# Mid Devon District Council Constitution

# October 2026

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# Part 1 - Introduction

This constitution sets out how Mid Devon District Council ("the Council") operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these procedures are required by the law, while others are a matter for the Council to choose.

The Council comprises 42 Councillors elected every four years. Councillors are democratically accountable to residents of their ward.

The Council operates a "Leader and Cabinet" system. The Council appoints the Leader of the Council, who then appoints between three and nine Cabinet Members to form the Cabinet. The functions for which the Cabinet will be responsible are identified in part three and it will be responsible for most decisions that affect the day-to-day operations of the Council.

The Planning Committee, Licensing Committee and Licensing Regulatory Committee will undertake the regulatory functions of the Council relating to determining planning applications and applications for public licences, e.g. caravan sites, gambling, liquor and public entertainment licenses, hackney carriages, etc. Meetings of all committees will be in public except where personal or confidential information is discussed.

The Council has established a Standards Committee, which oversees compliance with the Code of Conduct for Councillors within the district.

The constitution contains mandatory provisions required by central government and other relevant provisions which have been modified to suit the circumstances relating to this Council. The constitution is a living document intended to facilitate the work of the Council and will evolve and adapt over the years.

# Part 2 – Articles of the Constitution

## Article 1– The Constitution

**1.1 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

**1.2 The Constitution**

This Constitution, and all its appendices, is the Constitution of Mid Devon District Council.

**1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;

Support the active involvement of citizens in the process of local authority decision-making;

Help Councillors represent their constituents more effectively;

Enable decisions to be taken efficiently and effectively;

Create a powerful and effective means of holding decision-makers to public account;

Ensure that no one will review or scrutinise a decision in which they were directly involved;

Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and

Provide a means of improving the delivery of services to the community

**1.4 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 17.

## Article 2 – Members of the Council

**2.1 Composition and Eligibility**

(a) Composition

The Council will comprise 42 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

(b) Eligibility

Only registered voters of the District or those living or working there will be eligible to hold the office of Councillor.

**2.2 Election and Terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2015. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

**2.3 Roles and functions of all Councillors**

Key roles

All Councillors will:

(a) Irrespective of the ward to which they are elected, have as their over-riding duty the representation of interest of the whole community of Mid Devon collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;

Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions and will contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;

Represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities and effectively represent the interest of their ward and of individual constituents;

Deal with individual casework and may act as an advocate for constituents in resolving particular concerns or grievances and respond to constituent's enquiries and representations, fairly and impartially;

Balance different interests identified within the ward and represent the ward as a whole

Be involved in decision-making

Be available, where possible, to represent the Council on other bodies; and

Maintain the highest standards of conduct and ethics.

**2.4 Rights and Duties**

(a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

(b) Councillors shall not disclose information which is confidential or where disclosure is prohibited by law. If in doubt Councillors should seek guidance from the Monitoring Officer.

(c) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Procedure Rules in Part 4 of this Constitution.

**2.5 Conduct**

Councillors must at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

Councillors must promote and maintain high standards of behaviour as per the seven Nolan principles:

**Selflessness:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family or their friends.

**Integrity:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in performance of their official duties.

**Objectivity:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**Accountability:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**Openness:** Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**Honesty:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protect the public interest.

**Leadership:** Holders of public office should promote and support these principles by leadership and example.

**2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

## Article 3 – Citizens and the Council

Citizens have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints.

**3.1 Citizens' Rights**

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

(a) Voting and petitions

(a) Members of the public have the right to vote and sign a petition;

(b) Citizens on the electoral roll may submit a petition requesting a referendum on whether the Council should change to a different form of Governance e.g. Cabinet, Committee or Mayoral system

(b) Information

Citizens have the right to:

(a) Attend meetings of the Council, the Cabinet and its other Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

(b) See agendas, reports and background papers, and any records of decisions made by the Council, the Cabinet and other Committees, except where confidential or exempt information is likely to be disclosed;

(c) See the Cabinet forward plan containing major decisions to be decided

(d) Have access to copy of the Council's Constitution

(e) Contact their Councillor regarding a matter of concern

(f) Inspect the Council's accounts and make their views known to the external auditor.

(g) Expect courtesy and respect from officers and Councillors.

Participation

Citizens have the right to participate in the Council's question time and contribute to investigations by the Scrutiny Committee in accordance with the procedures for these committees and, in particular:

(a) Citizens should be helped to gain access to buildings and information

(b) Citizens have the right to record the meeting in accordance with the Local Authorities openness and transparency regulations 2014.

(c) Human Rights issues will be respected in accordance with Schedule 1 Part 1 of the Human Rights Act 1998

(d) Community Call for Action Section 21A of the Local Government Act 2000

Complain

Citizens have the right to complain to:

(a) The Council itself under its Complaints Scheme;

(b) The Ombudsman after using the Council's own complaints scheme;

(c) The Monitoring Officer about a breach of the Councillor's Code of Conduct.

(d) Housing Ombudsman Service (Complaints from Council Housing tenants)

**3.2 Citizens' Responsibilities**

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

They should not say or publish anything about individual Councillors or officers that is slanderous or libellous

## Article 4 – The Full Council

### 4.1 Introduction

The full Council is a formal meeting of all 42 Councillors. The full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of specific matters.

The full Council provides a central forum for debate for all Councillors and they are able to ask questions. Members of the public are able, to ask questions about the Council or matters affecting the Council at all full Council meetings with the exception of the Annual Meeting.

### 4.2 The Council

(a) Role

A meeting of the Council is one which all 42 members are entitled to attend and to speak and vote. The Council is responsible for the Budget and Policy Framework of the Council and for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself but others will be delegated to Committees or named officers.

(b) Plans and Budgets

The Council is responsible for the determination of its Budget and Policy Framework. The Council is responsible for regulatory and other non-Cabinet functions and has a role in holding the Cabinet to account.

### 4.3 Policy Framework

The Policy Framework means the plans and strategies which are approved by the Council annually and any other such plans and strategies adopted by Council as part of the policy framework:

(a) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

(b) Those other plans and strategies which Chapter 2 of Department for Communities Local Government Guidance recommends should be adopted by the Council as part of the Policy Framework;

(c) Other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.

### 4.4 Budget

Responsibility for the Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, determining the Council tax base, setting the Council tax level, decisions relating to the control of the Council's borrowing requirements, investments, the control of its capital expenditure and the setting of expenditure limits and permitted budget transfers.

### 4.5 Functions of the full Council

Only the full Council will exercise the following functions:

- Adopting and changing the Constitution;
- Amending, approving, or adopting the Policy Framework and the Budget;
- Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter where the Cabinet is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- Annual election of the Chair and the Vice Chair of the Council at the Annual General Meeting
- Electing the Leader following the ordinary election of Councillors every four years.
- Removing the Leader;
- Annual election of the Chair of the Scrutiny Committee at the Annual General Meeting
- Determining which Committees, Sub-Committees, Boards, Panels etc. shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and making the necessary appointments to the bodies;
- Appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- Adopting a scheme for members' allowances under article 2.6;
- Changing the name of the Council's area;
- Conferring the title of honorary alderman or Freeman of the District;
- Confirming the appointment of the Head of Paid Service; Chief Finance Officer and the Monitoring Officer and the taking of any disciplinary action against the these Officers and the designating of "Proper Officers";
- The approval or adoption of applications to the Secretary of State for approval of a programme of disposal of 500 or more properties or where consent is required for disposal of land used for residential purposes;
- The approval of an increase in rents for Council housing properties as part of the budget setting process;
- Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
- Adopting a Code of Conduct for Members (Councillors);
- Taking decisions in respect of functions which are not the responsibility of the Executive or Leader and which have not been delegated by the Council to Committees, Sub-Committees or officers;
- The making of Procedure Rules (except the Cabinet Procedure Rules) including in relation to Contracts and Finance;
- The delegation of non-executive functions to Committees, Sub-Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required;

- All other matters which, by law, must be reserved to the decision of the Council as a whole;
- Provide a means whereby councillors may ask questions of matters relevant to the Council's functions and to bring forward motions for debate;
- Receive an Annual Report from the chair of the Scrutiny Committee, Policy Development Groups and the Audit Committee and provide an opportunity for members to ask questions on the report;
- Receive reports from the Leader, the Cabinet, the Scrutiny Committee and the Audit Committee which they have referred to Council;
- Consider and decide on recommendations of Committees to Council;
- Consider reports on lawfulness and maladministration;
- Consider decisions referred from the Scrutiny Committee in respect of Cabinet functions where decisions have not yet been implemented and the Committee considers the decisions may be contrary to the Budget or Policy Framework; (i.e. through the call-in procedure)
- Receive reports from the Leader or Cabinet on urgent decisions contrary to the Policy Framework;
- Take all decisions in respect of delegating non-executive functions to another local authority;
- Set the Council Tax base and the Council Tax;
- Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of The Local Authorities Functions and Responsibilities (England) Regulations, 2000 as amended;
- Applications to the Secretary of State under Section 10 of the Representation of the People Act 2000 for an Order to proceed with pilot election arrangements.

**4.6 Council Meetings**

There are three types of Council meeting:

(a) the annual meeting;

(b) ordinary meetings;

(c) extraordinary meetings.

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

**4.7 Responsibility for Functions**

The Council will keep under review the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

**Article 5 – Chairing the Council**

The Chair and Vice-Chair of the Council will be elected by the Council annually. The Chair and in his absence the Vice-Chair, will have the following responsibilities, to:-

(a) Uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
(b) Preside over meetings of the Council impartially so that its business can been carried out efficiently and with regard to the rights of councillors and the interests of the community;
(c) Ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet to account;
(d) Promote public involvement in the Council's activities;
(e) Attend or be represented at such civic and ceremonial functions as the Council and he/she determines appropriate;
(f) Determine any matter referred to him/her under the urgency provisions of the Access to Information Procedure Rules or the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution; and
(g) Be consulted on any matter to which consultation with the Chair of the Council is required under this Constitution.

## Article 6 – The Executive (Cabinet)

### 6.1 Introduction

The term 'Executive' shall be the collective name for the Leader of Council and the members of the Cabinet, unless the context dictates otherwise. The terms 'executive function' shall mean those matters and functions that have been delegated to the Executive.

The Executive will exercise all of the local authority functions that are not the responsibility of any other part of the Council, by law or under this constitution.

Many decisions will be made by the Executive, rather than the full Council. For ease of reference in this Constitution the Executive will be referred to as the Cabinet

### 6.2 Form and Composition of the Executive

The Executive (which is also known as the Cabinet) will consist of:-

(i) The Leader of the Council (the "Leader"); and

(ii) The Deputy Leader of the Council together with at least three but not more than nine Councillors appointed to the Cabinet by the Leader.

### 6.3 Leader

Election

The Leader of the Council will be a Councillor elected to the position of Leader by the Council for a period of four years at the Annual Meeting immediately following the local government elections.

Term of Office

(1) The Leader of the Council will hold office until:-

(i) he/she resigns from the office; or
(ii) he/she is disqualified from being a Councillor; or
(iii) Where the Council passes a resolution removing him/her from office.

(2) In the event of any casual vacancy in the position of Leader the Deputy Leader shall act in the Leader's place until the appointment of a new Leader by the Council.

(3) If for any reason

(i) The executive leader is unable to act or the office of the executive leader is vacant, and

(ii)The deputy executive leader is unable to act or the office of the deputy executive leader is vacant,

The Executive must act in the executive leader's place or must arrange for a member of the executive to act in the executive leaders place.

Role of the Leader

The Leader will carry out all of the Council's executive functions, whether by law or under this Constitution, which are not the responsibility of any other part of the Council.

Removal of the Leader

A motion must be passed to remove the Leader of the Council and this must have the support of the majority of those members voting and present in the room at the time that the question was put.

**6.4 Deputy Leader**

Appointment

The Leader may designate one of the members of the Cabinet as Deputy Leader. Reference to Deputy Leader is given to mean either of the members appointed to that role where two such members have been appointed.

If 2 deputy leaders are appointed that the total composition of the Executive remains at a maximum of 10 members.

Should any additional Special Responsibility Allowance be applicable to the Deputy Leader role in future, that if 2 members have been appointed to that role such uplift as may be applicable to the role of deputy leader over a cabinet member be split equally between them so as not to add to the overall cost of the allowance scheme in this circumstance.

Duties of the Deputy Leader

The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

Removal from Office

The Leader may, if he/she thinks fit, remove the Deputy Leader from office at any time.

**6.5 Other Cabinet Members**

Other Cabinet Members will be Councillors appointed to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:-

(a) He/she resigns from that office; or

(b) They are no longer councillors; or

(c) He/she is disqualified from being a Councillor

(d) He/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or

(e) He/she ceases to be a Councillor.

(f) The Leader may at any time appoint a Cabinet Member to fill any vacancies.

**6.6 Proceedings of the Cabinet**

The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Part 4 of this Constitution.

**6.7 Delegation of Functions**

The Leader may exercise executive functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge as set out below:-

The Leader may delegate executive functions to:-

(a) The Cabinet as a whole;
(b) A Committee of the Cabinet (comprising executive members only);
(c) An individual Cabinet Member;
(d) A joint committee;
(e) Another local authority or the executive of another local authority;
(f) A delegated Officer.

## Article 7 – Overview and Scrutiny

### 7.1 Introduction

(a) The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. The overview and scrutiny function should consist of a powerful committee that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.

(b) The function of overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. The overview and scrutiny function should not shy away from the need to challenge and question decisions and make constructive criticism.

(c) At Mid Devon District Council the committee which carries out the overview and scrutiny function is known as the Scrutiny Committee.

### 7.2 Scrutiny Committee: General role

The Scrutiny Committee will:-

(a) Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council or any of its Committees;

(b) Make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any functions;

(c) Consider any matter which affects the Council's area or its citizens;

(d) Make reports and/or recommendations to the Full Council on any matters of broad local concern or importance not otherwise specified within the remit of the Policy Development Groups; and

(e) Exercise the right to call in for reconsideration decisions made but not yet implemented by the Cabinet/individual Cabinet Members or key decisions made but not yet implemented by Officers.

(f) The Scrutiny Committee may arrange for the discharge of any of its functions by a sub-committee.

### 7.3 Scrutiny Committee: Specific Functions

The Scrutiny Committee may:-

(a) Review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council Officers in relation to individual decisions and over time;

(b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

(c) Question members of the Cabinet and/or Committees and Chief Officers from the Council about their decisions and performance, whether generally in

comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project;

(d) Make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

(e) Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance; and

(f) Question and gather evidence from any person with a relevant knowledge, expertise or responsibility (with their consent).

**7.4 Officers**

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

**7.5 Annual Report**

The Scrutiny Committee must report annually to the full Council on their workings with recommendations for its future work programme and amended working methods if appropriate.

**7.6 Committee and Membership**

The Scrutiny Committee will comprise 12 Councillors, plus any additional members as the Council may see fit to appoint. Cabinet Members may not be members of the Scrutiny Committee.

**7.7 Proceedings of Overview and Scrutiny Committee**

The Scrutiny Committee will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## Article 8 – Policy Development Groups (PDGs)

### 8.1 Introduction

(i) A key part of the overview role is to review existing policies, consider proposals for new policies and suggest new policies.

(ii) Mid Devon District Council has five Policy Development Groups which act as the overview function, developing and reviewing policy. They are not committees or sub-committees of the Council and do not have decision-making powers

### 8.2 Policy Development Groups: General role:

Within their terms of reference Policy Development Groups may:

a. Make reports and/or recommendations to the full Council and/or the Cabinet and/or any other bodies of the Council in connection with the discharge of any functions;
b. Make reports and/or recommendations to the full Council on any matters of broad local concern or importance within their remit; and
c. Undertake the functions below 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. The Programming Panel will also have discretion in ensuring that there is a reasonable division of issues for consideration between each of the Policy Development Groups.

| Group | Thematic area |
|---|---|
| **Economy & Assets** | Growing the District Economy and increasing returns from our assets.<br><br>• Economic Development<br>• Town Centre Regeneration<br>• Tourism<br>• Services for business<br>• Markets<br>• Building Maintenance<br>• Property Services<br>• Public Conveniences<br>• Asset Management<br>• MDDC depots & property<br>• Existing Council Companies housing and property related- Liaison only<br>• Inward Investment,<br>• Business support and development<br>• Markets<br>• Local and national economy<br>• Town Team updates<br>• Business Rates updates<br>• Commercial unit's property updates<br>• Night time economy (could include references to licencing and anti-social behaviour)<br>• Funding bids and updates<br>• High Street Innovation Fund<br>• Project updates on heritage projects<br>• Arts projects and food and drink projects which link to the local economy.<br>• Car Parking |
| **Planning, Environment & Sustainability** | To be a leader and pioneer of best climate practice so new innovation and thinking is at the heart of the services we deliver and informs our planning policies.<br><br>• Local Plan |

| Group | Thematic area |
|---|---|
| | • Development Management Policies<br>• Development Control<br>• Forward Planning<br>• Conservation<br>• Building Control<br>• Planning Enforcement<br>• Gypsy sites<br>• Urban and Rural regeneration<br>• Climate Change<br>• Bio Diversity<br>• Mid Devon Carbon Emissions<br>• Environmental Sustainability<br>• Energy<br>• Devon Carbon Plan<br>• Trees<br>• Flood risk management<br>• Flood Defence and Land drainage<br>• Street naming and numbering to Parish liaison but to remain in this PDG for the policy aspect. |
| **Homes** | Delivering new affordable and social homes annually, improving and maintain the existing stock to the highest standards.<br><br>• HRA Housing<br>• Neighbourhood and Tenancy Management<br>• HRA Income Collection<br>• Tenant Involvement<br>• Homelessness Prevention<br>• Housing Needs and Allocation<br>• Housing Enabling<br>• Private Sector Housing<br>• Commercial & HRA properties<br>• Council Housing<br>• Housing Strategy<br>• Housing policies<br>• HRA budget<br>• HRA capital programme and planned maintenance |

| Group | Thematic area |
|---|---|
| | • Building maintenance<br>• Devon Home Choice<br>• Asbestos management<br>• Community Housing support<br>• Update on affordable housing projects<br>• Updates on legislative changes or guidance from the Home England, Private Sector Homes<br>• Bringing back empty homes into use<br>• DFGs |
| **Community, People & Equalities** | Involving and engaging with our communities, ensuring everyone is treated with equity and respect, and protecting our most vulnerable.<br><br>• Emergency Plan<br>• Parish Liaison<br>• Community Engagement and Consultation<br>• Grants and Funding<br>• External Health & Safety<br>• Equalities<br>• Local Welfare Assistance<br>• Air Quality<br>• Contaminated Land<br>• Licensing<br>• Food and Water Control<br>• Pollution and Noise Control<br>• Poverty Premium/Vulnerable Persons Strategy<br>• Benefits<br>• Health Services<br>• Community Safety<br>• Anti-Social Behaviour<br>• CCTV<br>• Gazetteer Management<br>• Land Charges<br>• Street naming and numbering<br>• Public health, |

| Group | Thematic area |
|---|---|
| | • Environmental Health (e.g. food standards, water quality)<br>• Presentations from grant funded organisations<br>• Safeguarding children and vulnerable adults<br>• Community engagement and consultation<br>• Equalities<br>• Digital transformation – broadband, Local welfare assistance, Benefits, Presentations from local interest groups such as Drink Wise Age Well, Youth Services, Older Persons strategy,<br>• Updates from the clinical commissioning group,<br>• RIPA,<br>• Targeted families |
| **Service Delivery & Continuous Improvement** | Delivering Council services that residents want in the right way, in the right place and at the right price.<br><br>• Open Spaces and Play areas<br>• Ground Maintenance<br>• Cemeteries<br>• Waste Collection and Recycling<br>• Street Cleaning<br>• Environmental Enforcement (includes abandon vehicles, animal control, fly tipping)<br>• Clocks and Monuments<br>• Leisure<br>• Customer Service<br>• Complaints<br>• Trade Waste<br>• Clinical Waste |

**8.3 Policy Development Groups: specific functions:**

Policy Development Groups may:

a. Assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of current provision, performance and policy issues;
b. Instigate and conduct research, community and other consultation in the analysis of policy issues, possible options and the development of policy;
c. Regularly involve members of the Cabinet and occasionally members of other bodies of the Council and officers to question them to find out their views on issues, proposals and policy affecting the area;
d. Consider reports 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
e. 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.
f. Consider the impact of policies to assess if they have made a difference.

