li> <li>• Ensure that there is clarity about the legal status of the partnership;</li> <li>• 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.</li> </ul>	<p><b><i>Business and Financial Planning</i></b></p> <p>The Council’s Medium Term Financial Strategy and annual budget process is described at Principle 1(c) Appendix A. Both are subject to regular review and monitoring.</p> <p><b><i>Partnerships</i></b></p> <p>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><b><i>The Resources Committee approved the adoption of a Partnership Policy document in December 2013.</i></b> This is supported by supplementary guidance to officers considering joining a partnership. Areas covered included:</p> <ul style="list-style-type: none"> <li>• Partnership definitions;</li> <li>• Partnership assessment;</li> <li>• Managing risk and identifying opportunities;</li> <li>• Governance arrangements</li> <li>• Information sharing;</li> <li>• Terms of Reference;</li> <li>• Identifying ‘Significant Partnerships’;</li> <li>• Business Case Significant Partnerships; and</li> <li>• Evaluation and Review.</li> </ul> <p><b><i>The new Policy also requires a Partnership Register which has been completed. An annual appraisal of each significant partnership will be presented to members (overview and scrutiny function) for review in the late summer/autumn of 2014 and will provide information on achievements, challenges and risks and recommend any changes.</i></b></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:**
**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"> <li>• Ensure that the Council’s leadership sets a tone for the organisation by creating a climate of openness, support and respect;</li> <li>• 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;</li> <li>• 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.</li> </ul>	<p><b>Openness</b></p> <p>Article 3 of the Constitution provide Citizens with the right 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, complain and access information under the Freedom Information Act</p> <p>The Council adheres to the Freedom Information Act 2000, Data Protection Act 1998, Environmental Information Regulations 2004 and the Reuse Of Public Sector Information Regulations 2005.</p> <p><b>South Hams has an Information Access Policy which incorporates the requirements of these Acts and describes the principles for the disclosure of information: openness, transparency, fairness, compliance and challenge. The document is aging and we have recommended update and alignment with and equivalent for West Devon.</b></p> <p>The Constitution also contains Access to Information Rules at Part 4(2).</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><b>Standards of Conduct – Members and Officers</b></p> <p>The Codes of Conduct for councillors (Part 5a of the Constitution) and staff (Part 5b of the Constitution) set out the 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 interests has been provided to Members and officers.</p> <p>The Member Code of Conduct changed as a result of the Localism Act. The revised Code was adopted by the Council at the meeting of 26th June 2012 with a start date of the 1st July 2012. <b>An updated version of the Member’s Code was presented to the Standards Committee in February 2014 and approval recommended to the 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.</b></p> <p>The Constitution includes a Protocol on Councillor / Officer Relations, see Principle 2.</p> <p>A Standard of Behaviour for Staff is published on the Council’s Intranet and is linked to the annual Employee Appraisal &amp; Competency scheme.</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"> <li>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.</li> </ul>	<p><b>Standards of Conduct – Members and Officers</b></p> <p>There is a formal confidential reporting (whistle blowing) system and grievance procedure that enables officers to formally complain about issues of concern in respect of behaviour without fear of reprisal. Confidential Reporting is publicised through the Intranet and staff/Member Induction.</p> <p>The Council has published an Anti-Fraud, Corruption and Bribery Policy and Strategy, and separate Response Plan, which are publicised through the Council’s electronic bulletins, web-site, Intranet, leaflets on notice boards, email reminders and Induction.</p> <p><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"> <li>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.</li> <li>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;</li> <li>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.</li> </ul>	<p><b>Values</b></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.</p> <p><b>Procedures Conform to Ethical Standards</b></p> <p>Ethical considerations are included in reports to the decision makers, which are available to the community on the Council’s website. Part 4 of the Constitution includes Procedure Rules for Council, Overview &amp; Scrutiny, Budget and Policy Framework, Finance, Contracts, Officer Employment amongst others.</p> <p>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><b>Financial Administration</b></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 Officers as well as the Audit Committee.</p> <p>Contract Procedure Rules were updated in 2011/12 and aligned with South Hams District Council’s equivalent as part of the 2015 Transformation Project - Financial Controls and Governance Arrangements for Shared Services. <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
<p>b) Ensuring that organisational values are put into practice and are effective. (Continued)</p>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• Develop and maintain an effective Standards Committee;</li> <li>• 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;</li> <li>• 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.</li> </ul>	<p><b>Financial Administration</b> Financial Procedure Rules were also reviewed, updated and aligned as far as possible with the South Hams District Council equivalent, with presentation to the Audit Committee in February 2013 and approval by the February 2013 Council.</p> <p><b>Standards Function</b> Part 3 of the Constitution, Delegation Scheme, gives the Terms of Reference for the Council's Standards function, the Standards Committee. Meetings are recorded and agendas and minutes published on the Council's web-site.</p> <p><b>Decision Making</b> Article 6 of the Constitution sets out the principles of decision making for Members. Part 3 of the Constitution also sets out the responsibilities for decision-making and includes the Delegation Scheme. 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><b>Partnership</b> The Resources Committee 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>

