



# **Part 3 Delegation Scheme**

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## 1. GENERAL OVERVIEW OF THE CONSTITUTION

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

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

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

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

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

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

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

### **Functions assigned by law**

- 1.3 Councils carry out a large range of functions conferred upon them by Parliament. The list is too extensive to be placed here but there are some indications and examples in the Scheme of Delegation which follows. In addition, under the Localism Act 2011 the Council has been given a general power of competence, enabling it to do anything that an individual might do. This is subject to certain qualifications.
- 1.4 The organisational functions flowing from statutory powers are carried out as described in the Scheme of Delegation. This is in two parts:
  - the powers exercisable by Members of the Council, in whatever capacity; and,
  - those exercisable by officers.
- 1.5 In this Part are summarised the functions specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, which are reserved to Council, those which may or must be exercised by the Executive, and those which must not be exercised by the Executive. The body or person to whom the function is assigned is named.
- 1.6 The Principles of Decision Making are set out in Part 2, Article 11.

## **2. PRINCIPLES OF DELEGATION**

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

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

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

2.3. In making any decision regard shall be had to the Council's Priorities and principles of decision-making as set out in Article 11 of the Constitution.

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

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

2.6 In an emergency, the Head of Paid Service is empowered to carry out any function of the Council.

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

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

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

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

### 3. DELEGATIONS TO FULL COUNCIL

**Only the Council** may exercise the following functions:

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

### **3. DELEGATIONS TO FULL COUNCIL (cont'd)**

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

### **3. DELEGATIONS TO FULL COUNCIL (cont'd)**

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



## 4. DELEGATIONS TO THE EXECUTIVE

### Responsibilities:

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

- approving the Council’s statement of accounts, income and expenditure and balance sheet, or record of payments and receipts – although the Executive will consider and recommend approval;

#### **4. DELEGATIONS TO THE EXECUTIVE (cont’d)**

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

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

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

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

## **4. DELEGATIONS TO THE EXECUTIVE (cont'd)**

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

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

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

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

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

4.9.1 The appointment of any individual -

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

4.9.1.2 to anybody other than -

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

4.9.1.3 the revocation of any such appointment.

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

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

#### **4. DELEGATIONS TO THE EXECUTIVE (cont'd)**

- 4.10 In discharging the functions of preparing for adoption a plan or strategy listed below, the Executive may consider and make a recommendation about them to Council:
- Control of borrowing, investments, capital expenditure or determining the authority's minimum revenue provision;
  - Licensing Authority Policy Statement;
- 4.11 In the following circumstances, the Executive may not exercise the functions described below:
- 4.11.1 When the decision to approve any plan or strategy other than those listed above has been reserved to itself by Council;
- 4.11.2 When an individual member of the Executive or the Executive as a body is minded to determine a matter relating to the authority's budget, borrowing or capital expenditure in a manner that is either –
- not in accordance with the budget or any current capital investment plan, or
  - not authorised by the authority's executive arrangements, financial regulations, standing orders or other rules or procedures in the intended terms;
- 4.11.3 When an individual member of the Executive or the Executive as a body is minded to determine a matter which is the Executive's responsibility in a manner that is not in accordance with a plan or strategy that has been approved by Council.
- 4.12 For the avoidance of doubt,
- 4.12.1 The Executive will manage all the Council's land and property;
- 4.12.2 The Executive will, having regard to the views of the relevant Scrutiny Panel, keep under review and recommend to Council the fees and charges for the Council's services (other than those within the remit of the Development Management Committee and the Licensing Committee) where

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

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

## **5. DELEGATIONS TO COMMITTEES**

### **AUDIT COMMITTEE**

#### **General Function:**

The Audit Committee will 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

#### **Responsibilities**

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

#### **Internal Audit**

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

To consider:

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

To promote:

- Internal control, including commissioning work from internal audit in association with the s151 officer and monitor audit performance;
- To make any necessary recommendations to the relevant Committee or Council in respect of the above.