**8.4 Annual report**

The Chair of the Policy Development Groups must report annually to full Council on their workings and make recommendations to amended working methods if appropriate.

**8.5 Membership**

The Policy Development Groups will each comprise 9 Councillors, plus any additional members as the Council may see fit to appoint. Cabinet Members may not be members of a Policy Development Group.

**8.6 Proceedings of Policy Development Groups**

(i) Subject to paragraph 8.6(b) and (c), Policy Development Groups will conduct their proceedings in accordance with the Procedure Rules set out in Part 4 of this Constitution, notwithstanding the fact that they are not a committee or sub-committee of the Council;

(ii) Where an item of business would be relevant to the functions of more than one Policy Development Group ("Group"), each Group may resolve to convene a joint meeting with the other Group(s) for the purpose of better discharging that business. If the item of business is so urgent that a resolution by each Group is impracticable without convening a special meeting just for that purpose, the Chair of each Group, or the Vice-Chair in absence of the Chair, may instead agree in writing that a joint meeting be convened.

(iii) Where a joint meeting is convened:

(a) The first item of business will be to elect a Chair for that meeting from the Chairs of each Group present at the meeting. Where no such Chairs are

present, the Chair will be elected from the Vice-Chairs present and, if there are none, from those members present at the meeting;

(b) Save for those items necessary to comply with the Procedure Rules in Part 4, the only business to be transacted at the joint meeting will be that item of business which led to it being convened;

(c) The proceedings of the joint meeting shall be recorded in a single set of minutes which will be referred for approval by each Group taking part in the joint meeting at their next available meetings; and

(d) If the joint meeting makes a recommendation to the Council or the Cabinet, the recommendation shall stand as a joint recommendation of each Group and shall be recorded as such on the agenda and in the minutes of the Council or Cabinet meeting.

## Article 9 – Audit Committee

### 9.1 Audit Committee: General Role

Within their terms of reference, the Audit Committee may:

(i) Provide independent assurance of the adequacy of the risk management framework and the associated control environment including (from the perspective of the Council) those partnership or joint working arrangements the Council has with other bodies and how their risk management and controls might impact the Council;

(ii) Provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment;

(iii) Oversee the financial reporting process;

(iv) Approve the Statement of Accounts, Annual Governance Statement and the Council's Final Accounts

(v) Make reports and/or recommendations to full Council and/or Cabinet and/or any other bodies of the Council in connection with the discharge of its functions;

(vi) Make reports and/or recommendations to full Council on any matters of broad local concern or importance within their remit, to include amendments to financial regulations.

### 9.2 Audit Committee: Specific Functions

The Audit Committee may:-

**Audit Activity**:-

- Consider and approve the strategic audit approach and the annual audit programme;
- Consider the annual internal audit report including an overall opinion on the adequacy of the Council's control environment, the extent to which the audit plan has been achieved, and a summary of any unresolved issues;
- Consider summaries of specific internal audit reports as requested;
- In the event of the audit service being contracted out, consider reports dealing with the management and performance of the providers of internal audit services;
- Consider reports from internal audit on agreed recommendations not implemented within reasonable timescales;
- Consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- Consider specific reports as agreed with the external auditor;
- Comment on the scope and depth of external audit work and to ensure it gives value for money;
- Liaise with the Audit Commission over the appointment of the Council's external auditor should that become necessary;
- Commission work from internal and external audit.

**Internal Controls**

- Review any issues referred to by the Chief Executive or any Council body;

- Monitor the Council's confidential reporting policies in relation to anti-fraud and anti-corruption, whistle blowing and Anti Money Laundering, including monitoring the use of the Whistle Blowing policy and the Council's Complaint process;
- Annually approve the Council's Risk Management Strategy and review the effectiveness of the Council's Risk Management process on a regular basis and gain assurance that appropriate action is being taken to ensure that corporate risks are being managed, including a report to the Council annually;
- Oversee the production of the Council's Annual Governance Statement and to ensure that relevant and suitable evidence has been obtained to support the disclosures within the Statement;
- Review and approve the Council's Annual Governance Statement and monitor the progress against the Annual Statement action plan on a regular basis;
- Annually review and update the Council's Code of Corporate Governance to ensure compliance with best practice and legislative guidance;
- Consider the Council's compliance with its own and other published standards and controls including supporting the Council's adopted ethical standards framework and the work of the Standards Committee.

**To review and formally approve the Annual Statement of Accounts**

- Consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from audit regarding the robustness of the accounts that need to be brought to the attention of the Council;
- Consider the external auditor's reports to those charged with governance on issues arising from the audit of the accounts.

**9.3 Annual report**

The Chair of the Audit Committee must report annually to full Council on their workings and make recommendations to amended working methods if appropriate.

**9.4 Committee and Membership**

The Audit Committee will comprise 9 Councillors, plus one Independent member and any additional members as the Council may see fit to appoint. The Independent Member (who shall not be a Member of the Council) is appointed to provide experience and expertise in audit, accountancy, finance and risk management to advise the Committee in these areas and shall have no voting rights.

**9.5 Proceedings of the Audit Committee**

The Audit Committees will conduct their proceedings in accordance with the Procedure Rules set out in Part 4 of this Constitution.

## Article 10 – Standards Committee

**10.1 Standards Committee: General role**

a) The Council shall establish a Standards Committee to carry out its functions relating to ethical matters under the Localism Act 2011.

**10.2 Standards Committee: Specific Functions**

The Standards Committee will have the following roles and functions:

- Promoting and maintaining high standards of conduct by Councillors and co-opted Members;
- Assisting the Councillors and co-opted members to observe the Member's Code of Conduct;
- Advising the Council on the adoption or revision of the Members' Code of Conduct;
- Monitoring the operation of the Members' Code of Conduct;
- Advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- Granting some dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- Dealing with any reports from a case and any other report from the Monitoring Officer on any matter;
- Exercising of (a) to (g) above in relation to the town and parish councils wholly or mainly in its area and the members of those town and parish councils;
- Overview of complaints handling and Ombudsman investigations; and
- Overview of the Constitution.
- Consider any recommendations put forward by the Standards Sub-Committee in respect of any hearings.

**10.3 Standards Committee: Composition**

(a) The Standards Committee shall be composed of nine District Councillors.

(b) The Standards Sub-Committee shall be composed of three of the District Councillors on the Standards Committee

**10.4 Standards Sub Committee: Specific Functions**

The Standards Sub-Committee will have the following roles and functions:

(a) To conduct hearings into allegations regarding breaches of the Code of Conduct following referral from the Monitoring Officer.

(b) To make any recommendations back to the Standards Committee, such actions to include:

(c) Publication of the findings of the Standards (Hearing) Sub-Committee in respect of the Subject Member's conduct.

(d) Reporting the findings of the Standards (Hearing) Sub-Committee to Council for information.

(e) Recommendation to Council that the Subject Member should be censured.

(f) Recommendation to the Subject Member's Group Leader (or in the case of ungrouped members to Council) that the Subject Member should be removed from any or all Committees or Sub-Committees of the Council for a recommended period.
(g) Recommend to Leader that the Subject Member should be removed from the Cabinet, or removed from their Portfolio responsibilities
(h) Instructing the Monitoring Officer to arrange training for the Subject Member.
(i) Recommendation to Council that the Subject Member should be removed from all appointments to which the Subject Member has been appointed or nominated by the Council.
(j) Withdrawal of facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and Internet access.
(k) Placing such restrictions on the Subject Member's access to council staff, buildings or parts of buildings as may be reasonable in the circumstances.
(l) No further action if appropriate.

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## Article 11 – Regulatory and Other Committees

### 11.1 Introduction

The Council will appoint committees to undertake a variety of regulatory and other functions that are the responsibility of the Council but which do not have to be carried out by the full Council.

### 11.2 Regulatory Committees

The Council will appoint the following bodies:

- Planning Committee
- Licensing Committee
- Licensing Regulatory Committee

**Other Committees and Sub-Committees**

- The Council will appoint such other committees as it considers appropriate to exercise any of its functions.
- Any committee appointed by the Council may at any time appoint additional sub-committees and panels throughout the year. Their terms of reference and delegation of powers to them shall be explicit and within the Appointing Committee's terms of reference.

## Article 12 – Area Committees

### 12.1 Area Committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of more efficient, transparent and accountable decision making. In the event of area committees being appointed, the following sub articles apply. The Council will consult with relevant Parish and Town Councils and the Chair of Parish Meetings when considering whether and how to establish Area Committees.

### 12.2 Conflicts of Interest – membership of Area Committees and Scrutiny Committee

**Conflict of Interest** – If the Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the Area Committee of which the Councillor concerned is not a member, then the Councillor may not speak or vote at the Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee;

**General Policy Reviews** – Where the Scrutiny Committee is reviewing policy generally the member must declare his interest before the relevant agenda item is reached, but need not withdraw.

### 12.3 Form, Composition and Function

The Council will determine the form and composition, in accordance with the statutory requirements, and function of the Area Committees following consultation with the community.

### 12.4 Area Committees – Access to Information

Area Committees will comply with the in Part 4 of this Constitution.

### 12.5 Cabinet Members on Area Committees

A member of the Cabinet may serve on an Area Committee if otherwise eligible to do so as a Councillor.

## Article 13 – Joint Arrangements

### 13.1 Introduction

There are a number of circumstances where the Council or the Cabinet is entitled to carry out certain functions jointly with another local authority.

### 13.2 Joint Arrangements

(a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

(b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.

(c) The Cabinet may appoint members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is member for a ward contained within the area. Political balance requirements do not apply to such appointments.

### 13.3 Access to Information

The Access to Information Procedure Rules apply.

(a) If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

(b) If the Joint Committee contains members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

### 13.4 Delegation to and from Other Local Authorities

(a) The Council can delegate non-executive functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.

(b) The Cabinet can delegate executive functions to another local authority or the Executive of another local authority in certain circumstances.

(c) The decision whether or not to accept such a delegation from another local authority is reserved to the full Council.

**13.5 Contracting Out**

The Council (in respect of non-executive functions) and the Cabinet (in respect of executive functions) may contract out to another body or organisation functions:-

(a) Which may be exercised by an Officer and which are subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994; or

(b) Under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## Article 14 - Officers

### 14.1 Management Structure

(a) General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

(b) Chief Officers

The Council will engage persons for the following posts, who will be designated Chief Officers. The Head of Paid Service shall have responsibility and power to amend the functions and areas of responsibility of the Chief Officers as he/she considers necessary to deliver the Council's functions, vision and priorities. Such changes will be carried out in accordance with any relevant Human Resources policies.

Post Functions and Areas of Responsibility

| **Post** | **Duties** |
|---|---|
| Chief Executive | (a) Overall corporate management and operational responsibility (including overall management and responsibility for all officers)<br>(b) Principal advisor to the Council on general policy<br>(c) Overall responsibility for delivering the Council's policies and programmes<br>(d) Provision of professional advice to all parties in the decision-making process<br>(e) To act as Head of Paid Service. |

(c) Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

| **Designation** | **Post** |
|---|---|
| Head of Paid Service | Chief Executive |
| Monitoring Officer | Monitoring Officer |
| Chief Finance Officer | Deputy Chief Executive (S151) |

Such posts will have the functions described in 14.2 to 14.4 below.

(d) Structure

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

**14.2 Functions of the Head of Paid Service**

a) Discharge of Functions by the Council

The Head of Paid Service will keep under review the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

b) Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

**14.3 Functions of the Monitoring Officer**

(a) Maintaining and publishing the Constitution

(1) The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

(2) The Monitoring Officer will make the Constitution available to each member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

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

(4) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

(b) Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to a Cabinet function, if he or /she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

Notwithstanding the duty of confidentiality, the Monitoring Officer shall be at liberty to disclose any information relating to the Council's affairs, and provide copies of any records or documents belonging to the Council to the Standards Committee, for the purposes of investigation or determination of a complaint against a Member.

(d) Conducting Investigations

The Monitoring Officer will conduct investigations into matters and carry out any other actions as directed by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee.

(e) Proper Officer for Access to Information

The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

(f) Advising whether Cabinet Decisions are within the Budget and Policy Framework

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

(g) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors. Where the Monitoring Officer considers that a Member(s) has acted contrary to his/her advice it is open to him/her to issue a report to the Council under s.5 Local Government and Housing Act 1989, or seek judicial review, as he or she considers appropriate in the circumstances.

(h) Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer.

**14.4 Functions of the Chief Finance Officer**

(a) To ensure Lawfulness and Financial Prudence in Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council or Cabinet in relation to a Cabinet function and the Councils external auditor if he considers that 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. When the report is completed the Chief Finance Officer shall send a copy to: (a) the current auditor of the Council's accounts; and (b) each Member of the Council.

(b) Administration of Financial Affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) Providing Advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

(e) Give Financial Information

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**14.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

**14.6 Conduct**

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

**14.7 Employment**

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

## Article 15 – Decision Making

### 15.1 Responsibility for Decision Making

The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 15.2 Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:

(a) Proportionality (i.e. the action must be proportionate to the desired outcome);
(b) Due consultation and the taking of professional advice from officers;
(c) Respect for human rights;
(d) A presumption in favour of openness;
(e) Clarity of aims and desired outcomes;
(f) Consideration of any alternative options; and,

The giving of reasons for the decision and the proper recording of those reasons.

### 15.3 Type of Decision

(a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4 will be made by the full Council and will not be delegated.
(b) Key decisions – a "key decision" means a Cabinet decision which is likely:

(1) To result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or

(2) To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.

(i) In accordance with section 38 of the Local Government Act 2000, in determining the meaning of "significant" regard shall be had to any guidance for the time being issued by the Secretary of State.

(ii) A decision taker may only make a key decision in accordance with the requirements of the Access to Information Procedure Rules and the Cabinet Procedure Rules set out in Part 4 of this Constitution.

### 15.4 Decision Making by the Full Council

Subject to Article 15.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### 15.5 Decision Making by the Cabinet

Subject to Article 15.8, the Council meeting will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

**15.6 Decision Making by the Scrutiny Committees**

The Scrutiny committees will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

**15.7 Decision Making by Other Committees and Sub-Committees established by the Council**

Subject to Article 15.8, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

**15.8 Decision Making by Council Bodies Acting as Tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

**15.9 Decision making by Officers**

Officers may have delegated powers by the full Council or by the Cabinet to take managerial and operational decisions – see Part 3, Responsibilities for Functions.

**15.10 Key decisions – the two tests**

Whether or not a decision is key depends upon the statutory test as set out above in Article 15.03

(1) **Significant expenditure or savings**

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

NB: The District Council's Financial Rules set £250,000

(2) **Significant effect on communities**

The following guidance should be taken into account:

(i) Decisions should be treated as key where they are likely to have a significant impact on communities in two or more wards. For example, a council should regard as key a decision to amend the system for collecting recyclable waste or providing a new leisure facility in a neighbourhood, notwithstanding the thresholds of financial significance.

(ii) Where a decision is only likely to have a significant impact on a very small number of people the decision maker should ensure that those people are nevertheless informed of the forthcoming decision and sufficient time for them to exercise their rights to see the relevant papers and made an input into the decision making process.

(iii) In considering whether a decision is likely to be significant, the decision maker will need to consider the strategic nature of the decision and whether or not the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected. Regard should be given to the underlying principles of accountable decision making to ensure that there is a presumption toward openness. Local authorities should seek, through consultation with other local authorities of the same type and size, to ensure there are not large variations in the level of openness between authorities in the future.

## Article 16 - Finance, Contracts and Legal Matters

**16.1 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Appendix F to this Constitution.

**16.2 Contracts**

Every contract made by the Council will comply with the Financial Regulations set out Appendix F to this Constitution.

**16.3 Legal Proceedings**

The Director of Legal, HR & Governance (Monitoring Officer) is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director of Legal, HR & Governance (Monitoring Officer) considers that such action is necessary to protect the Council's interests.

The Director of Legal, HR & Governance (Monitoring Officer) has delegated powers to authorise officers to appear in court on the Council's behalf.

**16.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Legal, HR & Governance (Monitoring Officer) or other person authorised by him/her, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £50,000.00, entered into on behalf of the Council shall be made in writing.

In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be:

- The Chief Executive;
- Director of Legal, HR & Governance (Monitoring Officer);
- Any Chief Officer of the Council concerned with the matter to which the document relates; or,
- Any officer authorised in writing by such Chief Officer or by the Director of Legal, HR & Governance (Monitoring Officer).

**16.5 Common Seal of the Council**

(a) Common Seal

The Common Seal of the Council shall be kept in a safe place in the custody of the Director of Legal, HR & Governance (Monitoring Officer).

A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

(b) Sealing and Execution of Documents

The common seal of the Council shall be affixed to a document only on the authority of either:-

- A resolution of the Council;
- A resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;
- A decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.

The affixing of the common seal shall be attested by the Monitoring Officer, the Director of Legal, HR & Governance (Monitoring Officer) or another solicitor authorised by the Director of Legal, HR & Governance (Monitoring Officer).

(c) Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Director of Legal, HR & Governance (Monitoring Officer) and consecutively numbered in a book to be provided for the purpose.

(d) Disposal of Land and Real Property

Every disposal of land and real property made by the Council will comply with the Financial Regulations set out in Appendix F to this Constitution.

## Article 17 – Review and Revision of the Constitution

### 17.1 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Chief Finance Officer shall be responsible for keeping under review the Financial Regulations set out in Appendix F to the Constitution and shall make any necessary amendments and revisions as are required from time to time. He shall report any amendments made to the Financial Regulations to the Audit Committee.