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**Principle 3 - Action Plan**

Compliance Review Findings for this Principle	Recommendation	Action Plan with Responsible Officer & Target Date
<p><i>The Constitution may benefit from the inclusion of a 'Members Planning Code of Good Practice', which would aim to promote good practice and ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.</i></p>	<p><i>The Monitoring Officer should arrange for a 'Members Planning Code of Good Practice' to be included in the Constitution, to be aligned as far as possible with an equivalent document at South Hams.</i></p>	<p><i>Monitoring Officer 31<sup>st</sup> December 2014 In time for 2014 Constitution update</i></p>

**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"> <li>• 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;</li>   <li>• Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based:</li>   <li>• 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;</li>   <li>• Ensure an effective internal audit function is resourced and maintained;</li> </ul>	<p><b>Scrutiny</b></p> <p>Part 4 of the Constitution lays down the Procedure Rules for the Overview &amp; Scrutiny Committee and also includes ‘Access to Information Procedure Rules’, which also describes the rights to access copies of documents.</p> <p>Part 3 of the Constitution sets down the Terms of Reference for the Overview &amp; Scrutiny Committee, including to review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions; and consider any matter affecting the area or its inhabitants.</p> <p><b>Evidence of Decisions</b></p> <p>Article 6 of the Constitution sets out the principles of decision making for Members. Part 3 of the Constitution sets out the responsibilities for decision-making and includes the Delegation Scheme.</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 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.</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><b>Safeguards Against Conflicts of Interest</b></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 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> <p><b>Internal Audit</b></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>

**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"> <li>• Ensure an effective internal audit function is resourced and maintained;</li> <li>• 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;</li> <li>• Ensure that the Council's governance arrangements allow the CFO direct access to the audit committee and external audit;</li> <li>• Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints.</li> </ul>	<p><b>Internal Audit (continued)</b> An internal audit service provides assurance 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><b>Audit Committee</b> Part 3 (Delegation Scheme) of the Constitution 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. Article 7 sets out the membership requirements for the Audit Committee, which meets quarterly as a minimum. Article 9 of the Constitution states that the CFO will report to the full Council 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. The CFO and/or his/her Deputy attend all Audit Committee meetings.</p> <p><b>Complaints</b> 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 Principles 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> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> <li>• 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;</li> <li>• 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;</li> </ul>	<p><b>Quality of Information</b> 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> <p><b>Budget and Financial Performance</b> 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.</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"> <li>• 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;</li> <li>• 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.</li> <li>• Ensure the Council's governance arrangements allow the CFO to bring influence to bear on all material decisions;</li> <li>• Ensure that advice is provided on the level of reserves and balances in line with good practice (LAAP) guidance.</li> </ul>	<p><b>Budget and Financial Performance</b>                      In addition the Council's financial systems and accounts are subject to external auditing by an external auditor as part of their work towards providing the Council with an opinion to the Statement of Accounts and Members with an annual letter providing assurance or highlighting significant issues that require attention.</p> <p><b>Professional Advice</b>                      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.</p> <p><b>CFO's Influence</b>                      A system of consultation for all reports to decision makers is in place that includes the CFO for any financial matters. As discussed above, 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><b>Reserves</b>                      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>
<p>c) Ensuring that an effective risk management system is in place.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> <li>• 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;</li> </ul>	<p><b>Risk Management</b>                      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"> <li>• An adopted Risk Management Policy;</li> <li>• Strategic, Operational and Partnership risk registers;</li> <li>• <b>A separate risk register is held for the T18 Transformation programme and included in the report to the Audit Committee;</b></li> <li>• A system for identifying risks and the controls to mitigate them;</li> <li>• A Corporate Risk Management Group of officers;</li> </ul>