## **5. DELEGATIONS TO COMMITTEES**

### **AUDIT COMMITTEE**

#### **Responsibilities (cont'd)**

##### **External Audit**

To consider:

- The External Auditor's Annual Governance Report and other relevant external audit reports;
- External Audit work to ensure that it gives value for money;
- The External Audit plans;
- Reports dealing with the management and performance of the external audit service providers; and
- Commission work and other specific reports from external audit as agreed with the External Auditor in association with the s151 officer.

##### **Accounts**

- To review and approve the Annual Statement of Accounts and to consider whether appropriate accounting policies have been followed;
- To consider the External Auditor's report on the annual audit of accounts;
- To make any necessary recommendations to the relevant Committee or Council in respect of the above.

##### **Regulatory Framework**

To:

- Maintain an overview of the Council's Constitution;
- Recommend to Council the adoption of:
  - A Code of Corporate Governance
  - Antifraud, Corruption and Bribery Strategy
  - Anti Money Laundering Policy
  - Risk Management Policies
- Oversee the System of Internal Control and Annual Governance Statement;
- To monitor Value for money (including benchmarking);

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

## **5. DELEGATIONS TO COMMITTEES**

### **AUDIT COMMITTEE**

#### **Responsibilities (cont'd)**

#### **Review and Scrutiny of Strategies**

To monitor:

- Risk Management Strategy;
- The Assurance Framework (including System of Internal Control);
- Code of Corporate Governance
- Antifraud, Corruption and Bribery Strategy
- Anti Money Laundering Policy
- Whistle-blowing Policy
- To make any necessary recommendations to the relevant Committee or Council in respect of the above.
- To oversee and monitor the Data Protection Policy



## **5. DELEGATIONS TO COMMITTEES**

### **DEVELOPMENT MANAGEMENT COMMITTEE**

#### **Responsibilities**

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

#### **PLANNING**

##### **5.1 Development Management and Control**

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

## **5. DELEGATIONS TO COMMITTEES**

### **DEVELOPMENT MANAGEMENT COMMITTEE (cont'd)**

#### **PLANNING**

##### **5.1 Development Management and Control (cont'd)**

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

##### **5.2 Conservation - Historic Buildings**

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

##### **5.3 Community Landscaping**

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

## **5. DELEGATIONS TO COMMITTEES**

### **DEVELOPMENT MANAGEMENT COMMITTEE (cont'd)**

#### **Relevant Statutory Powers**

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

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

#### **5.4. Local Land Charges**

- To provide and administer a comprehensive Land Charges system.

#### **Fees**

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

## **5. DELEGATIONS TO COMMITTEES (cont'd)**

### **LICENSING COMMITTEE**

#### **Responsibilities**

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

### **LICENSING SUB COMMITTEES**

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

## 5. DELEGATIONS TO COMMITTEES

### LICENSING SUB COMMITTEES (cont'd)

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

## 5. DELEGATIONS TO COMMITTEES

### LICENSING SUB COMMITTEES (cont'd)

d) (cont'd)

<b>STATUTE</b>
Local Government (Miscellaneous Provisions) Act 1976
Town Police Clauses Acts 1847 & 1889
Public Health Act 1875
Equalities Act 2010
Road Safety Act 2006
Local Government (Miscellaneous Provisions) Act 1976 as amended by Section 52 of the Road Safety Act 2006
Transport Acts 1980 & 1985
House to House Collections Act 1939
Local Government (Miscellaneous Provisions) Act 1982 – Schedule 3
Scrap Metal Dealers Act 1964 & 2013
Police, Factories etc (Miscellaneous Provisions) Act 1916
Vehicle (Crime) Act 2001 and Motor Salvage Operators Regulations 2002
Public Health Acts Amendment Act 1907 (Boats and Boatman)

### **Fees**

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

## **5. DELEGATIONS TO COMMITTEES (cont'd)**

### **SCRUTINY PANELS**

#### **1 Terms of Reference**

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

Each Scrutiny Panel will:

- (a) have the ability to hold the Executive to account;
- (b) review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (c) make reports and evidence-based recommendations to the full Council, the Executive and other bodies of the Council including those established under Joint Arrangements in connection with the discharge of any functions;
- (d) make reports and evidence-based recommendations to the full Council on any matters of broad local concern or importance within their remit;
- (e) conduct reviews and carry out community and other consultation in the analysis of policy issues and possible options;
- (f) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive or an Executive Portfolio Holder or key decisions made but not yet implemented by officers;
- (g) undertake the functions within the thematic areas set out in the table below. These thematic areas will of necessity be broadly defined. Any potential confusion or duplication between the thematic areas of these bodies which may result in duplication of effort or omission will be resolved by the Programming Panel.
- (h) be able to appoint such time limited working groups as it considers appropriate to fulfil its functions;
- (i) approve its own work programme;
- (j) review the system of referrals from Scrutiny to the Executive to ensure that these are managed efficiently and do not exceed reasonable time limits as set out in this Constitution;
- (k) respond to reasonable requests from the Executive to develop or review policy not within their remit;
- (l) in the event of reports to the Executive exceeding reasonable time limits, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business, at the request of the Executive, to make decisions about the priority of referrals made;

- (m) encourage and enhance community participation in the development of policy options and general decision making.



## 5. DELEGATIONS TO COMMITTEES

### SCRUTINY PANELS (cont'd)

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

## 2 Scrutiny: Specific Functions

Each Scrutiny Panel will, within its own thematic area:

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

the development of the budget and policy framework by in-depth analysis of the current provision, performance and policy issues;

## **5. DELEGATIONS TO COMMITTEES**

### **SCRUTINY PANELS (cont'd)**

#### **2 Scrutiny: Specific Functions (cont'd)**

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

#### **3 Corporate Performance and Resources Scrutiny Panel – Standards Matters**

##### **Roles and Functions:-**

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

- (d) to advise and train councillors and co-opted members on matters relating to the Code of Conduct;

## **5. DELEGATIONS TO COMMITTEES**

### **SCRUTINY PANELS (cont'd)**

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

(e) to grant dispensations to District Councillors (and where relevant, co-opted members of the District Council) on requirements relating to Disclosable Pecuniary Interests in the following circumstances:

- i. where many Members of the decision-making body have a Disclosable Pecuniary Interest, which would result in the political balance being affected;
- ii. it is in the interests of the inhabitants that a dispensation be granted; or
- iii. it is appropriate to grant a dispensation.

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

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

(f) to consult the Independent Person(s) in accordance with the 'Dealing with Complaints Policy';

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

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

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

##### **Roles and Functions:-**

(a) to consider complaints alleging a breach of the Members' Code of Conduct as referred by the Council's Monitoring Officer; and

(b) to receive investigation reports and carry out Hearings (including sanctions) in respect of allegations and misconduct.

## **5. DELEGATIONS TO COMMITTEES**

### **SCRUTINY PANELS (cont'd)**

#### **5 Officers**

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

#### **6 Annual Report**

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

## **SALCOMBE HARBOUR BOARD**

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

### **Specific Board functions:**

- (i) That Salcombe Harbour will conduct operations in accordance with the powers granted to the Council as a Harbour Authority by the Salcombe Harbour Order 1954 (The Pier and Harbour Order (Salcombe) Confirmation Act 1954) and any other enabling legislation and, insofar as it falls within the scope of these powers, the policy of the Council in relation to the Harbour as expressed through:-
  - The Harbour Policy Document;
  - Estuary and Environmental Management Plans;
  - Any byelaws approved and adopted in respect of the Harbour;
  - Safety Management Systems in Compliance with the Port Marine Safety Code;
  - Other Council decisions from time to time.
- (ii) That the Harbour is self-financing and that it maintains commercial accounts in conjunction with the accounts as required by the Authority to demonstrate the Harbour's commercial viability;
- (iii) That a three year strategic business plan for the Harbour is produced, approved by Council and reviewed annually;
- (iv) That decisions relating to the Harbour are based on advice from officers who have a clear understanding of the special requirements of the Harbour;
- (v) That they adopt and maintain transparent, speedy and informative communication with relevant Members of the Council's Executive for consultation and reporting purposes;