### 17.2 Protocol for Monitoring and Review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

(a) Observe meetings of different parts of the Member and officer structure;
(b) Undertake an audit trail of a sample of decisions;
(c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and,
(d) Compare practices in this Council with those in comparable authorities, or national examples of best practice.

### 17.3 Changes to the Constitution

(a) Approval

Subject to 17.3 (b), changes to the Constitution will only be approved by the full Council following discussion by the Standards Committee. Where the table of Chief Officers in Article 15 or the Management Structure section of the Constitution needs to be updated, the Monitoring Officer may make the necessary changes upon receipt of notification from the Chief Executive that he/she has made changes to these structures following Council or relevant committee approval of such changes.

(b) Minor Changes

If, in the reasonable opinion of the Monitoring Officer, a change is:

- A minor variation; or
- Required to be made to remove any inconsistency or ambiguity; or
- Required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

In which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect and he/she will notify all Councillors of the minor amendments. All changes to the Constitution will be recorded, giving the date of the change and the reason for the amendment.

(c) Change to a Mayoral Form of Executive

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

(d) Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be notified to all Councillors. All changes to the Constitution will be recorded, giving the date of the change and the reason for the amendment.

## Article 18 – Suspension and Interpretation of the Constitution

### 18.1 Suspension of the Constitution

(a) Limit to Suspension

The Articles of this Constitution may not be suspended. The Council Procedure Rules in Part 4 of this Constitution may be suspended by the full Council to the extent permitted within those Rules and the law.

(b) Procedure to Suspend

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### 18.2 Interpretation

The ruling of the Chair of the Council (or other person presiding) as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

# Part 3 - Responsibility for Functions

**LOCAL GOVERNMENT ACT 2000 AND**

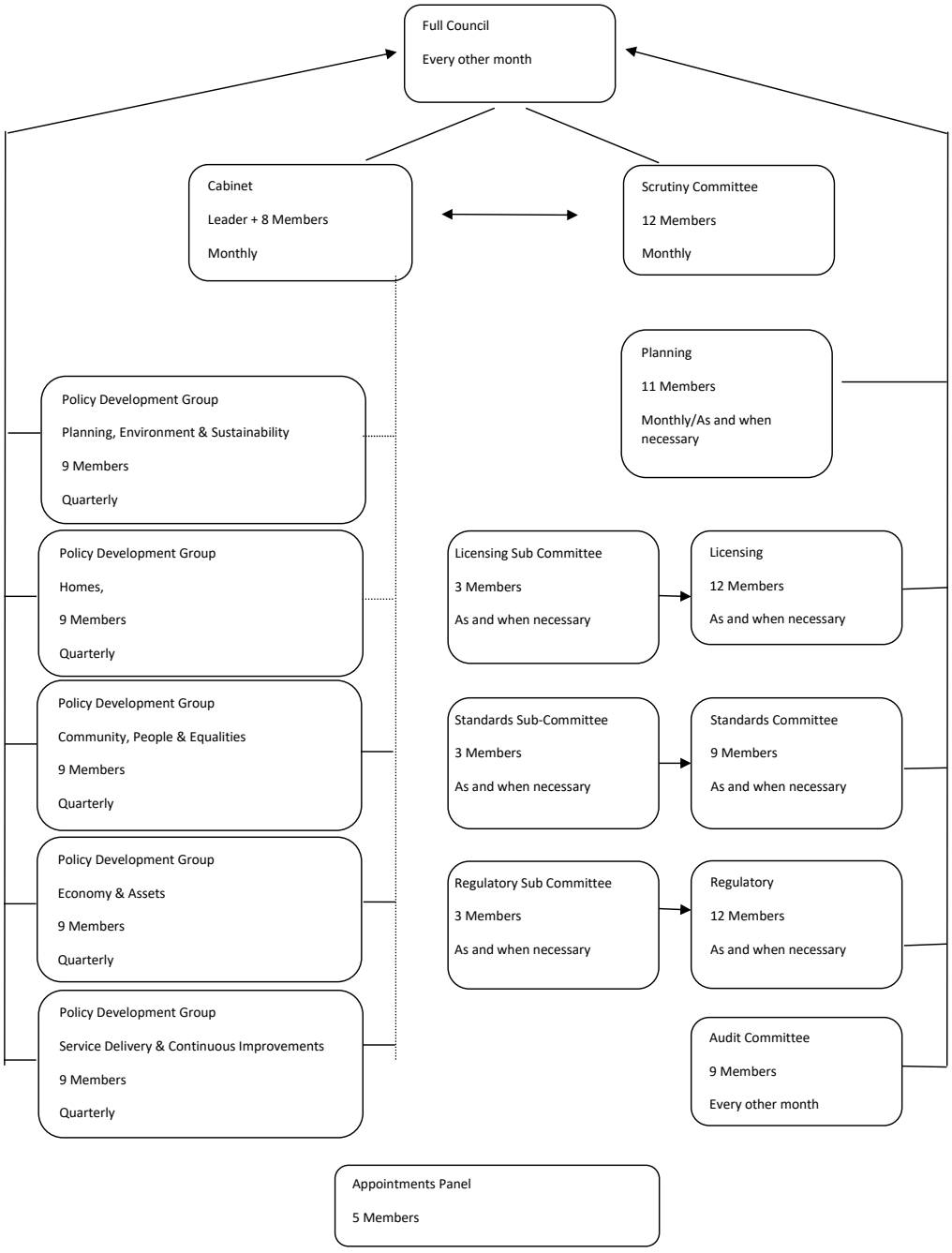
**LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007**

I, ……., Leader of Mid Devon District Council, in accordance with S.14 of the Local Government Act 2000 as amended by Part 3 of the Local Government and Public Involvement in Health Act 2007 **confirm** the arrangements for Responsibility For Functions contained in Part 3 of the Mid Devon District Council Constitution, November 2007, including all the arrangements for delegation of functions to the Cabinet, the arrangements of functions of the Cabinet members and the Scheme of Delegation to officers.

Signed:

Date:

## The Council's Committee Structure



**Scheme of Delegations**

**1. Introduction**

**1.1** Legally a local authority depends upon a series of statutes which in some cases give it a power (ie a discretion) to do something – or – in others – a duty to carry out that function or service. Each power or duty is often made subject to various limits as to just how it is to be exercised.

**1.2** Because of this statutory foundation for the work of local councils, it is important that we are always clear as to which statute we are using to achieve our purposes. Unless we make that clear then it is difficult, if not impossible, for the community to hold us to account.

**1.3** The Localism Act includes a 'general power of competence'. It gives local authorities the legal capacity to do anything that an individual can do that is not specifically prohibited; they will not, for example, be able to impose new taxes, as an individual has no power to tax. The general power of competence does not remove any duties from local authorities – just like individuals they will need to comply with duties placed on them

**1.4** Apart from "what and how", we also need to make clear, for transparency and accountability purposes – "who" it is within the Council – that has the power to do something. This means that we must produce a "Delegation Scheme" describing these formal responsibilities.

**2. Who?**

**2.1** To help understand what follows, there are a number of levels of decision making under our Constitution. Each of these is reflected by the tables which follow later in this section.

**2.2** First, is full Council itself. Full Council retains a range of higher level decisions – many relating to our overall strategies – or to the setting of our annual budget and of council tax. Some of these functions can legally only be undertaken at this highest level. With others, it has been this Council's own choice to do so (local choice functions).

**2.3** Next, is the Cabinet. Under the Local Government Act 2000 the great majority of the Council's decisions are made under executive arrangements. The leader (a) may make those decisions or (b) may delegate the decision making to the Cabinet, another member of the Cabinet, a Committee of the executive, an area committee or an officer of the Council. Delegates may also delegate unless the leader otherwise directs.

**2.4** Then – as qualified above – are the individual Cabinet Councillors – where powers may be expressly delegated to them.

**2.5** Next comes a group of "regulatory functions". Broadly, these are roles where the Council has the task of controlling the activities of individuals – often on an application by application basis. To deal with these detailed controls, parliament decided that special committees should be retained – outside the Cabinet. In our

case this means we have a Planning Committee, a Licensing Committee and a Licensing Regulatory Committee made up of elected members and which meet in public to hear and make decisions on the individual cases brought before them.

**2.6** Finally are the officers. The great bulk of day to day operational decision making is delegated by the Council or the Cabinet or the Planning Committee to our professional staff. They need these powers so as to enable them to provide the services of the Council in the most economic, efficient and effective way.

**3. What?**

**3.1** Attached are a number of tables setting out the broad areas of our statutory powers and the activities and functions we are involved in.

**3.2** **Section 1** is a list of those matters which remain either with the full Council itself for decision or which are within its control – because the 2000 Act either requires it or permits it. The section also shows to whom these powers have been delegated (if at all) – whether to a Committee or to an officer.

**3.3** **Section 2** sets out those powers and duties which the Act **excludes** from Cabinet decision making – such as Planning, Licensing and Licensing Regulatory issues. These are listed as delegated to a Committee or to an officer with any limits on those delegations also included.

**3.4** **Section 3** lists those powers and duties which are ones which **only** the Cabinet can deal with – itself – or through officers or its committees. This covers the great majority of our powers and duties – with most operational decision making continuing to be delegated to the officers under Section 5 below.

**3.5** This part also lists functions across a series of Cabinet Functions. These reflect the current responsibilities of each of the current members of the Cabinet for the setting of the overall direction of these services.

**3.6** **Section 4** describes the delegation arrangements to councillors and officers. This part also includes individual delegation to Cabinet Councillors. This will only be enforced following a specific resolution of Council. As with our current Delegation Scheme, most of the operational decision making under these powers and duties is delegated on to the officers.

**3.7** **Section 5** describes the power and duties that are delegated to officers.

**Section 1 - The Powers of the Council**

**4.1** The functions statutorily reserved to the Council are set out below in column 1. Column 2 shows who else is involved – either as having full statutory powers delegated to them or as being the source of a recommendation to full Council.

**4.2** Where the power is shown as delegated to an officer, then that officer shall also have the power to re-delegate that power to another officer of the authority or to refer or to remit to another regulatory body of the Council for it to decide. Details of the delegation shall be recorded in writing and kept by the Monitoring Officer.

| | **Function** | **If delegated – then to Whom?** |
|---|---|---|
| 1 | To set the *Policy Framework* and the *Budget* within which the Cabinet must operate. (Both these terms are defined below) | Council – on the recommendation of the Cabinet |
| 2 | In a limited range of cases – to make decisions about the discharge of a "Cabinet function". This applies **only** to those cases where the decision maker is considering an issue – which is not only:-<br>(a) covered by the Policy Framework or the Budget, but also -<br>(b) where the decision maker is inclined to make it in a manner which:-<br>• would be contrary to that Framework, or<br>• would be contrary to/or not wholly in accordance with the Budget | Council – on the recommendation of the Cabinet |
| 3 | To exercise – through delegated powers – the "regulatory functions" (listed in detail at Section 2 of this part of the Constitution) except for those responsibilities within those functions which by law are for the Cabinet*:-<br>(a) Development Control; Building Control | Planning Committee;<br>Chief Executive;<br>Director of Place & Economy) (DPE); |

| | | |
|---|---|---|
| | | Development Management Manager (DMM);<br>Nominated Officer(s) i.e. Chief Planning Officer or equivalent e.g. DPE or DMM |
| | (b) Licensing and other Regulatory Functions Licensing Committee; | Licensing Committee Regulatory Committee;<br>Chief Executive;<br>Director of Place and Economy |
| | (ii)Food Safety | Chief Executive;<br>Director of Place and Economy |
| | (c) Health & Safety at Work (this relates only to those functions which the Council exercises other than as employer) | Chief Executive;<br>Director of Legal, HR & Governance Monitoring Officer |
| | (d) Electoral Services | Returning and Electoral Registration Officer |
| | (e) Staffing matters (other than those dealt with in the Constitution under Standing Orders as to Employment of Officers) | Head of Paid Service (Chief Executive);<br>Director of Legal, HR & Governance Monitoring Officer |
| | (f) Ceremonial and those Miscellaneous matters * Guidance must be sought from the Monitoring Officer where there is any doubt about whether a function or responsibility is | Council |

| | | |
|---|---|---|
| | subject to this delegation or reserved to Cabinet. | |
| 4 | To agree and/or to amend the terms of reference of the Planning Committee, the Licensing Committee and the Regulatory Committee. | Council – on the recommendation of the relevant Committee |
| 5 | To decide the number of seats to be allocated to each Political Group (or to ungrouped councillors) in accordance with the "proportionality" rules in the Local Government & Housing Act 1989. | Council – on the recommendation of the Monitoring Officer |
| 6 | To confirm the appointment of the Head of Paid Service | Council – on the recommendation of the relevant Appointments Panel set up for that purpose |
| 7 | To appoint the Monitoring Officer and the Section 151 Officer | Council – on the recommendation of the Head of Paid Service |
| 9 | To elect the Leader of the Council | Council |
| 10 | To remove the Leader | Council – in accordance with the procedure in Article 6 |
| 11 | To adopt the Constitution and agree any major changes to it | Council – on the recommendation of the Standards Committee |
| 12 | To approve any applications to the Secretary of State in respect of a Housing Land Transfer | Council – on the recommendation of the Cabinet |
| 13 | To appoint and dismiss representatives to those outside bodies whose role is **not** closely linked to an Cabinet function | The Chief Executive acting on the advice of |

| | | |
|---|---|---|
| | | the relevant Committee |
| 14 | To adopt/modify a Members' Allowances Scheme | Council – on the recommendation of the Independent Remuneration Panel |
| 15 | To change the name of the area | Council |
| 16 | To confer the title of honorary alderman | Council |
| 17 | To make, amend, revoke, re-enact or adopt bylaws and to promote or oppose the making of local legislation | Council – on the recommendation of the Cabinet |
| 18 | To adopt any plan or strategy (whether statutory or non-statutory) which the Council has decided should be undertaken by itself rather than by the Cabinet | Council – on the recommendation of the relevant Committee |
| 19 | To deal with any other matter which, by law, must be reserved to Council | Council |

**4.2** **The Council's Policy Framework** is defined in Article 4 of the Constitution. It consists of a series of important plans and strategies which form the basis for many of its services. Each is a substantial document in itself which is regularly reviewed and updated. They are not, therefore, included in this Constitution but current copies are always available at Phoenix House.

**4.3** **The Budget** includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its Capital Expenditure.

**4.4** Whilst decisions on the framing of the Budget itself are ones for the full Council, many of the operational issues relating to monitoring and to virement are delegated to either the Cabinet, potentially to Cabinet Councillors or to the officers – subject always to the approval of the Section 151 Officer.

**Section 2 - Regulatory Powers of the Council**

**5.0** In order to carry out the Council's "regulatory powers" the following Committees be constituted:-

(a) Planning Committee – 11 members

(b) Licensing Committee – 12 members

(c) Regulatory Committee – 12 members

**5.1** The powers and duties of these committees are set out below:-

| **PLANNING COMMITTEE** |
|---|
| Membership – Eleven Members of the Authority |
| **Function** |
| In accordance with the Local Authorities (Functions and Responsibilities) Regulations 2000, to exercise functions on behalf of the Council as set out below. |
| **Matters Delegated to this Committee** |
| Planning and conservation functions relating to town and country planning and development control and all matters concerning trees<br>To confirm and consider changes to the existing Scheme of Delegation to the Development Management Manager |

| **LICENSING COMMITTEE** |
|---|
| Membership – Twelve Members of the Authority |
| **Function** |

| |
|---|
| In accordance with the Local Authorities (Functions and Responsibilities) Regulations 2000, to exercise licensing functions on behalf of the Council as set out below.<br>Note: some responsibilities still rest with the Cabinet under the Functions and Responsibilities Regulations – seek clarification from the Monitoring Officer if not covered by Appendix A |
| **Matters Requiring Submission to the Council** |
| Statement of Licensing Policy under section 5 of the Licensing Act 2003<br>Licensing Policy<br>See Appendix A |
| **Matters Delegated to this Committee** |
| Liquor, Gaming, Entertainment and Licensing;<br>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations.<br>To confirm the scheme of delegation of functions in the Guidance to the Licensing Act 2003 and Gambling Act 2005 see Appendix A<br>Powers highlighted within the Localism Act 2011 |

| **REGULATORY COMMITTEE** |
|---|
| Membership – Twelve Members of the Authority |
| **Function** |
| In accordance with the Local Authorities (Functions and Responsibilities) Regulations 2000, to exercise regulatory functions on behalf of the Council as set out below.<br>Note: some responsibilities still rest with the Cabinet under the Functions and Responsibilities Regulations – seek clarification from the Monitoring Officer if not covered by Appendix AA |
| **Matters Requiring Submission to the Council** |
| See Appendix AA |
| **Matters Delegated to this Committee** |
| Taxi, Private Hire and Miscellaneous Licensing<br>To confirm the scheme of delegation of functions relating to Hackney Carriage and Private Hire Licensing see Appendix A<br>Powers highlighted within the Localism Act 2011 |

**Section 3 - Cabinet Powers**

**6.0** The majority of the decision making of the Council relates to areas which are defined as "Executive matters" within the 2000 Act and can therefore only be dealt with via the Cabinet.

(a) The Cabinet meeting as a body can make Cabinet decisions;

(b) Under the Local Government Act 2000 the great majority of the Council's decisions are made under executive arrangements. The leader (1) may make those decisions or (2) may delegate the decision making to the Cabinet, another member of the Cabinet, a Committee of the executive, an area committee or an officer of the Council. Delegates may also delegate unless the leader otherwise directs;

(c) The great majority of operation decision making within policy and the budget will, as before, be the responsibility of the officers – through the Delegation Scheme – subject to the limitations included here;

(d) The need for both transparency and accountability require that decision making of this type under the Act needs to be carefully controlled and recorded and that all councillors together with the press and public have full access to those decisions – not only at the time – but also before and after – they are made;

(e) Those members who are not Cabinet Councillors cannot make those decisions;

(f) Neither full Council nor Scrutiny Committee, Audit Committee or Policy Development Groups can make Cabinet decisions.

**6.1** The delegation scheme in relation to executive functions is the leader's delegations scheme and is subject to any changes he/she wishes to make. This Delegation Scheme has, therefore, been based on the following features:-

(a) Most day to day operational decision making powers are delegated to the Council's officers (see section 7.2);

(b) The role of the Cabinet – meeting as a body – has been designed to avoid such operational decisions coming to it unless they are key decisions or are otherwise of real significance across the Council's services;

(c) The Cabinet's major role will be in defining and reviewing the Council's strategies and significant policies and in advising the Council on these matters and as to the Budget;

(d) Where decisions can be made at a lower level, then the Cabinet will ensure that this Scheme is designed, implemented and modified so as to achieve that purpose;

(e) Before accepting an item for the Cabinet's agenda, the Leader or the relevant Cabinet Member, together with the Democratic Services Manager, will satisfy themselves that the issue could not be otherwise properly dealt with under delegated powers;

(f) Where a matter arises which involves a range of detailed issues but is of such significance that it must be taken to the Cabinet – then the Leader or the relevant Cabinet Member responsible for that service must assess whether the matter is of such urgency that it would not be practical for the advice to be first obtained from:-

(i) The Scrutiny Committee, Audit Committee or the relevant Policy Development Group, or
(ii) An officer, or
(iii) A committee of the Cabinet itself;

(g) so as to make sure that its strategic role is clearly identified and maintained, reports to the Cabinet will be written in such a form that ensures that:-

(i) Unnecessary detail is excluded;
(ii) Policy factors are clearly identified and analysed;
(iii) Impact upon our corporate priorities is identified;
(iv) All necessary consultation as to its content has taken place, and
(v) The issues for decision by the Cabinet are justified as ones which could not reasonably be taken elsewhere.