**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"> <li>• Ensure the Council's arrangements for financial and internal control and for managing risk are addressed in annual governance reports;</li> <li>• 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</li> <li>• Ensure that arrangements are in place for whistle-blowing to which staff and all those contracting with the Council have access.</li> </ul>	<p><b>Risk Management</b></p> <ul style="list-style-type: none"> <li>• Training for officers and Members;</li> <li>• SMT regularly and frequently consider strategic risks;</li> <li>• Risk assessment in projects and reports to the decision makers;</li> <li>• Regular risk monitoring reports to the Audit Committee; and</li> <li>• Publicising and providing training on risk management to Members and officers.</li> </ul> <p>Work on improvements to the operational risk framework continues.</p> <p><b>Internal and Financial Control</b></p> <p>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><b>Whistle Blowing</b></p> <p>The Council's whistle-blowing policy, known as the Confidential Reporting Policy, is available to all staff on the Council's Intranet and is also publicised internally on an occasional basis to maintain its profile.</p> <p>The policy is presented to new Members and staff at Induction courses.</p>
<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"> <li>• 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;</li> <li>• 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;</li> </ul>	<p><b>Legal Requirements and Lawful Activity</b></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.</p> <p>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>

**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"> <li>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.</li> </ul>	<p><b>Legal Requirements and Lawful Activity</b></p> <p>Article 9 of the Constitution sets out the statutory functions of the Monitoring Officer, which includes ensuring lawfulness and fairness in decision making. These responsibilities are reflected in the related job description and specification.</p> <p>The Monitoring Officer reviews the reports to Members for legality.</p> <p>The Responsibility for Functions document and Delegation Scheme to Officers reflects statutory provisions, as does the. Both appear in the Constitution at Part 3.</p> <p>Part 4 of the Constitution lays down the Procedure Rules for the Overview &amp; Scrutiny Committee, which includes the review of the performance of other public bodies in the area and invites reports from them by requesting them to address Scrutiny 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>Satisfactory</p>	<p>None</p>	<p>No further action required.</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>	<ul style="list-style-type: none"> <li>• Provide induction programmes tailored to individual needs and opportunities for Members and officers to update their knowledge on a regular basis;</li>   <li>• 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.</li> <li>• Ensure the CFO has the skills, knowledge, experience and resources to perform effectively in both the financial and non financial areas of their role;</li> <li>• Review the scope of the CFO's other management responsibilities to ensure financial matters are not compromised;</li> <li>• Provide the finance function with the resources; expertise and systems necessary to perform its role effectively.</li> </ul>	<p><b>Induction and Ongoing Development – Members</b></p> <p>Within the Constitution, it is the Overview and Scrutiny Committee’s Terms of Reference that includes the monitoring of member development and training against the development plan.</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. If they so wish, re-elected Members would be welcome to attend the induction sessions.</p> <p>The Devon Member Development Officer, managed through the shared Democratic Services Manager, offered all newly elected Members a ‘one to one’ interview which helped to formulate a corporate training plan for Members, and also identify individual development needs which are to be drawn up into Personal Development Plans.</p> <p>A West Devon Steering Group was appointed by the Council with a view to providing a joined up approach to member learning and development. The Steering Group drafted the WDBC Member Development Strategy which was adopted by Council.</p> <p>Other training is provided as required and training records are published.</p> <p>During the morning of Council meetings, time is set aside for member development sessions. Other ad hoc training is also provided as required and recorded on the web-site. Members receive a weekly bulletin which provides an update on current issues, background information on training events and a range of other topics.</p> <p><b>Induction and Ongoing Development - Officers</b></p> <p>A programme of training is provided to all officers that is linked to the annual Employee Appraisal &amp; 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.</p> <p>The CFO has no other management responsibilities.</p> <p>Article 9, Officers, sets out the responsibilities relating to S.151 Officer and Senior Management Team. It also 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. Financial Procedure Rules set the standards for controlling financial systems.</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.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> <li>Assess the skills required by Members and officers and make a commitment to develop those skills to enable roles to be carried out effectively;</li> <li>Embed financial competencies in person specifications and appraisals;</li> <li>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;</li> <li>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;</li> <li>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</li> </ul>	<p><b>Skills Development</b></p> <p>Member and officer development is discussed at 5(a) above.</p> <p>Early induction includes an overview of the finance and budget setting processes and Members are each given a copy of the ‘Introduction to Local Government Finance’ booklet prepared by the Finance Department.</p> <p>Specific training is provided for Audit Committee Members.</p> <p>Training is provided as part of the formal training plan as discussed above and specific training is and has been provided.</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 will be provided as part of the formal training plan as discussed above</p> <p>Under Part 4 of the Constitution, the Overview &amp; Scrutiny Procedure Rules allow the Committee to ‘call in’ decisions made by the Committees.</p> <p>However, this can only be used in exceptional circumstances, e.g. where Members of the Overview &amp; 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). A period of three working days is allowed after a Decision Notice is published to ‘call in’ a Committee decision.</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"> <li>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;</li> </ul>	<p><b>Encouraging the Community to Participate in the Work of the Council</b></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>Within the Scheme of Members’ Allowances (Constitution Part 6), there is a 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>