## **5. DELEGATIONS TO COMMITTEES**

### **SALCOMBE HARBOUR BOARD**

#### **Specific Board functions: (cont'd)**

- (vi) That they have due regard for the interests of the local community and user groups, attending community forums seeking views to gain a balanced picture of the effects of policy and decisions;
- (vii) That the existing systems for the delegation of functions be kept under review;
- (viii) That any matter which is beyond delegated authority is recommended to the Council by the Board;
- (ix) That charges and subsidies be recommended by the Board for approval by the Council on a yearly basis;
- (x) That they monitor and review all matters relating to the Harbour land and property in accordance with policies which may be laid down by the Council from time to time, for which financial and other provision has been expressly made by the Council. The Harbour's asset base is laid out in the associated plan;
- (xi) That they oversee the running of services to contract and/or to business plan on commercial lines by advising on business direction in the context of the Council's budget and policy framework;
- (xii) They monitor and analyse performance against budget, other indicators and performance plans;
- (xiii) That issues of concern are raised with officers of the Council.

## **5. DELEGATIONS TO COMMITTEES (cont'd)**

### **OTHER COUNCIL BODIES**

#### **ASSET MANAGEMENT GROUP**

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

#### **COUNCIL TAX SETTING PANEL**

The Council Tax Setting Panel has the following functions:-

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

#### **DESIGN REVIEW PANEL**

*To be supplied*

#### **DEVON BUILDING CONTROL PARTNERSHIP**

The responsibilities of the Partnership are:

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

## **5. DELEGATIONS TO COMMITTEES**

### **OTHER COUNCIL BODIES (cont'd)**

#### **JOINT STAFF CONSULTATIVE FORUM**

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

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

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

#### **POLITICAL STRUCTURES WORKING GROUP**

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

#### **PROGRAMMING PANEL**

The Programming Panel has the following terms of reference:

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



## **5. DELEGATIONS TO COMMITTEES**

### **OTHER COUNCIL BODIES (cont'd)**

#### **PUBLIC SPACES WORKING GROUP**

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

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

## **6. DELEGATIONS TO SENIOR OFFICERS**

### **Matters reserved for Council, Executive or Committee**

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

Any matter which:

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

### **Urgent Items**

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

## 6. DELEGATIONS TO SENIOR OFFICERS (cont'd)

### Delegations to Specific Senior Officers

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

## **6. DELEGATIONS TO SENIOR OFFICERS (cont'd)**

### **Delegation to the Head of Paid Service**

The Head of Paid Service shall have delegated authority for the following:

- Responsibilities of the Head of Paid Service
- Shared Services

### **Delegation to the Executive Director (Resources)**

- The Executive Director (Resources) shall have delegated authority in respect of all of the powers of Head of Paid Service to act in his absence.
- Shared Services
- Deputy Electoral Registration Officer

### **Delegation to the Monitoring Officer**

The Monitoring Officer shall have delegated authority for the following:

- \* Monitoring Officer issues (including those matters set out in Article 10)
- \* Conduct of legal proceedings on behalf of the Council as its solicitor

### **Delegation to the Heads of Service**

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

### **Delegation to the Head of Assets (Corporate Property Officer)**

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

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

## **6. DELEGATIONS TO SENIOR OFFICERS (cont'd)**

### **Delegation to Head of Corporate Services**

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

- Committee / Member Services
- Communications and Media
- Data Protection
- Elections, including the responsibilities of Returning Officer and Electoral Registration Officer
- Freedom of Information
- Human Resources
- Legal
- Ombudsman
- Payroll
- Print Services

### **Delegation to Head of Environment Services**

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

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

## **6. DELEGATIONS TO SENIOR OFFICERS (cont'd)**

### **Delegation to Head of Environmental Health & Housing**

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

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

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

### **Delegation to Head of Finance & Audit**

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

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

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

## **6. DELEGATIONS TO SENIOR OFFICERS (cont'd)**

### **Delegation to Head of ICT & Customer Services**

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

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

### **Delegation to the Head of Planning, Economy and Community**

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

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

## **6. DELEGATIONS TO SENIOR OFFICERS (cont'd)**

### **Delegation to the Devon Building Control Partnership Manager**

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

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

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

List of Enactments:

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