**Section 4 - Delegations to Cabinet Councillors And Officers**

The delegation scheme in relation to executive functions is the leader's delegations scheme and is subject to any changes he/she wishes to make.

**7.1 Principle 1**

The overriding principle upon which the Council's Delegation Scheme is founded is:

All the Council's statutory powers and duties in relation to the functions and activities (listed in the following table) are delegated to either the relevant Cabinet Member or to the Cabinet and from there, as shown, to the Management Team. Those listed include all such incidental and ancillary powers as are needed in order to carry out those functions together with all statutory powers delegated to either Cabinet Member or to the Cabinet by another local authority by virtue of an agreement under the Local Government Acts. Such decisions of the Cabinet may, from time to time, be delegated to the relevant Cabinet Member subject at all times to the following provisos:-

a. the decision in question is not a "key decision";
b. the power to make the decision has not previously been delegated to an officer:
c. the Cabinet Member has considered what consultation is necessary with regard to the proposed decision – including the need to consult with local Ward Members;
d. the proposed decision is compliant with the terms and conditions of the existing policy framework;
e. receipt and consideration of a written report containing a summary of the legal, financial and all other relevant implications arising from the proposed decision;
f. publication of the proposed decision in accordance with the Cabinet Procedure Rules referred to in Part 4 of the Constitution.

**7.2** The consequent powers to make all operational decisions as to the Council's services are delegated to the Head of Paid Service, to the Monitoring Officer and to the Section 151 Officer (these are referred to as the "statutory officers"), together with the Heads of Services (who are together known as the "Management Team"), so long as the decision:-

i. falls within the Council's Policy Framework, and
ii. is otherwise within our approved policies, and
iii. complies with the law, Financial and Contracts Procedure Rules, and other controls within this Constitution, and
iv. is wholly in accordance with the budget for the current and following year, and
v. has not been the subject of a request from the responsible Cabinet Member (if any) for the decision to be remitted to the Cabinet.

**7.3 Principle 2**

Even where statutory power has been delegated, the delegate still retains a discretion as to how the decision is to be taken. Either:-

(a) to deal with it him/herself;
(b) to "remit" the decision – "upwards" (ie – in order to seek endorsement of a proposed decision) – in the case of "Cabinet matters" to the Cabinet, or in the case of a non-Cabinet matter to the Council or to the Planning Committee or to the Regulatory Committees; either Licensing or Regulatory;
(c) to further delegate that power;
(d) to consult others before exercising the power;
(e) to take the decision jointly with other Cabinet Member or officers.

**7.4 Principle 3**

It is expected that, within these delegations, the officers will keep Cabinet Member fully briefed as to the services for which they are responsible and that they will consult with the relevant Cabinet Member on issues where either believe that this is needed. Built upon this foundation, it is anticipated that this will mean that a number of otherwise delegated decisions will, in practice, be taken either by – or in consultation with – the Cabinet Member where he/she believes the matter to be one of a particular sensitivity or corporate significance.

**7.5 Principle 4**

So as to avoid any misunderstandings as to the exercise of these powers, each Cabinet Member and/or each member of the Management Team will adopt the following procedure:-

(a) completion of the Decision Recording Form at Appendix B of the Constitution by member of Management Team and/or other officer;
(b) consultation with the relevant Cabinet Member(s) and Officer(s);
(c) agree approach as to the scope for joint decisions;
(d) Cabinet Member to sign Decision Recording Form.

**7.6 Principle 5**

Any further general delegation of specific statutory powers by Management Team to an officer under Principle 2 shall be made in writing and shall record its extent and any limitations on the exercise of those powers.

A copy of any such delegation shall be provided to The Monitoring Officer who, as "proper officer", when so required has the duty formally to certify the existence and validity of those statutory powers in any legal proceedings or to sign formal agreements on the Council's behalf giving effect to those decisions.

**7.7** Within these principles, the following table lists the range of functions for which all the Council's statutory powers and duties are delegated to the Cabinet and then to the Management Team. The table shows the current service portfolios each of which is held by a Cabinet Member as responsible for the overall policy direction for that service. The table also shows the "lead officer" who is primarily responsible for the delivery of that service. Any limits upon the delegations to the officers (other than those listed above) are shown here.

**DELEGATION OF CABINET FUNCTIONS**

**General Delegation to all Cabinet Members** (subject to requirement that the matter is within the terms and reference of their respective Portfolio – see Appendix C for details)

**8.0** Authority to issue press releases and deal with the press.

**8.1** Authority to approve proposals and schemes in respect of operational matters that are required to implement the policy framework.

**8.2** Authority to accept the lowest tender, provided it falls within the sum set by the Cabinet, if payment is to be made by the Council, or the highest tender, if the payment is to be received by the Council, such acceptance to be reported to the next meeting of the Cabinet where tenders or offers are invited by the Council for:

(i) carrying out of works in accordance with the specification and/or bills of quantity (over the sum of £50K), or,

(ii) purchase or sale of land, premises (over the sum of £100K), vehicles, equipment or machinery surplus to the Council's needs (over the sum of £50K), or,

(iii) concessions in accordance with detailed particulars to accept a tender provided the accepted sum is within estimates.

**8.3** Authority to approve alteration and extensions to schedules/specifications to contract that do not have the effect of exceeding a previously approved budget sum, subject to legal advice.

**8.4** Authority to approve a maximum 5% "overspend" in respect of expenditure on works for a specified project within an approved budget.

**8.5** Authority to approve acquisitions, disposals and leases where in accordance with the policy framework and subject to relevant terms and conditions being negotiated by the relevant member of the Management Team.

**8.6** Authority to increase or alter fees and charges, subject to a statutory consultation and/or advertisement procedure where applicable.

**8.7** Dealing with human resources related issues (except those delegated to the Chief Executive), including organisational reviews but excluding additions to the approved establishment outside the approved budget (that would previously have been a matter for the Cabinet).

**8.8** Submitting comments on any consultation paper, report, information item, progress item or proposed or actual policy of any external body (for example, government policies, planning guidance, white and green papers, etc). Such matters will be reported in the Weekly Information Sheet.

**8.9** Approving all grants within the approved budget but excluding those already delegated to officers.

**8.10** All decisions necessary to enable the Council to implement the Council's agreed Capital Programme within the agreed budget.

**8.11** Appointments to external bodies (only in relation to Executive Arrangements and Advisory Bodies).

**Scheme of Delegation to Officers Only**

**1 SUMMARY**

This section describes the Chief Officers and other principal officers and sets out the delegation of functions to them.

The over-riding principle is that (with appropriate consultation requirements and exceptions) each Chief Officer will have delegated authority over all matters within their responsibility.

**2 THE PRINCIPAL OFFICERS OF THE COUNCIL**

**Chief Officers**

The Chief Officer of the Council is:-

(a) The Chief Executive (Head of Paid Service)

**The Leadership Team**

**The Leadership Team (LT) will comprise of the Chief Executive and the directors which currently includes:** Deputy Chief Executive (S151) (Section 151 Officer), Director of Place and Economy and Director of Legal, HR & Governance (Monitoring Officer).

The purposes of the LT are to ensure:-

(b) the Council maintains an effective corporate identity and purpose;
(c) the aims and objectives of corporate policies are achieved;
(d) there is an effective form of communication and consultation between the senior officers;
(e) there is effective monitoring of the Council's corporate aims and performance; and
(f) Ensure that the business of the Council is carried out in a proper manner

**"Proper Officers" and the other Statutory Officers**

The law requires the Council to appoint officers in respect of particular responsibilities. The principal appointments are set out in Appendix 4.

**3 FUNCTIONS DELEGATED TO INDIVIDUAL STATUTORY OFFICERS AND OTHER PRINCIPAL OFFICERS**

**THE CHIEF EXECUTIVE (HEAD OF PAID SERVICE)**

**Delegation**

All Council functions shall be the corporate strategic management responsibility of the Chief Executive but the processes and operational decisions shall be the responsibility of the appropriate Heads of Service.

The Chief Executive as Head of Paid Service is authorised to exercise the following functions:-

(a) Corporate Human Resources functions contained in Appendix 2
(b) Economic Development

(c) Community Development

(d) Markets

(e) Strategic Corporate Planning

**Exceptions and Conditions**

There is excepted from the delegation to the Chief Executive any matter:-

(a) reserved to full Council;
(b) delegated to a committee;
(c) which comprises or includes a function described in Appendix 1 (functions which cannot be exercised by a delegated officer);
(d) which is required to be discharged by another officer pursuant to the requirements of statute;
(e) which is a function which for any other reason cannot be exercised by the Chief Executive.

The Chief Executive must at all times comply with the Council's Constitution and particularly the principles of decision making to be found in Article 15 of the Constitution together with further statements made below.

**Notes**

The terms of reference of committees are set out in Part 3 of the Constitution.

The delegation is subject to and with the benefit of the general provisions highlighted at 5 below.

**DIRECTOR OF LEGAL & HR & GOVERNANCE (MONITORING OFFICER)**

**Delegation**

The Director of Legal, HR & Governance (Monitoring Officer) is authorised to exercise the following functions:-

| | |
|---|---|
| (i) | Human Resources |
| (ii) | Payroll |
| (iii) | Learning and Development |
| (iv) | Health & Safety |
| (v) | Risk Management |
| (vi) | Performance Management |
| (vii) | Democratic Services |
| (viii) | Legal Services (see page 68 – (Monitoring Officer) |
| (ix) | Land Charges |

**Exceptions and Conditions**

There is excepted from the delegation to the Director of Legal, HR & Governance (Monitoring Officer) any matter:-

1. reserved to the full Council;
2. delegated to a committee;

3. which comprises or includes a function described in:-
    (a) appendix 1 (functions which cannot be exercised by a delegated officer);
    (b) appendix 2 (corporate personnel functions unless given delegated authority by the Chief Executive);
    (c) which is required to be discharged by another officer pursuant to the requirements of statute;
    (d) which is a function which for any reason cannot be exercised by the Director of Legal, HR & Governance (Monitoring Officer).

Director Legal, HR & Governance (Monitoring Officer) must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

**Note**

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

**DEPUTY CHIEF EXECUTIVE (S151) (SECTION 151 OFFICER)**

**Delegation**

The Deputy Chief Executive (S151) as the Section 151 Officer is authorised to exercise the following functions:-

(a) Financial Services
(b) Housing and Council Tax Benefits
(c) Property Services
(d) Revenues
(e) Leisure
(f) Internal Audit
(g) Customer Services
(h) ICT
(i) Information Management
(j) Gazetteer Management
(k) Waste and Recycling Management
(l) Environmental Enforcement
(m) Grounds Maintenance

The Deputy Chief Executive (S151) shall be the Chief Finance Officer and will also deputise for the Chief Executive (all functions) pursuant to paragraph 5.7 of this Scheme of Delegation (inability to act)

**Exceptions and Conditions**

There is excepted from the delegation to the Deputy Chief Executive (S151) any matter:-

1. reserved to the full Council;

2. delegated to a committee;
3. which comprises or includes a function described in:-
   (a) appendix 1 (functions which cannot be exercised by a delegated officer);
   (b) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);
4. which is required to be discharged by another officer;
5. which is a function which for any other reason cannot be exercised by the Deputy Chief Executive (S151)

The Deputy Chief Executive (S151) must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

**Note**

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

**DIRECTOR OF PLACE & ECONOMY AND THE DEVELOPMENT MANAGEMENT MANAGER**

**Delegation**

**Sections 319ZZC to 319ZZF of the Town and Country Planning Act 1990 (introduced through section 54 of the Planning and Infrastructure Act 2025) and the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 (the Regulations). These sections relate to the national scheme of delegation of planning functions and the size of planning committees.**

**Definition**

Nominated officer(s) is the Director of Place & Economy or the Development Management Manager. In both of their absence then the Area Team Leader will cover this role.

Nominated Member is the Chair of the Planning Committee or in their absence Vice - Chair of the Planning Committee.

**Schedule 1 functions**

Schedule 1 of the Regulations sets out all the functions which must be delegated to officers for a decision (unless it is an own-interest application). These include a number of categories of applications for planning permission for:

- householder development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)

- minor commercial development (as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- minor residential development which is defined in the Regulations as:
    - development that includes only dwellings and development for the purposes incidental to the enjoyment of dwellings, comprises at least one but not more than nine dwellings, and is to be carried out on a site having an area smaller than 0.5 hectares
    - development of a building containing flats, or development within the curtilage of such a building, for any purpose incidental to the enjoyment of the flats or any of them but excludes development in respect of a building containing flats, or development within the curtilage of such a building, that involves either or both of a change of use or change to the number of flats
    - an application for any consent, agreement or approval required by or under a planning permission, development order or local development order for development within paragraph (a) or (b)

It also contains a range of other planning consents:

- to develop land without compliance with conditions previously attached) in respect of which the previous planning permission was a Schedule 1 planning permission (applications under section 73(1) of the Town and Country Planning Act 1990)
- reserved matters approval in respect of an outline planning permission other than a large outline phase permission (i.e. one which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 square metres or more) (applications under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- discharge of conditions (applications under Article 27(1) of Town and Country Planning (Development Management Procedure) (England) Order 2015)
- prior approval for permitted development rights (applications under Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015)
- permission in principle (as referred to in section 58A of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 1 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)
- where local planning authority considers a planning obligation is connected to a Schedule 1 application, modification or discharge of a planning obligation (applications under section 106A(3) of the Town and Country Planning Act 1990)
- non-material changes to planning permission or permission in principle (applications under section 96A(4) of the Town and Country Planning Act 1990)

- certificates of lawfulness of existing use or development (under section 191(1) of the Town and Country Planning Act 1990)
- certificates of lawfulness of proposed used or development (under section 192(2) of the Town and Country Planning Act 1990)
- certificates of lawfulness for proposed works to listed buildings (under section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- biodiversity gain plan (duty to approve under paragraph 14 of Schedule 7A to the Town and Country Planning Act 1990)
- certificates of appropriate alternative development (applications under section 17 of the Land Compensation Act 1961)

However, applications which would otherwise fall under Schedule 1, will fall within Schedule 2 where:

- a local authority considers that the application for planning permission is connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent
- the application is made under section 73A of the Town and Country Planning Act 1990

**Schedule 2 functions**

The functions which fall within Schedule 2 of the Regulations are:

- applications for planning permission which are not householder, minor commercial or minor residential applications
- applications for planning permission which would otherwise fall into Schedule 1 but are connected to a Schedule 2 application for listed building consent or for the variation or discharge of a condition on a listed building consent
- applications to develop land without compliance with conditions previously attached in respect of which the previous planning permission was a Schedule 2 planning permission (under section 73(1) of the Town and Country Planning Act 1990)
- applications for development which has already been carried out (under section 73A(1) of the Town and Country Planning Act 1990)
- where it is related to a large outline planning permission, applications for reserved matters approvals (under Article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015)
- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, requests to agree to modify or discharge a planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990)
- where a local planning authority considers a planning obligation is connected to a Schedule 2 application, application for modification or discharge of a planning obligation (under section 106A(3) of the Town and Country Planning Act 1990)

- applications for listed building consent (under section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- applications for the variation or discharge of conditions of listed building consent (under section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- applications for advertisement consent (under regulation 9 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007)
- applications for consent under tree preservation orders (under regulation 16 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012)
- applications to which the schedule 1 exceptions above apply

The overriding presumption is that the applications listed in Schedule 2 will be delegated to officers. An application can be referred to a committee or sub-committee under the Town and Country Planning (Discharge of Local Planning Authority Functions) (England) Regulations 2026 only where:

a. at least one of the criteria in regulation 5(3) is met **or** it is an own-interest application (regulation 6); **and**

b. the nominated officer and nominated member of the planning committee agree to the referral.

**The Gateway Review**

The regulations provide for the option for Schedule 2 applications to be considered for committee against the gateway review but do not require all schedule 2 applications to be considered – they will otherwise be delegated to an officer.

Where local planning authorities anticipate that there may be a significant number of Schedule 2 or own-interest applications which may need to be considered for referral to committee they may wish to put in place a triage system to ensure that the nominated officer and nominated member of the committee are not overwhelmed and to avoid any unnecessary delays in planning decision making.

Where a Schedule 2 application has been the subject of a call-in request either by Ward Member, Chair or Vice Chair of the Planning Committee providing material planning reasons, the application will be the subject of the gateway review between the Nominated Officer and the Nominated Member.

Nominated officers and nominated members should make every effort to reach agreement on which cases should be referred to committee. However, where agreement is not possible, the case must be determined by officers in accordance with regulation 5(2) or regulation 6(3).

**Criteria which must be met before a case can be considered for referral under regulation 5**

In determining whether a referral under regulation 5 is made, the presumption should be that decisions are delegated to officers and only exceptionally be referred to committee. At a minimum, at least one of the following statutory criteria must be met for a referral to committee to be considered to meet that threshold:

A. where the application raises an economic, social or environmental issue of significance to the local area

B. where the application raises a significant planning matter having regard to the development plan and any other material considerations

Applications for development which do not raise a significant planning matter can only be referred to the committee under criterion A if they raise a significant economic, social or environmental issue for the local area. It is for the nominated officer and nominated member to assess whether the development proposal raises any such issue, providing an opportunity for local democratic oversight where necessary. What constitutes 'significant' will vary depending on the local area but examples could include:

- an application for outline planning permission for a large multi-phase residential development allocated in the local plan
- an application for planning permission for change of use of a community shop in a rural area
- an application for planning permission or listed building consent for changes to a notable listed building in a town centre

(For the purpose of criterion B, the following circumstances are unlikely to raise a significant planning matter:

- where the application for development broadly complies with a detailed site allocation and other relevant policies set out in a local or neighbourhood plan and national decision making policies set out in the National Planning Policy Framework. Significant planning matters may arise if new material considerations are raised by the application
- where a specific planning matter (e.g. highways or flood risk) was initially raised by a statutory consultee as a concern, but the development proposal has been modified to make it acceptable in the view of the statutory consultee (unless the nominated officer has compelling reasons to consider otherwise))

**Own-interest applications**

Applications which are made (whether or not jointly with any other person) by the authority or an officer or member of the authority or it is an application where, in the view of the nominated officer and nominated member, the authority or any of its

members or officers has an interest, are own-interest applications dealt with under regulation 6. We recognise that there may be cases where, in the interests of transparency and public accountability, it may be appropriate for some such applications whether they are in Schedule 1 or Schedule 2 to be referred to a planning committee or sub-committee. Where the nominated officer and nominated member agree, they can be referred to the committee without the need for consideration of the criteria set out in regulation 5(3). Where no such referral has been made, they must be determined by an officer.