**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
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. (Continued)	<ul style="list-style-type: none"> <li>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;</li> </ul>	<p><b><i>Encouraging the Community to Participate in the Work of the Council</i></b></p> <p>The Council's website, under 'Your Council' includes the 'How You Can Get Involved' page, which provides advice on areas such as Public Questions at Meetings and 'Becoming a Councillor'.</p> <p>Members of the public are able to attend Committee meetings, speak at Planning and Licensing Committee and Overview and Scrutiny meetings and ask questions at the meetings of several Member bodies including the Council and Planning and Licensing 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"> <li>• Make clear to ourselves, all staff and the community to whom the Council is accountable and for what;</li> <li>• Consider those institutional stakeholders to whom the Council is accountable and assess the effectiveness of the relationships and any changes required;</li>   <li>• Produce an annual report on the activity of the scrutiny function.</li> </ul>	<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><b>Considering Institutional Stakeholders</b></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 and Overview &amp; Scrutiny Committee as appropriate.</p> <p>Part 3 of the Constitution (Overview &amp; Scrutiny Committee) states that Overview &amp; Scrutiny Committee will review and scrutinise the performance of other public bodies in the area on any relevant, general or specific issue and invite reports from them by requesting them to address Overview &amp; Scrutiny and local people about their activities and performance e.g. Community and Voluntary Service and Citizens Advice Bureau.</p> <p><b>Overview and Scrutiny Annual Report</b></p> <p>Overview &amp; Scrutiny Committee must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate. The Council Agenda for June 2013 carried the 2012/13 Annual Report.</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"> <li>• Hold meetings in public unless there are good reasons for confidentiality;</li>   <li>• 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;</li> </ul>	<p><b>Meetings in Public</b></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 and its Committees except where confidential or exempt information is likely to be disclosed.</p> <p><b>Clear Channels of Communication with the Community</b></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. These are available to view on the Council’s web-site and Intranet, and are 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> <p><b>Clear Channels of Communication with the Community</b></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 brings together key stakeholders from the community, voluntary, business and public sectors.</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"> <li>• 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;</li>   <li>• 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;</li> </ul>	<p><b><i>Clear Channels of Communication with the Community(continued)</i></b></p> <p>Annual stakeholder events are held <b><i>using existing fora and events to engage the Community.</i></b></p> <p>The Council has developed the ‘Voice’: Business Voice, Town and Parish Voice, Voluntary Voice, and <b><i>Young People Voice</i></b> consulting and engaging covering issues that are important to the particular groups.</p> <p><b><i>Local Development Framework</i></b></p> <p>The 2004 Planning and Compulsory Purchase Act requires local planning authorities to prepare a Statement of Community Involvement (SCI).</p> <p>This document sets out how and when the Council will involve the community in preparing development plans and processing planning applications.</p> <p>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 West Devon Borough Council on 17th April 2012 and South Hams District Council on 29th March 2012.</p> <p><b><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></b></p> <p><b><i>Other arrangements and documents include (list not exclusive):</i></b></p> <ul style="list-style-type: none"> <li>• Local business and Town/Parish Councils’ events providing input to the Council’s budget planning;</li> <li>• Survey of residents as part of the 2013/14 budget setting process, both online and through the Council’s magazine;</li> <li>• 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.</li> <li>• Community Partnership meetings and Community Grant schemes;</li> <li>• The Greater Dartmoor Local Enterprise Action Fund is a community led Rural Development Programme (RDPE) funding programmes for which the Council’s shared service partner, South Hams, acts as accountable body;</li> <li>• Link Committee meetings – held every quarter;</li> <li>• <b><i>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 2000 Twitter ‘Followers’ and increasing Facebook ‘Likes’;</i></b></li> </ul>