Under regulation 10 of the Town and Country Planning General Regulations 1992, where a local planning authority is determining its own application for planning permission, it must not be determined by a committee, sub-committee or officer responsible for the management of the building or land to which the application relates. In addition to this restriction, where a planning application is made by a nominated officer or nominated member of the authority or they have an interest in it, in the interests of propriety, they should not be involved in the decision on whether to refer it to committee or not.

**Treatment of reserved matters applications**

Outline planning permission can be granted for largescale multi-phase development which can take place over many years. As such each related reserved matters application can represent substantial development in its own right and cover more issues of substance, for example, the provision of on site community infrastructure , which may, in exceptional circumstances, merit committee scrutiny. For this reason, we have distinguished between those reserved matters approval applications which relate to large outline planning permissions and those which do not, with the former being placed in Schedule 2 and the latter in Schedule 1.

A large outline planning permission for the purpose of these regulations is an outline planning permission which grants permission for development involving the provision of at least 500 dwellings or a building or buildings where the floorspace to be created by the development is 50,000 square metres or more. A reserved matters application for such development must meet the criteria set out under regulation 5(3) for a committee to consider it.

When considering reserved matters approval applications which fall into Schedule 2 against the criteria in regulation 5(3), nominated officers and nominated members should only have regard to matters which are directly relevant to the reserved matters application before them.

**Treatment of S106 decisions**

A decision on whether a S106 should be delegated to officers or referred to committee should be left to the discretion of the local authority.

Where a local planning authority considers a section 106 agreement is connected to an application falling into either Schedule 1 or Schedule 2, and agreement is being sought to amend or discharge the planning obligation (under section 106A(1)(a) of the Town and Country Planning Act 1990), the function of agreeing to amend or discharge the obligation should fall into the same schedule as the related application. This same approach applies to applications to modify or discharge an obligation under section 106A(3).

**Treatment of special control applications**

Applications for listed building consent, advertisement consent and consent under tree preservation orders are included in Schedule 2. In most cases, these types of application will not raise issues which would merit committee scrutiny. The presumption, therefore, is that decisions should be delegated to officers and only exceptionally referred to committee.

In the case of Formal enforcement action:

(Note: Formal action does not include the service of a Planning Contravention Notice or Section 330 requisition for information)

To investigate and determine whether or not to issue and serve any Notice which in the opinion of the Director of Place & Economy and/or DMM is appropriate in order to regulate planning breaches (including conditions attached to any permissions or consents) pursuant to the Planning Acts, including in particular but without prejudice to the generality of the foregoing:

a) Requisitions for Information and Planning Contravention Notices;
b) Enforcement Notices (including those relating to listed buildings and conservation areas);
c) Breach of Condition Notices;
d) Section 215 Notices;
e) Repair notices pursuant to the Planning (Listed Buildings and Conservation Areas ) Act 1990 (as amended from time to time);
f) Stop Notices;
g) Completion Notices;
h) Enforcement Warning Notices; and
i) notices relating to Tree Preservation Orders,

To authorise the instigation of prosecution proceedings or such other action as in the opinion of the Director of Place & Economy and/or DMM is appropriate in order to regulate planning breaches pursuant to the Planning Acts, including in particular but without prejudice to the generality of the foregoing:

a) non-compliance with any Notices issued pursuant to provision 26 above;
b) breaches of S106 obligations;
c) unauthorised advertisements;
d) unauthorised works to listed buildings; and
e) unauthorised works to trees.

To determine not to take any form of enforcement action where it is considered not to be expedient to do so having regard to the development plan and any other material planning considerations.

Determination of applications for consent under an order under Section 198 of the Town and Country Planning Act 1990 to the cutting down, topping, lopping or felling of trees.

To undertake inspections in relation to complaints relating to high hedges under the Anti-social Behaviour Act 2003 and to prepare and serve associated notices.

Granting of permission for the erection of temporary direction signs by motoring organisations.

Determination of what constitutes a County matter.

Serving of Notices under Sections 3 and 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of works for the preservation of listed buildings.

To determine whether to make a Tree Preservation Order

Responding to notifications from the Caravan and Camping Club, or other

certified organisations, under the provisions of the Control and Development of Caravan Site Acts 1960 in respect of (5 Caravan) Certified Sites.

Determination of applications for conservation grants to assist the enhancement/restoration of Listed Buildings, Conservation Areas or other buildings and areas of importance in accordance with approved initiatives.

Responding to consultations by Devon County Council relating to public footpaths.

Determination of applications for a Certificate of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961.

Power to determine appropriate measures for inclusion in Appropriate Assessments under the Habitat Regulations.

Submissions of representations and responses to consultations / requests made during all stages of any Development Consent Order process, in consultation with any established Member Working Group, excluding the submission of a Local Impact Report, which shall first be reported to and agreed by Full Council.

Officer attendance at preliminary meetings and hearings, and the preparation and giving of evidence, as is required, during the Examination of any Development Consent Order.

Consideration and determination of post-decision matters on any consented Development Consent Order including the determination of any associated Requirements and the taking of any enforcement action.

Consideration of proposals made via Section 106 agreement to establish Habitat Banks within the District in consultation with relevant Ward Members and the Cabinet Member for Planning.

**DIRECTOR OF PLACE AND ECONOMY**

**Delegation**

The Director of Place and Economy is authorised to exercise the following functions:

- Housing Services
- Community Safety
- Emergency Planning
- Licensing
- Environmental Health
- Private Sector Housing
- Safeguarding of Children and Vulnerable Adults

AND

All powers of the Council as Local Planning Authority (including the conduct of appeals and enquiries) under the Planning Acts, the Localism Act and the Growth and Infrastructure Act (unless expressly delegated to another officer) except where:-

**Exceptions and Conditions**

There is excepted from the delegation to the Director of Place and Economy any matter:-

(a) reserved to the full Council;

(b) delegated to a committee;

(c) which comprises or includes a function described in:-

(i) appendix 1 (functions which cannot be exercised by a delegated officer)
(ii) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);

(d) which is required to be discharged by another officer;

(e ) which is a function which for any other reason cannot be exercised by the Director of Place.

The Director of Place and Economy must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5 below.

**In the case of the Local Plan:**

Local Plan proposal's and policies with reasoned justification for publication and consultation or adoption at the following stages (other than where minor modifications and other minor changes are made).

(a) Local Plan options consultation

(b) Publication and consultation of the 'submission' Local Plan

(c) Local Plan adoption

(or the equivalent stages of processes of successors to Local Plans).

**In the case of Planning Policy:**

- Representations to strategic plans and policies at a larger than district scale are to be made.
- Supplementary Planning Documents dealing with Mid Devon wide guidance and sites/areas for publication prior to consultation and for adoption (other than where minor modifications and other changes are made).

  (Not including updating contributions sought through S106 Agreements to reflect changes in the cost of provision of facilities).

**BUILDING CONTROL AND SAFETY:**

To exercise all the Council's powers under the Building Act 1984 or regulations and any subsequent legislation made such as:-:-

(a) To determine and issue all Decisions and Notices arising under the Building Act 1984 and any building regulations.
(b) To relax or dispense with Building Regulations and to sign and issue such decisions.
(c) To withdraw Building Regulation approvals not exercised within three years
(d) To refer to the Magistrates' Court, Notices under Section 77 of the Building Act 1984 requiring dangerous buildings to be made safe, and to take, or instruct emergency action under the provisions of Section 78 of the Building Act 1984.
(e) To carry out, or instruct contractors to carry out, works in default of a Court Order obtained pursuant to Section 77 of the Building Act 1984.
(f) To institute proceedings for infringement of the Building Regulations.
(g) To serve Notice requiring removal or alteration of work not conforming to the Building Regulations (Section 36 of the Building Act 1984). To sign and issue Demolition Notices in respect of works falling within Section 80 of the Building Act 1984.
(h) To issue Notices under Sections 24, 71 and 72 of the Building Act 1984, requiring adequate entrances, exits and means of escape in case of fire in appropriate buildings.
(i) To serve Notices under Section 79 of the Building Act 1984 relating to ruinous and dilapidated buildings.

(j) To enter sites and premises to carry out and enforce the Statutory Powers and Duties, such visits to be properly recorded.
(k) To carry out tests on sewers, drains and land and where necessary to take samples and conduct tests on other building materials.
(l) To take emergency action under the provisions of Section 78 of the Building Act 1984 in respect of dangerous structures.
(m) To take action to enforce Building Regulations, including the issue of written Notices.
(n) To place officers within the building control team at the disposal of North Devon District Council under Section 113 Local Government Act 1972

In the case of charges

- The annual review of charge results in increases greater than the rate of inflation.

**OTHER PROVISIONS**

1. To authorise caravan rallies in accordance with the requirements of Caravan Sites and Control of Development Act 1960.

3. To make representations where appropriate and with the agreement of the Chair and/or Vice Chair of the Committee and Ward Member's (as appropriate) in respect of new Applications for Goods Vehicles Operators' Licenses, or when a significant variation of an existing licence is proposed.

4.To caution offender where there was evidence of a criminal offence and the offender admitted the commission of the offence but the public interest did not require a prosecution.

**MONITORING OFFICER DELEGATIONS**

(a) Appointed as Proper Officer for the purposes of receiving applications for dispensation pursuant to section 33(1) of the Localism Act 2011.

(b) To grant dispensations to Members pursuant to section 33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct to speak only or to speak and vote where:

(i) so many members of the decision-making body have disclosable pecuniary interests in a matter that it would impede the transaction of the business; or

(ii) without a dispensation, no member of the Cabinet would be able to participate on a particular item of business.

(c) Appointed to receive complaints relating to alleged breaches of the adopted Code of Conduct and to process complaints in accordance with the adopted Arrangements for

dealing with Code of Conduct Complaints.

(d) The right to depart from the arrangements for dealing with code of conduct complaints, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

**Exceptions and Conditions**

There is excepted from the delegation to the Director of Legal, HR & Governance (Monitoring Officer) and any matter:-

(a) reserved to the full Council;

(b) delegated to a committee;

(c) which comprises or includes a function described in:-

(i) appendix 1 (functions which cannot be exercised by a delegated officer);

(ii) appendix 2 (corporate personnel functions unless authorised by the Chief Executive);

(d) which is required to be discharged by another officer;

(e) which is a function which for any other reason cannot be exercised by the Director of Legal, HR & Governance ( Monitoring Officer)

The Director of Legal, HR & Governance (Monitoring Officer) must at all times comply with the Council's Constitution and particularly the principles of decision making found in Article 15 of this Constitution together with further statements made below.

Note

The terms of reference of committees are set out in Part 3 of this Constitution.

The delegation is subject to and with the benefit of the general provisions at 5

**4 FUNCTIONS DELEGATED TO ALL HEADS OF SERVICE**

**4.1 Delegation**

In addition to the functions specifically delegated by this part of the Constitution, together with those functions contained in the existing register of delegations attached at Appendix 4, all Heads of Service are authorised to exercise any of the Council's functions in relation to the day to day management and delivery of the services for which they are responsible.

**4.2 Condition**

Each Head of Service Officer must comply with the principles of decision making set out in Article 15 of the Constitution and further set out within this part of the Constitution.

**5 GENERAL PROVISIONS APPLICABLE TO DELEGATIONS**

**5.1 Further delegations by officers**

Where:-

(a) a function has been delegated to an officer; or

(b) an officer has been appointed to discharge the function of a proper or other statutory officer, that officer may in turn delegate that function to another officer or officers. If they do so then:-

(c) the delegation shall be recorded in writing and kept by the Monitoring Officer; and

(d) a decision taken pursuant to that delegation shall:-

(i) be taken in the name of the officer to whom the function was originally delegated; and

(ii) have effect as if it had been taken by that officer.

**5.2 Additional delegation to officers to accord with responsibilities**

In addition to any other delegation to an officer contained in this part of the Constitution, each officer is authorised to exercise any function as necessary for them to perform such of the duties set out in their job description as they are required to perform by the officer or officers responsible for their management.

**5.3 Additional delegation in particular circumstances**

The Council, the Cabinet or a committee may (unless prevented by statute, the standing orders, the rules of procedure or the requirement of any subsisting Council policy) delegate to an officer the exercise of a function reserved to them.

**5.4** The discretion conferred by paragraph 5.3 above shall only be exercised where the Council, the Cabinet relevant committee or officer (as appropriate) consider it necessary in particular circumstances for the proper exercise of the relevant function.

**5.5 Exercise of delegated power by Council/committee**

Notwithstanding a delegation to an officer of any of the Council's functions:-

(a) the Council, the Cabinet or a committee (where a matter is within the Cabinet or the committee's terms of reference) may exercise the delegated function itself; and

(b) an officer to whom a function has been delegated may refer the matter for a decision to the Council, the Cabinet or a committee (where the matter is within the Cabinet or the committee's terms of reference).

**5.6** The discretion conferred by paragraph 5.5 shall only be exercised where the Council, the Cabinet, relevant committee or officer (as appropriate) consider it necessary in particular circumstances for the proper exercise of the relevant function.

**5.7 Inability to Act: Substitute Officers**

If any officer:-

(a) To whom a function has been delegated; or

(b) Who has been appointed to discharge the function of a proper or other statutory office,

(i) Is for any reason unable to act; or

(ii) If the post of any such officer is vacant

Then (except where written provision has already been made), the Chief Executive in consultation with the Monitoring Officer shall determine who shall act as substitute officer.

**6 FURTHER GUIDANCE ON PRINCIPLES OF DECISION MAKING**

**6.1 Summary**

The following paragraphs are to be read in conjunction with Article 15, Paragraph 15.02 of this Constitution and Section 4 of this part of the Constitution.

This section provides direction and guidance to officers involved in the decision making process.

It sets out general requirements, describes the available decision making processes and provides criteria for choosing a process (where it is within an officer's discretion). It also provides a summary of the principal obligations and factors involved in operating the chosen process – including the publication of recording procedures which must be followed where a decision is taken by an officer in consultation with the relevant committee chair.

**7 OFFICER DECISION MAKING**

**7.1 Introduction**

These paragraphs set out the essential requirements of officers and introduce some key issues relevant to the decision making process as a whole.

In all decision making, officers must have regard to paragraph 4 of this part of the Constitution.

**7.2 Essential Requirements**

In participating in the Council's decision making process and in exercising their delegated functions, delegated officers must comply with:-

(a) The Council's Rules of Procedure;

(b) The Council's Financial Regulations;

(c) The Articles of the Constitution and further guidance contained in this part.

**7.3 Key Issues; A General Context for Decision Making**

When making a decision delegated officers must consider:-

(1) Effect on Others; Public and Councillor Expectation

(a) The effect on communities, businesses and individuals.

(b) The need to ensure democratic accountability through responding to:-

(i) the expectation of the public and councillors as to the process of decision making; and

(ii) the anticipated interest of the public and councillors in the matter.

(c) The effect of the matter on the Council's relationship with Government, Government Agencies and other Local Authorities, private, not-for-profit voluntary sector partners or other external bodies.

(d) The effect of the matter on other Council services and functions.

(e) Whether the matter is likely to prove controversial or to involve a fine balance between possible alternative decisions.

(2) Budget

(a) The approved budget and financial plan.

(3) Policies and Plans

(a) The approved policy framework, which is approved by Council annually.

(b) Whether the matter would involve a new policy issue.

(4) General Considerations

(a) General consequences
(b) Legal consequences
(c) Personnel consequences
(d) Human Rights consequences
(e) Environmental consequences

**APPENDIX 1**

**FUNCTIONS WHICH CANNOT BE EXERCISED BY A DELEGATED OFFICER**

- Consideration of certain Ombudsman Reports
  (S31A Local Government Act 1974)
- Consideration of reports of the Chief Finance Officer
  (S115 Local Government Finance Act1988)
- Consideration of reports of the Head of Paid Service
  (S4(5) Local Government and Housing Act 1989)
- Consideration of reports of the Monitoring Officer
  (S5(5) Local Government and Housing Act 1989)
- Certain functions relating to non-domestic rating
  (S139 Local Government Finance Act 1988)
- Certain functions relating to Council Tax
  (S67 Local Government Finance Act 1992)
- Making bylaws
  (S235 Local Government Act 1972)
- Promoting legislation
  (S239 Local Government Act 1972)
- Reports of the External Auditor
  (Accounts and Audit Regulations 2011)

**APPENDIX 2**

**CORPORATE PERSONNEL FUNCTIONS**

The following functions will be exercised by the Chief Executive:

(a) Approval of strategic personnel policies
(b) Council wide pay and grading structure and the job evaluation process which underpins it
(c) Re-organisation/restructuring within services which result in a re-allocation of responsibilities and/or change in post titles or redundancies
(d) Appointment of Heads of Service
(e) Management competency and appraisal schemes
(f) Changes in application of discretionary pension provisions for Local Government Pension Scheme (LGPS) and Total Pensionable Service (TPS)
(g) Approval of early retirements/added years (where award of added years exceeds standard council policy)
(h) Approval of personnel, employee development and health and safety procedures/codes of practice
(i) Approval of revisions to conditions of service for employees arising from enhanced local discretion, new employment legislation, EC directives etc (including variations to/departures from National Agreements/Conditions of Service)
(j) Early retirements (except ill-health) within the Council's Discretionary Pensions Policy
(k) Trade union (corporate) facility time
(l) Collective Dispute Hearings
(m) Personnel/TUPE implications of the externalisation of functions
(n) Heads of Service pay/gradings (determined by South West Employers and then ratified by Pay & Grading Group)
(o) Approval of compensation in relation to such issues as the settlement of employment tribunal cases
(p) Ring fencing for appointments
(q) Appeals under the Job Evaluation Scheme (delegated to the Pay & Grading Group)
(r) Payment of salaries above an employee's substantive grade (delegated to the Pay & Grading Group)

**Note**

In accordance with the requirements set out above the functions at (a) to (n) above will be exercised following consultation with the Leader of the Council.

**Onward Delegation**

The Corporate Personnel Functions are exercised by the Chief Executive and are highlighted in Part 3 of the Constitution.

Attached is an authorisation from the Chief Executive who has determined that certain functions may be further delegated.

**Onward Delegation to Heads of Service**

i. Minor changes to staffing structures within services, including reallocation of responsibilities and/or change of post title. Major reorganisation/restructuring of whole service units will require discussion at Management Team.
ii. Management competency and appraisals schemes.

    Involves a decision as to whether or not a relevant qualification is appropriate to a particular job and whether that can be highlighted as an ongoing training need in an appraisal scheme.

iii. Approval for trade union activities.
iv. Personnel/TUPE implications of any externalisation of functions.
v. Approval of compensation in relation to such issues as settlement of employment tribunal cases.
vi. Ring fencing for appointments.
vii. Appointment of staff.
viii. Appointment of temporary staff for contracts less than 12 months within budget
ix. Overtime payments.
x. Incremental increase within grade.
xi. Bouquet/Merit payments (delegated to the Pay & Grading Group).
xii. Honorarium payments (delegated to the Pay & Grading Group)

Finally, it should be remembered that decisions taken by Heads of Service are to be taken in the name of the Chief Executive and have the effect as if they had been taken by the Chief Executive. It should be further remembered that a function carried out by the Head of Service in relation to the above mentioned delegations must be recorded in writing.

**Onward Delegation to the Pay and Grading Group**

The Pay and Grading Group consists of Management and Union representatives and deals with the Job Evaluation Scheme.

Appeals under the Job Evaluation Scheme

Payment of salaries above an employee's substantive grade

Bouquet/Merit payments

Honorarium payments

Payment of salary above the employee's substantive grade (Market Supplement).

**APPENDIX 3**

**DELEGATION TO OFFICERS THAT IS CONSEQUENTIAL UPON THE ADOPTION OF THE NEW CONSTITUTION AND THE RESPONSIBILITY FOR FUNCTIONS CONTAINED IN PART 3**

| **POWER** | **OFFICER** |
|---|---|
| LAND TRANSACTIONS | |
| Authority to approve the terms on which land development project – other than schemes in the approved Capital Programme of other standing Committees – are undertaken (this to include industrial developments; town centre developments; major land assembly and development projects) | Chief Executive |
| Provision of valuation services for the Council | Chief Executive |
| ELECTIONS | |
| Register of Electors | Chief Executive |
| Authority to adjust fees in respect of elections | Chief Executive |
| FINANCE | |
| Authority to deal with purchase, maintenance and deployment of vehicles where the expenditure is not within an approved budget head | Chief Executive |
| OPERATIONS | |
| To deal with Renovation Grants including Disabled Facilities Grants and Minor Works Grants | Director of Place and Economy |
| Houses in Multiple Occupation | Director of Place and Economy |
| Private Sector Housing | Director of Place and Economy |
| Health Education | Director of Place and Economy |
| Pest Control | Director of Place and Economy |
| Food Protection | Director of Place and Economy |
| Control of Pollution (save for dog litter and litter generally) | Director of Place and Economy |

| POWER | OFFICER |
|---|---|
| Control of Pollution (dog litter and litter generally) | Director of Place and Economy |
| Water Quality | Director of Place and Economy |
| To deal with Infectious (communicable) and notifiable diseases | Director of Place and Economy |
| General health duties | Director of Place and Economy |
| To remove and dispose of abandoned vehicles | Deputy Chief Executive (S151) |
| To deal with issues relating to the Sunday Trading Act 1994 | Director of Place and Economy |
| To deal with issues relating to Health and Safety at Work (where the Council is the enforcing authority) including such matters within the Council's own buildings | Director of Place and Economy |
| Authority to deal with National Health Service issues | Director of Place and Economy |
| To take legal proceedings in respect of the sale or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment (currently regulated by the Licensing Act 2003 | Director of Legal, HR & Governance (Monitoring Officer) and Licensing Officer |
| The Health Act 2006 and associated regulations | Director of Place and Economy |
| HOUSING | |
| Authority to manage the housing stock including the replacement of existing Woolaway and Airey type houses and the updating of Cornish Unit properties | Director of Place and Economy |
| Authority to maintain and improve the housing stock | Director of Place and Economy |
| 'Enabling role' – to act as a catalyst between landowners, private sector builders, housing associations and other agencies to ensure the continued provision of affordable housing in the District | Director of Place and Economy |

| | |
|---|---|
| The letting of properties and all matters incidental thereto including the collection of rents and recovery of possession | Director of Place and Economy |
| To deal with issues relating to the Central Alarm System (Piper Life Line) | Director of Place and Economy |
| To liaise with tenants including tenant participation | Director of Place and Economy |
| Authority to act in respect of unlawful eviction/harassment | Director of Place and Economy |
| Housing Advances | Deputy Chief Executive (S151) |
| Calculation of Rent Rebates (Housing Benefit) | Deputy Chief Executive (S151) |
| Sale of Council Houses | Director of Place and Economy |
| Authority to Repurchase former Council Houses | Director of Place and Economy |
| Management of Council Shops and Commercial Units | Deputy Chief Executive (S151) |
| Authority in consultation with the appropriate Cabinet Member to acquire sites and affordable housing units for the continued provision of affordable housing in the District | Director of Place and Economy |
| EMPLOYEES | |
| Authority to deal with membership subscriptions and donations (other than recreation, leisure and arts) | Chief Executive |

**APPENDIX 4**

**PROPER OFFICERS**

Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament.

1 **CHIEF EXECUTIVE**

The Chief Executive is appointed the Proper Officer in relation to:-

(h) any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the clerk of a Council or the town clerk of a borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council;

(i) any reference in any local statutory provision to the clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council;

(j) the following provisions:-

| **Statute** | **Role/Function/Responsibility** | **Proper Officer** |
|---|---|---|
| Local Government & Housing Act 1989 | | |
| Section 4 | Head of Paid Service | Chief Executive |
| Local Government Act 1972 | | |
| Schedule 12 Para 4(2)(b) | Signature of Summons to Council Meetings | Chief Executive |
| Sections 83(1) – (4) | Witness and receipt of declarations of acceptance of office | Chief Executive or, in his absence or as instructed by him, the Monitoring Officer |
| Section 84 | Receipt of declarations of resignation of office | Chief Executive or, in his absence or as instructed by him, the Monitoring Officer |

| Statute | Role/Function/Responsibility | Proper Officer |
|---|---|---|
| Section 88 (2) | Convening Council to fill casual vacancy in the office of Chair | Chief Executive or, in his absence or as instructed by him, the Monitoring Officer |
| Section 89(1)(b) | Receipt of notice of casual vacancy | Chief Executive or, in his absence or as instructed by him, the Monitoring Officer |
| Sections 100B(2), 100B(7), 100C(2) & 100F(2) | Distribution of summons and proceedings and release of documents to Councillors | Chief Executive or, in his absence or as instructed by him, the Democratic Services Manager |
| Schedule 12 4(3) | Receipt of notices regarding address to which summons to meeting are to be sent | Chief Executive or, in his absence or as instructed by him, the Democratic Services Manager |
| Schedule 14 25(7) | Certificate of resolutions | Chief Executive or, in his absence or as instructed by him, the Democratic Services Manager |

| Statute | Role/Function/Responsibility | Proper Officer |
|---|---|---|
| Representation of the People Act 1983 | | |
| Sections 8(1)(2)(a) | Registration Officer | Chief Executive |
| Sections 28 & 35 | Electoral Registration Officer and Returning Officer | Chief Executive |
| Local Government Act 1972 | | |
| Sections 234 (1) & (2) | Authentication of documents: Letting of Garages Notifiable Diseases and Food Poisoning | Director of Place & Economy |
| Local Government Act 1972 | | |
| Section 225(1) | Deposit of Documents | Director of Legal, HR & Governance (Monitoring Officer) |
| Section 229(5) | Certification of photographic copies of documents | Director of Legal, HR & Governance (Monitoring Officer) |
| Sections 234(1) & (2) | Authentication of documents: Financial, Rating, Superannuation | Director of Legal, HR & Governance (Monitoring Officer) and S.151 Officer |
| Sections 236(9) & (10) | Service of Byelaws on other Authorities | Director of Legal, HR & Governance (Monitoring Officer) |
| Section 238 | Certification of Byelaws | Director of Legal, HR & Governance (Monitoring Officer) |

| Statute | Role/Function/Responsibility | Proper Officer |
|---|---|---|
| Local Government Act 1974 | | |
| Section 30(5) | Notice of Local Government Ombudsman's report | Director of Legal, HR & Governance (Monitoring Officer) |
| Local Government (Miscellaneous Provisions) Act 1976 | | |
| Section 41 | Evidence of resolutions and minutes of proceedings | Director of Legal, HR & Governance (Monitoring Officer) |
| Local Government and Housing Act 1989 | | |
| Section 5(1)(a) | Monitoring Officer | Director of Legal, HR & Governance (Monitoring Officer) |
| Sections 15 & 16 | Appointment of Members to Committees | Director of Legal, HR & Governance (Monitoring Officer) |
| Section 5(7) | Appointment of the Deputy Monitoring Officer | Director of Legal, HR & Governance (Monitoring Officer) |
| Anti Social Behaviour, Crime and Policing Act 2014 (as amended)<br>For the appointment of Officers under the Act and Authorisation/issue of notices, injunctions and any other proceedings under the Act | | Chief Executive; Director of Legal, People & Governance (Monitoring Officer) |

3 **DEPUTY CHIEF EXECUTIVE (S151)**

The Deputy Chief Executive (S151) is the Council's statutory Chief Financial Officer and is appointed the Proper Officer in relation to the following:-

(a) Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Treasurer or a Treasurer of a Borough which by virtue of any provision of the said act is to be construed as a reference to the Proper Officer of the Council.

(b) Any reference in any local statutory provision to the Treasurer of a specified Council which, by virtue of an order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council.

(c) Provisions of the Local Government Act 1972, as follows:-

| Statute | Role/Function/Responsibility | Proper Officer |
|---|---|---|
| Local Government Act 1972 | | |
| Section 115 (2) | Receipt of money due from officers | S. 151 Officer or Chief Executive |
| Section 146 (1) (a) & (b) | Declarations and certificates with regard to securities | S.151 Officer or Chief Executive |
| Section 234(1) & (2) | Authentication of documents:<br>Financial, Rating<br>Superannuation | S.151 Officer or Chief Executive |
| Local Government Finance Act 1988 | | |
| Section 114 | Reporting on decisions or actions Which may result in unlawful expenditure or loss to the authority | S. 151 Officer or Finance Manager |
| Data Protection Act 2018 | Data Protection Officer | Deputy Chief Executive (S151 Officer) |
| Local Government and Housing Act 1989 | | |

**4 DEVELOPMENT MANAGEMENT MANAGER**

The Development Management Manager is appointed the Proper Officer in relation to:-

| Statute | Role/Function/Responsibility | Proper Officer |
|---|---|---|
| Local Government Act 1972 | | |
| Section 234(1) & (2) | Authentication of documents:<br>Dangerous Structure Notices<br>Certification of Local Plans | Development Management Manager<br>Director of Place and Economy |

The Development Management Manager is appointed the Proper Officer in respect of powers contained in Section 78 of the Building Act 1984, ie, to act as "the

surveyor" empowered to take and authorise emergency action in respect of damage and dangerous buildings, walls, etc, and to order the demolition of buildings rendered dangerous by fire damage, without prior authorisation of the Council.

**5 MISCELLANEOUS**

| Statute | Role/Function/Responsibility | Proper Officer |
|---|---|---|
| Local Government Act 1972 | | |
| Section 112 | Duties to be carried out by a Proper Officer | The Officer responsible for carrying out the duty |

**6 DECISION MAKING**

The report author of any report to be considered by the Council or a Committee / Sub-Committee thereof is appointed as Proper Officer under the Local Government Act 1972 in relation to:-

- the identification of and compilation of lists of background papers to reports;
- the identification of confidential documentation.

7 **OTHER**

The Constitution and / or primary and secondary legislation associated with the Constitution and policy making functions and decision-making contain a range of Proper Officer posts. Except where prescribed in this part of the Constitution, those responsibilities are set out in the remainder of the Constitution, e.g. Council Procedure Rules. In the absence of any identified post holder, the Proper Officer shall be the Chief Executive.

# Part 4 - Rules of Procedure

**CONTENTS**

**Section 1 - Council Procedure Rules**

**Section 2 - Access to Information Procedure Rules**

**Section 3 - Budget and Policy Framework Procedure Rules**

**Section 4 - Cabinet Procedure Rules**

**Section 5 - Overview and Scrutiny Procedure Rules**

**Section 6 - Officer Employment Procedure Rules**

## SECTION 1 - Council Procedure Rules

### Introduction:

There are currently 21 procedure rules. They apply to all meetings of full Council (i.e. when all Members of the Council attend as voting members). Subject to the exceptions set out below in Rule 1 or where the rules provides or the context otherwise makes clear, they also apply to Cabinet **and Committees** (which latter term for the purposes of these rules, includes their sub-committees and Policy Development Groups).


1. Exceptions of Rules to Committees Meetings

2. Full Council

3. Substitute Members

4. Time Place and Notice of Meetings

5. Chair of the Meeting

6. Quorum

7 Single Issue Item

8. Members' Business at full Council

9. Questions by the Public

10. Petitions from the Public

11. Questions from Members at full Council

12. Motions

13. Rules of Debate

14. State of District Debate

15. Previous Decisions and Motions

16. Voting

17. Minutes

18. Exclusion of the Public

19. Members' Conduct

20. Disturbance by the Public

21. Suspension and Amendment of Council Procedure Rules

**1. Exceptions of Rules to Committee Meetings**

| Committee | Rules which don't apply |
|---|---|
| Audit | Members' Business (Rule 8)<br>No motions other than those referred by full Council (Rule 12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |
| Cabinet | No appointment of Substitutes (Rule 3)<br>Members' Business (Rule 8)<br>No motions other than those referred by full Council (Rule 12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |
| Electoral Review | Members' Business (Rule 8)<br>No motions other than those referred by full Council (Rule 12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |
| Policy Development Groups (**PDG's**) | Members' Business (Rule 8)<br>No motions other than those referred by full Council (Rule 12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |
| Licensing | No appointment of Substitutes for sub-committees (Rule 3)<br>Members' Business (Rule 8)<br>Public Questions for sub-committees (Rule 9)<br>No motions other than those referred by full Council (Rule12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |
| Planning | Members' Business (Rule 8)<br>No motions other than those referred by full Council (Rule 12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |
| Regulatory | No appointment of Substitutes for sub-committees (Rule 3)<br>Members' Business (Rule 8)<br>Public Questions for sub-committees (Rule 9)<br>No motions other than those referred by full Council (Rule 12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |

| | |
|---|---|
| Scrutiny | Members' Business (Rule 8)<br>No motions other than those referred by full Council (Rule 12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |
| Standards | No appointment of Substitutes for sub-committees (Rule 3)<br>Members' Business (Rule 8)<br>Public Questions for sub-committees (Rule 9)<br>No motions other than those referred by full Council (Rule 12)<br>No restriction on the number of times a member can speak during debate (Rule 13) |

## 2. Full Council (Annual Meeting)

**2.1 Timing and business:** In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement (four days after the election) of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

**2.2 Business:** The annual meeting will:

a. elect a person to preside if the outgoing Chair of Council or Vice Chair of the Council is not present;

b. elect the Chair of the Council (subject to the statutory provisions in that behalf, a Councillor who is the present Chair of the Council and has completed two consecutive years in such office shall not be eligible for re-election as Chair of the Council for the ensuing year);

c. elect the Vice Chair of the Council;

d. approve the minutes of the last meeting of the Council;

e. receive any announcements from the Chair and/or the Chief Executive;

f. elect the Leader (following the ordinary election of councillors);

g. elect the Scrutiny Committee Chair;

h. approve a programme of ordinary meetings of the Council for the year; and

i. consider any *other* business set out in the notice convening the meeting.

**2.3 Appointment of Committees:** At the Annual Meeting, the Council meeting will:

i. decide which committees to establish for the municipal year;

ii. decide the size and terms of reference for those Committees;

iii. decide the allocation of seats to political groups in accordance with the political balance rules;

iv. receive nominations of (any) ungrouped Councillors to serve on each Committee and vote on each appointment

v. make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet (in respect of Executive functions);

**2.4 Ordinary Meetings**

**Business:** The order of business at ordinary meetings will be as follows:

(a) elect a person to preside if the Chair and Vice Chair are not present;

(b) approve the minutes of the last meeting (whether the annual meeting or otherwise);

(c) receive any declarations of interest from Members;

(d) receive any announcements from the Chair;

(e) receive Public Questions (as set out in Rule 9);

(f) receive a report from the Leader and receive questions and answers on the report;

(g) deal with any business remaining from the last Council meeting;

(h) receive petitions from members of the public;

(i) debate single issues;

(j) consider Motions;

(k) consider recommendations from the Cabinet;

(l) consider any recommendations submitted by the Council's Committees;

(m) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;

(n) receive Members' Business (as set out in Rule 8);

(o) consider any urgent items of business brought forward at the discretion of the Chair and the reason for urgency must be announced at the meeting and recorded in the minutes; and

(p) consider any other business specified in the summons to the meeting.

**2.5 Variation of Order of Business:**

Business falling under items 2.2.1 shall not be displaced, but subject thereto the order of business may be varied:

(a) by the Chair at his/her discretion; or

(b) by a resolution passed on a Motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

**2.6 Extraordinary Meetings**

**2.7** Those listed below may request the Proper Officer to call Council meetings in addition to Ordinary Meetings:

(a) the Council by resolution;

(b) the Chair of the Council;

(c) the Monitoring Officer; or

(d) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

**2.8** The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from Cabinet or Committees etc. except that the Chair may at his absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

**3. <u>Appointment of Substitute Members</u>**

**3.1 Cabinet**

This rule does not apply to the Cabinet as they are not able to use substitutes

**3.2 Scrutiny Committee and Policy Development Groups (PDGs)**

Where a member is appointed to the Scrutiny Committee, Policy Development Groups or to serve on any committee or sub-committee of another council on which this council is represented, provided that council's constitution so permits, that member may appoint a substitute member to attend the meeting

**3.3 Planning, Licencing, Licensing Regulatory, Audit and Standards Committee**

In respect of the Licensing, Licensing Regulatory, Audit and Standards Committees, each Committee will have a pool of five suitably trained members shall be established and substitutes may only be nominated from that pool. Planning Committee has a pool of 7).

**3.4 Licencing, Licensing Regulatory and standards sub committees**

Substitutes cannot be used in the case of a Licencing, Regulatory or Standards sub committee.

**3.5** Where the Member appointing a substitute is a Member of a Political Group the substitute Member shall be from the membership of that same Group.

Any such substitution shall have effect for the entirety of the meeting in respect of which the Notice has been given.

A substitute Member shall be entitled to vote and shall assume all the responsibilities and rights of a Member of the Scrutiny Committee, Audit Committee, Policy Development Group, Committee, Sub-Committee or other body.

Notice in writing of a substitute shall be given to the Chief Executive (and recorded by him in the order in which they are received) by the Member appointing the substitute before the commencement of the meeting. Notification by a Member purporting to be a substitute Member will not be accepted.

No more than two Members of the same Political Group shall be substituted at any meeting, and no Member shall be substituted at more than two consecutive meetings of the same Scrutiny Committee, Audit Committee, Policy Development Group, Committee, Sub-Committee etc.

The Monitoring Officer may consider a request from a Member of a Council Body to appoint a substitute Member (for one meeting only), providing that substitute Member is from the same political group.

In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law

Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

Substitute Members may only attend meetings in that capacity only:

(a) to take the place of the ordinary Member for whom they are designated substitute;
(b) where the ordinary Member will be absent for the whole of the meeting;
(c) where the ordinary Member has notified the Democratic Services Officer by email of the intended substitution at least one hour before the start of the relevant meeting; and
(d) provided, in the case of area committees, that the substitution does not alter the balance on that committee between Members from the area and Members from the rest of the District.