**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"> <li>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;</li> <li>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;</li> <li>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;</li> </ul>	<p><b>Other arrangements and documents include (list not exclusive):</b></p> <ul style="list-style-type: none"> <li>Community pages of the Council's website with related links;</li> <li>Members westdevon.gov.uk e-mail addresses and links via website;</li> <li>West Devon Connect: - taking a wide range of services nearer to West Devon residents including Customer Services, Planning, Waste; Includes other agencies and details are available on the Council's web-site, and E-Connect with a published <b>Connect Directory</b>;</li> <li>Business Voice - publication of the Business Newsletter (e-Bulletin);</li> <li>Benefits client survey and home visits to assist in application processing;</li> <li>Surveys, plus other community consultation;</li> <li>User groups such as Registered Housing Providers;</li> <li>Community and Voluntary Sector meetings;</li> <li>Service Level Agreements with voluntary organisations e.g. the CVS who provide support to the community and voluntary organisations, CAB for benefits.</li> </ul> <p><b>Types of Issues Consulted On</b></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.</p> <p>Consultations are co-ordinated through the Community Team and an <b>online survey tool</b>. They are subject to feedback but much is posted on the Council's web-site in a You Said/We Did format.</p> <p>Article 3 of the Constitution sets out what citizens can expect from their Council and what rights they have.</p> <p><b>Performance and Outcomes</b></p> <p>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>

**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"> <li>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.</li> </ul>	<p><b>Open and Accessible</b>                      Citizens have the right to attend meetings of the Council and its Committees 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 a Corporate Communications Policy.                      The Constitution commits the Council to openness in its dealings (e.g. Article 6 – Decision Making, Article 3 – Citizens and the Council), as does the adopted Corporate Priority (to December 2010) and the Council’s Policy on the Human Rights Act 1998.                      The Council has embraced the requirements of the Freedom of Information Act, and has complied with the requests received to date, except where otherwise bound by legislation. Guidance is available on the Council’s web-site.                      Weekly news bulletins are sent by e-mail to all staff concerning specific issues that need communicating including from the Chief Executive (Head of Paid Service), Senior Management Team or other managers.</p>
<p>c) Making best use of human resources by taking an active and planned approach to meet responsibility to staff.</p> <p><i>Continued overleaf.</i></p>	<ul style="list-style-type: none"> <li>Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.</li> </ul>	<p><b>Consulting Staff Representatives</b>                      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.                      The Joint Consultative and Negotiating Committee meets to discuss, be consulted on and negotiate on all and any amendments to terms and conditions of service.  <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>  <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>  <i>These and other key T18 documents are published for staff to view on the Council’s Intranet.</i></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. (Continued)</p>	<ul style="list-style-type: none"> <li>Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.</li> </ul>	<p><b>Consulting Staff</b></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 briefings to all staff on current issues.</p> <p>Other ad-hoc consultation with staff is undertaken when key changes are proposed e.g. creation of new staffing structures under shared services.</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 communication of issues.</p>

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**Principle 6 - Action Plan**

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

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16 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 £51,628, which compares to the audit fee of £51,628 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](http://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 £7,120.

### **Billing schedule**

Fees will be billed as follows:

<b>Main Audit fee</b>	<b>£</b>
September 2014	12,907
December 2014	12,907
March 2015	12,907
June 2015	12,907
	<b>51,628</b>
<b>Grant Certification</b>	
December 2015	7,120
<b>Total</b>	<b>58,748</b>

### **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.

<b>Phase of work</b>	<b>Timing</b>	<b>Outputs</b>	<b>Comments</b>
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:

	<b>Name</b>	<b>Phone Number</b>	<b>E-mail</b>
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

### **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](mailto:john.golding@uk.gt.com)) .

Yours sincerely

Barrie Morris  
For Grant Thornton UK LLP

# Agenda Item 3

At a Meeting of the **AUDIT COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **10<sup>th</sup>** day of **JUNE 2014** at **11.00 am**.