**4. <u>Time, Place and Notice of Meetings</u>**

**4.1** The time and place of meetings will be determined by the Chief Executive and notified in the summons.

**4.2** The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules.

**4.3** At least five clear working days before a meeting, the Chief Executive will send a summons approved by him/her to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

**5. <u>Chair of the Meeting</u>**

**5.1** The person presiding at the meeting may exercise any power or duty of the Chair.

**5.2** The Chair of the Council, by virtue of office, is not eligible to hold office as a Chair of any other Committee during his/her term.

**5.3** The ruling of the Chair as to the construction or application of any of these Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting.

**5.4** When the Chair stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

**6. Quorum**

**6.1** The quorum of a Full Council meeting will be one quarter of the whole number of Members (rounded up)

**6.2** The quorum for a meeting of the Cabinet and any Committees will be one half of the number of members appointed to that body (rounded up) subject to a minimum of three in each case.

**6.3** During any meeting if the Chair counts the number of Members present and declares there is not a quorum present the meeting will adjourn and remaining business will be considered at a time and date fixed by the Chair or failing such, at the next ordinary meeting.

**7. Single Issue Debate**

**7.1** Where any five members give notice in writing, delivered at least eight clear days before the next meeting of the Council at the office of the Chief Executive, of request for a single issue debate. Rule 13 (Rules of Debate) shall not apply to any debate under this Procedure Rule.

**7.2** A period of not exceeding one hour shall be allowed during which debate may take place. Any recommendations arising from such debate shall be referred to the appropriate committee for consideration.

**8. Members' Business**

**8.1** At each ordinary meeting of the full Council, a period not exceeding 15 minutes shall be allowed during which any Member may make a statement or give preliminary verbal notice of a question provided that:-

(a) such statement or question must be relevant to some matter in relation to which the Council has powers or duties, or which affects the District and has not been otherwise before the Council for consideration at the same meeting;

(b) no Member may make more than one statement or give notice of more than one question;

(c ) no Member shall speak pursuant to this Procedure Rule for longer than two minutes;

(d) the statement or notice of question shall not be the subject of discussion or reply at that meeting;

(e) after the expiry of the said period of 15 minutes the Council shall proceed to the next business; and

(f) such statement or questions is not (in the opinion of the Chairman) scurrilous, improper, capricious, irrelevant or otherwise objectionable.

**9. Questions and Statements by the Public**

**9.1**

- Residents, electors or business rate payers of the District shall be entitled to ask questions and/or make a statement.
- Residents, electors or business rate payers of the District wishing to raise a question under public question time are asked to provide their written questions to the Democratic Service team by 5pm three clear working days before the meeting to ensure that a response is received at the meeting to the written question.

(a) Questions and/or statements must be relevant to an item on the Agenda for that meeting (excluding the Minutes unless challenging the accuracy of the minutes). The exception to this is at Full Council when residents, electors or business rate payers can ask a question concerning any of the Council's powers / duties or which otherwise affects the District.

(b) The Chairman, following advice from either the Chief Executive, Monitoring Officer or Democratic Services Manager, shall have the discretion to reject a question and/or statement, giving reasons if it:

(i) Is not about a matter for which the Council has a responsibility or which affects the District

(ii) Is in his/her opinion scurrilous, improper, capricious, irrelevant or otherwise objectionable

(iii) Is substantially the same as a question and/or statement which has been put at a meeting of the Council in the past six months;

(iv) Requires the disclosure of confidential or exempt information.

(v) At the discretion of the Chair of that meeting, the questioner may ask a supplementary question at the meeting, if it is relevant to the original question and/or statement.

(c) Contributions from members of the public will be limited to 3 minutes, and 30 minutes (extendable at the Chair's discretion) will be available at the beginning of meetings for such questions and /or statements.

(d) The Chair of any meeting has the right and discretion to control question time to avoid disruption, repetition and wasting of meeting time.

(e) NB Planning Committee has its own arrangements for public questions.

**9.2 Attendance**

Persons submitting questions and/or statements must be present (remotely or in person) at the meeting unless the Chair agrees to address the questions in the questioner's absence.

Persons attending the meeting in person are required to sign in at reception on arrival.

**9.3 Order of Questions**

Questions will be asked in the order they have been received.

**9.4 Answers to questions**

The Chair or Vice-Chair at meetings of the Council the appropriate Committee chair, shall respond to all valid questions.

Replies to questions may be verbal, by reference to a published document or where the question cannot be answered at the meeting, a written response shall be provided to the Member of the public within 10 working days by the Chair (or such other person as they shall refer the matter to)

Replies which are not provided at the meeting shall be reported to the next relevant meeting by publishing them alongside the draft minutes when available and by circulating them to all Members.

**9.5 Recording of Questions and Statements by the Public**

The minutes shall contain a condensed written record of questions and/or statements made by the public which accurately conveys the context. The minutes are not verbatim.

**10. Petitions from the Public to Full Council**

**10.1 Notice of Petition**

If a citizen wishes to present a petition to a Council meeting, notice must be given at least 10 working days before the meeting.

Petitions to be debated at the Council Meeting will have been selected according to the Petitions Scheme (which is attached as Appendix D to the Constitution).

**10.2 Presentation of Petitions**

The petition organiser will be allowed 5 minutes to present the petition at the meeting.

Only one person may speak to present a petition.

The Council will debate a single petition for a maximum of 15 minutes (if the petition has 1500 signatures or more).

The Council's response to the petition may include one or more of the following:

(a) taking the action requested in the petition;

(b) not taking the action requested in the petition;

(c) considering the petition at a council meeting;

(d) holding an inquiry into the matter;

(e) undertaking research into the matter;

(f) holding a public meeting;

(g) holding a consultation;

(h) holding a meeting with the petitioners;

(i) calling a referendum;

(j) referring the petition for consideration by other committees such as the Scrutiny Committee;

(k) where the issue is one on which the Cabinet is required to make the final decision, the Council will decide whether to make recommendations to inform that decision;

(l) the petition organiser will receive a written acknowledgement of receipt of their petition, details as to when and where their petition will be considered and a letter giving the outcome which will also be published on the Council website.

**10.3 Scope of Petitions**

The Democratic Services Manager may reject a petition if it:

(a) does not qualify under the scheme;

(b) does not follow the Council's guidelines for submitting a petition;

(c) it is vexatious, abusive or otherwise inappropriate;

(d) it is a petition qualifying under another enactment;

(e) it relates to a planning, licensing or other regulatory decision;

(f) it relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

**11. Questions from Members at full Council**

**11.1 Questions without notice on reports of the Cabinet and Committees**

At an Ordinary meeting of the full Council a Member of the Council may ask the Leader, Cabinet Members or the Chair of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

**11.2 Questions on notice at full Council**

A Member of the Council may, ask the Chair of the Council, the Leader, a Cabinet Member or the Chair of any Committee any question which:

(a) concerns the Council's powers / duties or which otherwise affects the District;

(b) the Member has provided written notice of the question to the Chief Executive no later than noon, two clear days preceding the Council meeting;

(c) the question is not (in the opinion of the Chair taking account of the advice on the matter from the Chief Executive, Monitoring Officer or Democratic Services Manager) one which:

(i) is scurrilous, improper, capricious, irrelevant or otherwise objectionable

(ii) is substantially the same as a question which has been put at a meeting of the Council (or other meeting to which these rules apply) in the past six months;

(iii) requires the disclosure of confidential or exempt information unless the question is raised in closed session;

(iv) contains expressions of opinion; or

(v) relates to questions of fact.

d) questions on notice and written responses will be circulated to Members in advance and hard copies provided at the meeting.

e) a Member asking a question under Rule 11.2 may ask one supplementary question without notice of the Member to whom the questions was asked. The supplemental question must arise directly out of the original question or reply.

**11.3 Questions relating to urgent business**

A Member of the Council may, with the advance permission of the Chair, put to him, the Leader, a Cabinet Member or the Chair of any Committee any question relating to urgent business of which notice has not been given in accordance with paragraph 11.2(c) above, provided that:

(a) the Chair in his absolute discretion is satisfied that the matter being raised is of such urgency that compliance with paragraph 11.2(c) is precluded nor should its consideration be delayed until the next meeting of the Cabinet or the Committee; and

(b) a copy of any such question has been delivered to the Chief Executive no later than 9am the day before the Council Meeting.

**11.4 Order of Questions**

Questions under 11.2 and 11.3 shall be taken at the appropriate point in the relevant Committee report or in the absence of such, at the Members' Questions agenda item.

Questions and written answers shall be printed in order of receipt and circulated amongst the Members at the commencement of the Council Meeting.

No discussion shall be allowed upon questions or answers save as is permitted under Rules 11.5 to 11.8 below.

**11.5 Form of Response**

The Chief Executive shall arrange for copies of questions and answers to be sent to Members not present at the Meeting of the Council.

An answer may take the form of:

(a) a direct oral answer at the meeting;

(b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or

(c) where the reply cannot conveniently be given orally, a written answer circulated within 10 working days to the questioner and all Members.

(d) When an enquiry, to which an answer is required, is made by a Member at a formal meeting and an answer cannot be given at that meeting, a written response shall be sent to the enquiring Member within 10 days.

(e) A copy of the question(s) and answer(s) will be circulated to members of the committee (or Full Council) and will also be attached to the minutes.

**11.6 Supplementary question**

One relevant supplementary question to an answer to a question on notice shall be allowed to the original questioner but may be disallowed or not answered if the Chairman of the Council considers it in breach of paragraph 11.2(e).

**11.7 Length of Speeches**

A Member asking a question under Rules 11.1 to 11.3 and a Member answering such a question may speak for no longer than three minutes unless the Chair consents to a longer period.

**11.8 Time Allowed for Questions**

The time allowed for consideration of all questions at full council which are submitted under Rule 11 shall not, without the consent of the Council, exceed 30 minutes.

At the conclusion of the answer to the question under consideration at the expiry of 30 minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chair shall continue with the meeting unless the Council resolves otherwise at the meeting.

Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council with written answers to be forwarded to all Members.

**12. Motions**

**Motions on Notice**

**12.1 Notice:**

Except for motions which can be moved without notice under Rule 12.7, written notice of every motion, must be delivered to the Chief Executive via Democratic Services at least eight clear working days before the Council meeting at which it is to be considered.

**12.2 Record of Motions:**

Motions received will be entered in a record, in the order they are received, which is open to public inspection. Where a motion is rejected, the record need only comprise a summary giving reason(s) why it was rejected.

**12.3 Motion set out in summons:**

The Chief Executive shall set out in the Summons for every meeting of the Council all Motions of which notice has been duly given in the order in which they have been received, unless:

(a)The motion is rejected in accordance with Rule 12.5; or

(b) The Member giving such a notice intimated in writing, when giving it, that he/she proposed to move it at some later meeting or has since withdrawn it in writing.

**12.4 Motion not moved:**

Subject to 12.7 if a Motion set out in the Summons is not moved either by a Member who gave notice or by some other Member on his behalf it shall, unless postponed by resolution of the Council, be treated as withdrawn and shall not be moved without fresh notice.

**12.5 Speaking on the Motion:**

Those moving and seconding the Motion at the Council meeting shall be invited to speak on the Motion. In the event that the Motion stands referred to another body as provided for in 12.6 the mover (or in his absence, the seconder) of the Motion shall be invited to the relevant meeting to amplify the Motion, but without any right to vote except as a member of the Cabinet or relevant Committee.

**12.6 Reference to Committee:**

If the subject matter of any Motion, of which notice has been duly given comes within the province of the Cabinet or a Committee, it shall, after being formally moved and seconded (with those moving and seconding the motion having been given the opportunity to speak on the Motion), either:

(a) stand referred to the Cabinet or the most relevant Committee as the Chair may determine for consideration and report; or

(b) unless an alternative motion is put forward and is accepted; and that the mover (or in his absence, the seconder) of the Motion should be invited to the meeting of the Cabinet, Committee or Policy Development Group to amplify the Motion, but without any right to vote except as a member of such Committee. Provided that the Chair may if he considers it convenient and conducive to the despatch of business allow the Motion to be dealt with at the meeting, at which it is brought forward.

**12.7 Consideration by full Council:** The Chair of Council may if he considers it convenient and conducive to the despatch of business allow the Motion to be dealt with at the meeting, at which it is brought forward.

**12.8 Scope of Motions on Notice:**

Motions must:

(a) be about matters for which the Council has a responsibility or which affect the District; and

(b) not, in the opinion of the Chief Executive be out of order, illegal, irregular or improper.

**12.9** If a motion is not within scope, the Chief Executive shall as soon as is practicable, submit the notice of motion to the Chair of the Council and the motion shall not be accepted nor placed on the agenda without the Chair's sanction.

**12.10** In the event of non-acceptance, the Chief Executive shall inform the member giving notice as soon as reasonably possible of the reason(s) for the rejection.

**12.11 Motion on Notice to Remove the Leader**

In order for such a motion to be carried it must have the support of the majority of those members voting and present in the room at the time the question was put.

**12.12 Motions without Notice**

**12.13** The following motions may be moved without notice:

(a) to appoint a Chair of the meeting at which the motion is moved;

(b) in relation to the accuracy of the minutes;

(c) to change the order of business in the agenda;

(d) to adopt a recommendation on some other course of action arising from a report to the meeting or as a result of a petition submitted to the meeting or recommendation arising from single issue debate

(e) to refer something to an appropriate body or individual;

(f) to appoint a committee or member arising from an item on the summons for the meeting;

(g) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;

(h) to withdraw a motion which may be moved in accordance with this procedure rule;

(i) to amend a motion which may be moved in accordance with this procedure rule, subject to the provisions of the Budget and Policy Framework Procedure Rules in relation to amendment of the Cabinet's proposals for the Council's Budget and Policy Framework;

(j) to proceed to the next business (such Motion may only be moved by a Councillor who has not spoken in the debate)

(k) that the question be now put (such Motion may only be moved by a Councillor who has not spoken in the debate)

(l) to adjourn a debate;

(m) to adjourn a meeting;

(n) to suspend a particular Council Procedure Rule;

(o) to exclude the public and press in accordance with the Access to Information Procedure Rules;

(p) Not to hear further a Member named under Rule 19.2 or excluded from the meeting under Rule 19.3; and

(q) to give the consent of the Council where its consent is required by this Constitution.

**13. Rules of Debate**

**13.1** No speeches may be made unless the appropriate Notice has been given and until the Motion is seconded; or the appropriate Notice has been given and is moved by the Chair of the meeting.

In the case of an Amendment (other than an Amendment moved in accordance with Rule 15), notice in writing of the Amendment shall have been delivered to the office of the Chief Executive of the District Council by no later than 9.30am on the day before the day of the meeting and a copy of it shall be circulated to each Member of the District Council by the Chief Executive at the commencement of the meeting at which it is to be discussed.

Except that where the Chair is satisfied that, in the context of the debate which has taken place, a further Amendment becomes necessary, he may at his discretion allow such further Amendment to be moved at the meeting. Any such further Amendment shall be put in writing and handed to the Chairman before it is discussed or put to the meeting.

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

**13.3 Content and length of speeches**

**13.4** Speeches must be directed to the question under discussion or to a personal explanation or point of order.

**13.5** No speech shall exceed:

(a) Five minutes in the case of the mover of a Motion;

(b) Three minutes in the case of the seconder;

(c) Five minutes in the case of the Leader, the relevant Cabinet Member or the Chair of a Committee dealing with the matters arising from committee reports except with the consent of the Chair who shall have discretion to extend that time if it appears prudent in his judgement to do so;

(d) Three minutes in all other cases except by consent of the Council; and

(e) When the Council's annual budget is under discussion, the leader of each political group on the Council may speak for up to five minutes or such longer period as the Chair shall allow.

**13.6 When a Member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

(a) to speak once on an amendment moved by another member;

(b) to move a further amendment if the motion has been amended since he/she last spoke;

(c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);

(d) in exercise of a right of reply;

(e) on a point of order; and

(f) by way of personal explanation.

**13.7 <u>Amendments to motions</u>**

An amendment to a motion must be relevant to the motion and will either be:

(a) to refer the matter to an appropriate body or individual for consideration or reconsideration;

(i) to leave out words;

(ii) to leave out words and insert or add others; or

(iii) to insert or add words

(iv) as long as the effect of i) to iii) is not to negate the motion.

(b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of provided that the Chair may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course of action would facilitate the proper conduct of the Council's business.

(c) If an amendment is not carried, other amendments to the original motion may be moved.

(d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

(e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

**13.8 Alteration of motion**

(a) A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

(b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

(c) Only alterations which could be made as an amendment may be made.

**13.9 Withdrawal of motion**

(a) A Member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder.

(b) The meeting's consent will be signified without discussion.

(c) No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

**13.10 Right of reply**

(a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

(c) The mover of the amendment has no right of reply to the debate on his/her amendment.

**13.11 Motions which may be moved during debate**

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

(a) to withdraw a motion;

(b) to amend a motion;

(c) to proceed to the next business;

(d) that the question be now put;

(e) to adjourn a debate;

(f) to adjourn a meeting;

(g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and

(h) Not to hear further a Member named under Rule 19.2 or excluded from the meeting under Rule 19.3.

**13.12 Closure motions**

A Member may move, without comment, the following motions at the end of a speech of another Member;

(a) to proceed to the next business;

(b) that the question be now put;

(c) to adjourn a debate; or

(d) to adjourn a meeting.

If a motion to proceed to next business is seconded and the Chair considers the item has been sufficiently discussed, he/she will give the mover of the original motion (if there is one) a right of reply and then put the procedural motion to the vote.

If a motion that the question be now put is seconded and the Chair considers the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion (if there is one) a right of reply before putting his/her motion to the vote.

If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair considers the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

**13.13 Point of order**

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

**13.14 Personal explanation**

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

**14. <u>State of the District Debate</u>**

**Calling of the debate**

The Leader may call a state of the District debate annually on a date to be agreed with the Chair.

**14.1 Form of the debate**

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

**14.2 Chairing of the debate**

The debate will be chaired by the Chair.

**14.3 Results of the debate**

The results of the debate will be:

(a) disseminated as widely as possible within the community and to agencies and organisations in the area; and

(b) considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

If the Leader fails to call a debate within nine months in any municipal year, it may be called by notice in writing to the Chief Executive signed by any 10 Members of the Council and that the debate shall be heard on the subject and form specified by those 10 Members.

**15. <u>Previous Decisions and Motions</u>**

**Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 10 Members.

**15.1 Motion similar to one previously rejected**

This Procedure Rule 15.2 shall not apply to Motions moved in pursuance of a recommendation of a Committee.

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

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

**16. <u>Voting</u>**

**16.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question is put and the whole debate.

**16.2 Chairman's casting vote**

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

**16.3 Method of Voting**

Unless a recorded vote is demanded under Rule 16.4 the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting

**16.4 Recorded vote**

If 10 members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

**16.5 Right to require individual vote to be recorded**

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

**16.6 Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken.

The process will continue until there is a majority of votes for one person.