**Present:**  
Cllr D K A Sellis – Chairman  
Cllr J B Moody – Vice-Chairman  
Cllr T Hill  
Cllr M Morse

Head of Finance & Audit  
Chief Accountant  
Chief Internal Auditor  
Monitoring Officer  
Committee & Ombudsman Link Officer

**In attendance:** Cllr R Sampson  
Mr S Johnson – Grant Thornton

**AC 1 APOLOGY FOR ABSENCE**

An apology for absence was received from Cllr K Ball.

**AC 2 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 15<sup>th</sup> April 2014, were confirmed and signed by the Chairman as a correct record.

**\*AC 3 INTERNAL AUDIT – ANNUAL REPORT AND OPINION ON THE ADEQUACY OF INTERNAL CONTROL 2013/14**

The Chief Internal Auditor and the Head of Finance & Audit (S151 Officer) presented a joint report (page 6 to the Agenda) summarising the principal activities of the Internal Audit team for West Devon Borough Council during the year 2013/2014. This was shown in the report through:

- (i) showing the progress made by the section against the 2013/14 audit plan reviewed by the Committee in April 2013;
- (ii) providing an 'Opinion' on the adequacy of the Council's control environment;
- (iii) outlining any significant findings and the action taken by managers to address the recommendations; and,
- (iv) providing a summary of the main issues raised by individual audits.

In relation to the above, two Appendices were presented with the report; Appendix A (page 12 to the Agenda) detailed the audit plan for 2013/14 showing the audits completed, the Chief Internal Auditor's opinion and the comments arising; Appendix B (page 15 to the Agenda) detailed the final reports of completed audits.

Within Appendix B, three audits had achieved a final rating of "Fair"; Use of Agency Staff, Benefits and Homelessness. In each case the Management Response was positive and it was anticipated that a higher audit rating would be achieved next time.

The Annual Governance Statement was required to be signed by the most senior Member and Officer of the Council. To do so the Head of

Internal Audit must give an opinion on the adequacy and effectiveness of the control environment, which must include details of any weaknesses that qualify the opinion and any issues relevant to the preparation of the Statement must also be disclosed. The Chief Internal Auditor's Statement said:

"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 Appendix B to the report".

It was **RESOLVED** that the Chief Internal Auditor's Opinion on the Adequacy of Internal Control and the report be noted.

**\*AC 4**

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

The Chief Internal Auditor and the S151 Officer presented a joint report (page 24 to the Agenda) to provide the Committee with an assurance that the System of Internal Audit was in place and was effective. The purpose of the report was to show the Committee that the Council's Internal Audit Section continued to reach the standards set by the Chartered Institute of Public Finance and Accountancy (CIPFA) thereby enabling the Council's external auditors to gain assurance from the work of the section and that the service provided was received well.

The report also demonstrated that the wider System of Internal Audit was effective and contributed to the assurance provided by the Chief Internal Auditor's Opinion on the Adequacy of Internal Control which was provided in relation to Minute No AC 2 – 2014/2015 above.

It was **RESOLVED** that the findings of the Review of the Effectiveness of the System of Internal Audit as set out in the report be noted.

**AC 5**

**REVISION OF THE CONTRACT PROCEDURE RULES**

The S 151 Officer, Monitoring Officer and Chief Internal Auditor presented a joint report (page 32 to the Agenda) to allow the Committee to carry out an overview of the proposed updated Contract Procedure Rules and the amended rules surrounding Exemptions to enable an adoption recommendation to Council.

The proposed Contract Procedure Rules amended for June 2014 were presented in Appendix A (page 37 to the Agenda) with any changes to the September 2011 document highlighted in red typeface.

The key changes for the 2014 document were:

- 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'.

The proposed changes to these rules had been made with regard to the progress being made on the Transformation 18 (T18) Programme as at the time the report was written, however, as T18 moved into the implementation phase when roles and responsibilities would become clearer, a further update would most probably be necessary.

Subsequent to the report having been published and discussed by the South Hams District Council's Audit Committee, the Chief Internal Auditor tabled a slightly revised copy of paragraph 8.1 Purchasing: Competition Requirements to Obtain Quotations or Tenders (page 57 to the Agenda) simplifying the original text. Further, and within the same section, the Chief Internal Auditor agreed to clarify which officer' designation would be given in the "Short Listing" column for ICT when conducting purchases currently stated as being "TBC" (page 58 to the Agenda).

In further discussion, the Committee had some reservations in relation to Section 7, paragraph 24 "Development Agreements (page 77 to the Agenda) and agreed that this paragraph be removed from the final document for the time being pending further clarification and that a further report be brought to a future meeting of the Committee. The Committee was advised that South Hams District Council's Audit Committee had not made a similar request and had accepted this page.

It was **RESOLVED** to **RECOMMEND** that, subject to the removal of paragraph 24 "Development Agreements (page 77 to the Agenda) for the time being, the proposed revised Contract Procedures Rules as set out in Appendix A be approved by Council and included within the Council's Constitution and that a report on Development Agreements be presented to a future meeting of the Audit Committee.

**\*AC 6**

#### **CODE OF CORPORATE GOVERNANCE – COMPLIANCE REVIEW 2013/14**

The Head of Finance & Audit (S151 Officer), the Monitoring Officer and the Chief Internal Auditor presented a joint report (page 78 to the Agenda) on the results of the 2013/2014 compliance review of the 2011 Code of Corporate Governance. The Code described the

Borough Council's intentions in discharging its responsibilities and how it would be tested and monitored annually.

Six appendices were presented with the report:

Appendix A – Principle 1 (page 88 to the Agenda) : this appendix focussed on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area;

Appendix B – Principle 2 (page 94 to the Agenda) : this appendix focussed on Members and officers working together to achieve a common purpose with clearly defined functions and roles;

Appendix C – Principle 3 (page 101 to the Agenda) : this appendix focussed on promoting the values of the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour;

Appendix D – Principle 4 (page 104 to the Agenda) : this appendix focussed on taking informed and transparent decisions which had been subjected to effective scrutiny and risk management;

Appendix E – Principle 5 (page 109 to the Agenda) : focussing on developing the capacity and capability of elected Members and officers to be effective; and,

Appendix F – Principle 6 (page 112 to the Agenda) : focussing on engagement with local people and other stakeholders to ensure robust public accountability.

In relation to a statement contained within Appendix F (at page 113 to the Agenda) the Chairman and Vice-Chairman expressed their support for the use of Facebook and Twitter to disseminate information and to respond to residents' concerns, queries and complaints. It was their view that both Members and officers should make greater use of the social media streams.

The Committee expressed its thanks to the Council's Monitoring Officer and her colleagues for their work in relation to ensuring compliance with the Code.

It was **RESOLVED** that the findings of the 2013/2014 Compliance Review of the Council's Code of Corporate Governance be noted and that the significant governance issues be taken to the 2013/2014 Annual Governance Statement.

**\*AC 7**

#### **PLANNED AUDIT FEE FOR 2014/15**

The Committee received the letter from the Council's external auditors, Grant Thornton UK LLP (page 117 to the Agenda) which detailed the planned audit fee structure for 2014/2015. The letter advised that the Audit Commission had set the Council's fee at £51,628 which was the same as set for the year 2013/2014 and that the fee for the certification of grant claims and returns had been set at £7,120.



The letter also set out an outline audit timetable stating that audit planning and interim audit procedures would be undertaken in January 2015 after which a detailed audit plan would be prepared for audit work to be completed in September 2015 with the Value for Money conclusion and the whole government accounts return.

It was **RESOLVED** that the letter, fee structure and outline audit timetable be accepted.

**\*AC 8**

**CHANGE OF DATE OF THE COMMITTEE'S MEETING IN SEPTEMBER 2014**

It was **RESOLVED** that the date of the Committee's Meeting to be held in September 2014, be changed to Tuesday 23<sup>rd</sup> September 2014 and that the Meeting scheduled for Tuesday 30<sup>th</sup> September 2014 be cancelled.

(The Meeting terminated at 12.30 pm.)

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