**16.7 Voting on the Budget and Council Tax**

At a Budget meeting, the vote on any motion or amendment relating to the setting of the Budget (revenue and capital budget) and Council Tax or precept shall be by roll call and the names of Members who voted as for, against or in abstention to any such motion or amendment shall be recorded in the minutes of that meeting. Section 106 of the Local Government Finance Act 1992.

**17. Minutes**

**17.1 Signing the minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting.

The Chair will move that the minutes of the previous meeting be signed as a correct record.

The only part of the minutes that can be discussed is their accuracy.

**17.2 No requirement to sign minutes of previous meeting at an Extra-ordinary meeting**

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

**17.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Chair put them.

**18. Exclusion of Public**

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

**19. Members' Conduct**

**19.1 Speaking at meetings**

When a Member speaks at full Council he/she must address the meeting through the Chairman.

If more than one member signifies their intention to speak, the Chair will ask one to speak.

Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

**19.2 Member not to be heard further**

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the member not be heard further.

If seconded, the motion will be voted on without discussion.

**19.3 Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period.

If seconded, the motion will be voted on without discussion.

**19.4 General disturbance**

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

**20. <u>Disturbance by the Public</u>**

**20.1 Removal of member of the public**

(a) If a member of the public interrupts proceedings, the Chair will warn the person concerned.

(b) If they continue to interrupt, the Chair will order their removal from the meeting room or online.

**20.2 Clearance of part of meeting room**

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

**21. <u>Suspension and Amendment of Council Procedure Rules</u>**

**21.1 Suspension**

All of these Council Rules of Procedure except Rules 5.3, 16.5, 17.3 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

**21.2 Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council unless the amendment is the subject of a report from the Standards Committee.

## Access to Information Procedure Rules

**1.0 Scope**

**1.1** Subject to paragraph 1.2 below, these rules apply to all meetings of the Council, the Cabinet, the Scrutiny Committee, area committees (if any) the Audit Committee, Policy Development Groups, Standards Committee and Regulatory Committees (together called meetings).

**1.2** Where the Standards Sub-Committee is convened to consider or review, as the case may be, an allegation that a member has contravened the Council's Code of Conduct for Members, the provisions set out in the Standards Committee's Procedure for Local Assessment of Complaints shall apply and the meeting and papers will not be open to the public.

**2.0 Additional Rights to Information**

**2.1** These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 2018.

**3.0 Rights to attend meetings**

**3.1** Members of the public may attend all meetings subject only to the exceptions in these Rules.

**3.2** If a member of the public or press interrupts the proceedings at any meeting the Chair may warn him/her. If he/she continues the interruption and a warning has been given, the Chair may order his/her removal from the meeting place.

**3.3** In the event of a general disturbance in any part of the meeting place open to the public, the Chair may order that part to be cleared.

**3.4** If the Chair considers the orderly dispatch of business impossible, he/she may without question adjourn the meeting.

**3.5** The above powers of the Chair are in addition to any other power vested in him/her.

**4.0 Notices of meeting**

**4.1** The Council will give at least five clear working days notice of any meeting by posting details of the meeting at Phoenix House, Phoenix Lane, Tiverton Devon known as the designated office and on its website at www.middevon.gov.uk

**5.0 Access to Agenda and Reports before the meeting**

**5.1** The Members of the Scrutiny Committee shall be provided with full copies of the agenda and reports presented to the Cabinet including those containing exempt and/or confidential information.

**5.2** The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and available on the website (if any) at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the Democratic Services Manager shall make each such report available to the public as soon as the report is completed and sent to Councillors).

**6.0 Supply of copies**

**6.1** The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (save during any part of the meeting to which the public are excluded)

**6.2** The Council will supply copies of:

(a) any agenda and reports which are open to public inspection;

(b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

(c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item

(d) to any person on payment of a charge for postage and any other costs.

**7.0 Access to Minutes etc. after the meeting**

**7.1** The Council will make available copies of the following for six years after a meeting:

(a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

(b) records to decisions taken by individual Members or officers

(c) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

(d) the agenda for the meeting; and

(e) reports relating to items when the meeting was open to the public.

**8.0 Background Papers**

**8.1** The Chief Executive Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report

(c) but does not include published works or those which disclose exempt or confidential information.

**8.2** Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

**9.0 Summary of Public's Rights**

**9.1** A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at the Council's main offices at Phoenix House, Phoenix Lane, Tiverton, Devon and on the Councils website www.middevon.gov.uk.

**10.0 Exclusion of Access of the Public to Meetings**

Extent of Exclusion

**10.1** The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

Confidential information – requirement to exclude public

**10.2** The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

Exempt information – discretion to exclude public

**10.3** The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the relevant decision making body.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Meaning of confidential information

**10.4** Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

Meaning of exempt information

**10.5** Exempt information means information falling within the following categories (subject to any qualification)

Categories of exempt information

(a) Information relating to any individual

(b) Information which is likely to reveal the identity of an individual

(c) Information relating to the financial or business affairs of any particular person (including the authority holding that information)

(d) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter

arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority

(e) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

(f) Information which reveals that the authority proposes –

To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

To make an order or direction under any enactment

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The above categories are subject to qualifications and to the public interest test. These are laid down in Schedule 12A to the Local Government Act and further details can be found in Appendix E.

**10.6 Extent of Exclusion**

The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

[NOTE Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.]

**11 Exclusion of Access by the Public to Reports**

**11.1** If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 18, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.

**11.2** The relevant body is requested in the agenda to confirm the action set out in 11.1 by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.

**11.3** If the matter is considered in public, any related report will also become available to the public.

**12. Application of Rules to the Cabinet**

Rules 13–27 apply to the Cabinet and its Committees (if any). If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 15 of this Constitution.

**13. Procedure before taking Key Decisions**

Notice of Key Decision

**13.1** Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

a) a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;

b) at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and

c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4.1 (notice of meetings).

**Contents of Notice of Key Decision**

**13.2** The Notice of Key Decision will state that a key decision is to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, Officers, area committees or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

a) the matter in respect of which the decision is to be made;

b) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its membership;

c) the date on which, or the period within which, the decision is to be made;

d) a list of the documents submitted to the decision maker for consideration in relation to the matter;

e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

f) that other documents relevant to those matters may be submitted to the decision maker; and

g) the procedure for requesting details of those documents (if any) as they become available.

**13.3 Publication of the Notice of Key Decision**

The Notice of Key Decision must be made available for inspection by the public at Phoenix House, Phoenix Lane, Tiverton Devon known as the designated office and on its website at www.middevon.gov.uk.

**14. The Forward Plan**

**14.1** The Council is not required by law to publish a Forward Plan. However, the a Notice of Key Decision and a Notice of Private Meeting of Cabinet published by the Council set out not just details of specific key decisions, but also details of key decisions over a four month period (including decisions to be made by Cabinet, individual Cabinet members or delegated officers, which are not key decisions. In this constitution, such notices are together referred to as the “Forward Plan”. The Forward Plan does

not have to include exempt information and should not include confidential information.

**15. General Exception**

**15.1** If a Notice of Key Decision has not been published in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

(a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the appropriate month to which the next Forward Plan relates;
(b) the Chief Executive has informed the Chair of the Scrutiny Committee, or in his/her absence the Vice-Chair, and the Monitoring Officer in writing, of the matter about which the decision is to be made;
(c) the Chief Executive has made copies of that notice available to the public at the offices of the Council and on the Council's website www.middevon.gov.uk ; and
(d) at least 5 clear days have elapsed since the Chief Executive complied with b) and c).

**15.2** As soon as reasonably practicable after the Chief Executive has complied with Rule 15.1, he must make available at the Council offices at Phoenix House, Phoenix Lane, Tiverton, Devon and publish on the Council's website www.middevon.gov.uk (if any) the reasons why compliance with Rule 14 is impractical.

**16. Special Urgency**

**16.1** If a decision, (whether a key decision or otherwise), is so urgent that Rule 15 (general exemption) cannot be followed the Leader of the Council or the relevant Cabinet Member may take the decision if he/she has obtained the agreement of the Chairman of the Scrutiny Committee and the Monitoring Officer that the taking of the decision cannot be reasonably deferred. If the Chair of the Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

**16.2** A decision taken under this rule will not normally be taken in public by reason of its urgent nature. A decision will be urgent if any delay would seriously prejudice the Council's or the public's interests. The record of the decision shall state why the decision is an urgent one.

**16.3** If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the key decision can only be taken if the decision maker obtains the agreement of the Chair of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Scrutiny Committee, or if the Chair of the Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair of the Council will suffice.

**16.4** As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.3 (and in any event by no later than the end of the next working day), a notice of the decision must be published setting out the reasons that the decision is urgent and has been taken under this Rule 16.

**17. Report to Council**

**17.1** When the Scrutiny Committee can require a report if the Scrutiny Committee thinks that a key decision has been taken which was not:

a) the subject of a Notice of Key Decision; or

b) the subject of the general exception procedure (under Rule 15); or

c) the subject of an agreement with the Chair of the Scrutiny Committee, or the Chair or Vice-Chair of the Council under Rule 16 (special urgency);

it may require the Cabinet to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Cabinet believing that the decision was a key decision. The power to require a report rests with the Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chair of the Scrutiny Committee or any 5 members of the Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

**17.2 Cabinet's report to Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual member or body making the decision, and Leader of the Council is of the opinion that it was not a key decision the reasons for that opinion.

**17.3 Reports on special urgency decisions**

The Leader of the Council will report all Cabinet decisions taken under Rule 16 (special urgency) to the next meeting of the Council, such report to include a summary of the decision(s) taken. The report may be given verbally where the decision is taken after the publication of the agenda for the Council meeting.

**18. Record of Decisions**

**18.1** After any meeting of the Cabinet or any of its Committees, whether held in public or in private, the Monitoring Officer or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:

(a) a record of the decision including the date it was made;

(b) a record of the reason for the decision;

(c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;

(d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and

(e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

**19. Meetings of the Cabinet to be held in public**

**19.1** Meetings of the Cabinet and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

**20. Notice of Private Meetings of the Executive**

**20.1** Members of the Cabinet or its committees will be entitled to receive five clear working day's notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

**20.2** At least 28 clear days before a private meeting, the decision-making body must:-

a) make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and

b) publish that notice on the Council's website.

**20.3** At least five clear days before a private meeting, the decision-making body must:-

a) make available at the offices of the Council a further notice of its intention to hold the meeting in private; and

b) publish that notice on the Council's website.

**20.4** A notice under paragraph 20.3 must include:-

a) a statement of the reasons for the meeting to be held in private

b) details of any representations received by the decision-making body about why the meeting should be open to the public; and

c) a statement of its response to any such representations.

**20.5** Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:-

a) the Chair of the Scrutiny Committee; or

b) if there is no such person, or if the Chair of the relevant scrutiny committee is unable to act, the Chair of the Council; or

c) where there is no Chair of either the relevant scrutiny committee or of the Council, the Vice-Chair of the Council,

that the meeting is urgent and cannot reasonably be deferred

**20.6** As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 20.5 to hold a private meeting, it must

a) make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and

b) publish that notice on the Council's website.

**21. Attendance at Private Meetings of the Cabinet**

**21.1 Notice and Attendance**

(a) All members of the Cabinet will be served notice of all private meetings of the committees of the Cabinet, whether or not they are members of that committee.
(b) All members of the Cabinet are entitled to attend private meetings of the Cabinet, and its committees.
(c) Members other than Cabinet members will not be entitled to attend private meetings of the Cabinet and its committees.

**21.2 Officer Involvement**

(a) The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Head of Paid Service has been given reasonable notice that a meeting is to take place.
(b) The Monitoring Officer shall arrange for an officer to attend private Cabinet meetings to record and publish the decisions. In the absence of such officer this will be the responsibility of the Chair of the meeting.
(c) There is no requirement for the Cabinet to meet in the presence of the officers named in paragraphs a) and b)

**22. Key Decisions By Individual Members of the Cabinet**

**22.1 Reports intended to be taken into account**

Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear working days after receipt of that report.

**22.2 Provision of copies of reports to Scrutiny Committee**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

**22.3 Record of individual decision**

(a) As soon as reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Monitoring Officer to prepare, a report containing:

(i) a record of the decision including the date it was made;
(ii) a record of the reasons for the decision;
(iii) details of any alternative options considered and rejected by the member when making the decision;
(iv) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and

(v) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

(b) The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political or Chair's assistant.

**22.4 Inspection of documents following executive decisions**

(a) Subject to Rule 28, after a meeting of a decision-making body at which an executive decision has been made, or after an individual member or an officer has made an executive decision the Monitoring Officer must ensure that a copy of-

(i) any records prepared in accordance with Rules 18 or 22; and

(ii) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with Rules 18 or 22 or, where only part of the report is relevant to such a decision, that part, must be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the Council, and on the Council's website.

(b) Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under Rule a), those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

**22.5 Inspection of background papers**

a) Subject to Rule 28, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5 or 22.4, at the same time-

(i) a copy of a list compiled by the proper officer of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and

(ii) at least one copy of each of the documents included in that list,

must be available for inspection by the public at the offices of the Council and on www.middevon.gov.uk.

**23. Joint Committees**

**23.1** These Rules apply to the Council's Joint Committees as follows:

(a) If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

(b) If the joint committee contains members who are not on the Cabinet of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the full Council and its committees will apply.

**24. Scrutiny Committee- Access to Documents**

**24.1 Rights to copies**

Subject to Rule 24.2 below, the Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet or any of its Committees and which contains material relating to:

any business transacted at a meeting of the Cabinet or its Committees;

any decision taken by an individual member of the Cabinet; or

any decision taken by an Officer of the Council in accordance with executive arrangements.

**24.2 Limit on rights**

The Scrutiny Committee will not be entitled to:

any document that is in draft form;

any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the Committee are reviewing or scrutinising or intend to scrutinise.

**25. Additional Rights of Access for Members**

**25.1 Material relating to business to be transacted at a Public Meeting**

a) All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which contain material relating to any business to be transacted at a public meeting unless a) (i) or a) (ii) applies:

(i) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or

(ii) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or

b) Any document which is required by Rule a) to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that-

(i) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and

(ii) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 0 in relation to that time, must be available for inspection when the item is added to the agenda.

**25.2** **Material relating to previous business**

All members will be entitled to inspect any document (except those available only in draft form) which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member or Officer in accordance with executive arrangements unless a) (i) or a) (ii) applies.

Any document required to be made available for inspection under 25.2 must be made available when the relevant meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

**26.** **Nature of rights**

These rights of a Member are additional to any other right he or she may have.

**27.** **Members Other Rights to Information**

**27.1** A Member of the Council may, for the purposes of his or her duty as a Member and no other, inspect any document that has been considered by a committee or the Council including background papers. Applications should be made to the Monitoring Officer and, if available, copies will be supplied upon request.

**27.2** A member shall not knowingly inspect or request a copy of any document relating to a matter in which he:

is professionally interested; or

has a disclosable pecuniary interest or personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

**27.3** This shall not preclude the Monitoring Officer from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.

**27.4** All reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.

**27.5** Any Councillor may attend any meeting of a committee of the Council and may speak on any agenda item for that meeting. However, in relation to the Planning Committee, the right to speak on a planning application, enforcement item, or other report relating to a particular ward of the Council shall be limited to the rights of a Ward Member to speak as set out in paragraphs 9.2 and 9.3 of the Protocol of Good Practice for Councillors Dealing in Planning Matters (Appendix J to the Constitution)

**27.6** Councillors may also attend any meeting of a working group, whether of the Council, of a committee of the Council, or of a Policy Development Group. This right to attend does not include the right to vote, but a Councillor who does attend pursuant to this rule may speak with the permission of the chair or of the person presiding over the meeting."

**28. <u>Confidential information, exempt information and advice of a political adviser or assistant</u>**

**28.1** Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

**28.2** Nothing in these Rules:

(a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or

(b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political advisers or assistant.

**28.3** Where a member of the Cabinet or an officer makes an executive decision in accordance with executive arrangements, nothing in these Rules:

(a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or

(b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

**Budget and Policy Framework Procedure Rules**

**1.0 The Framework for Cabinet Decisions**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

**2.0 Process for developing the framework**

**2.1** The process by which the budget and policy framework shall be developed is:

(a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draw up initial proposals in relation to any plan, strategy or budget that forms part of the Council's budget and policy framework. Once drawn up the Chief Executive will serve copies of them on the chairmen of the relevant Scrutiny Committee, Audit Committee and Policy Development Groups together with dates when the Cabinet will consider them further.

(b) The Scrutiny Committee, Audit Committee and Policy Development Groups will be convened to consider the draft proposals and whether any further consultation is appropriate. If so, the Scrutiny Committee, Audit Committee and Policy Development Groups will carry out any necessary consultation and will reflect any representations made to it in its response to the Cabinet within the time scale set for decision by the Cabinet.

(c) The Cabinet will finalise its proposals for the Council to consider having taken into account the comments from the Scrutiny Committee, Policy Development Groups and Audit Committee. The report to Council will show the Cabinet response to those comments.

(d) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.

(e) The Council's decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet proposal without Amendment) or (if the Cabinet proposal is not accepted without Amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.

(f) If the Leader objects to the decision of the Council, he/she shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.

(g) The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the

Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.

(h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in and shall be implemented immediately.

(i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework that may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

NOTE: Rule 2 is a summary of Part II to Schedule 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 to which detailed reference should be made if required.

**3.0 Decisions outside the budget or policy framework**

**3.1** Subject to the provisions of paragraph 4 the Cabinet, committees of the Cabinet, individual members of the Cabinet or any officers or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 4 below.

**3.2** If the Cabinet, committees of the executive, individual members of the Cabinet or any officers or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to or not wholly in accordance with the budget.

**3.3** If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 shall apply.

**4.0 Urgent decisions outside the budget or policy framework**

**4.1** The Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- if it is not practical to convene a quorate meeting of the full Council; and
- if the Chair of the Scrutiny Committee agrees that the decision is a matter of urgency.

**4.2** The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the Scrutiny Committee the consent of the Chair and in the absence of both the Vice-Chair of the Council will be sufficient.

Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

**5.0 Virement**

**5.1** Steps taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet or Officers or joint arrangements discharging executive functions to implement Council policy, shall not exceed those budgets allocated to each budget head. In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Regulations in Appendix F to this Constitution.

**6.0 In-year changes to Policy Framework**

**6.1** The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers or joint arrangements discharging executive functions must be in line with it. No changes to any policy or strategy which make up the policy framework may be made by those bodies or individuals except those changes:

(a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

(b) necessary to ensure compliance with the law, ministerial direction or government guidance;

(c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or

(d) for which provision is made within the relevant budget or policy.

**7.0 Call-in of decisions outside the budget or policy framework**

**7.1** Where the Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Section 151 Officer.

**7.2** In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Section 151 Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's or Section 151 Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Scrutiny Committee if the

Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.

**7.3** If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 20 working days of the request by the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:

(a) endorse a decision or proposal of the executive decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

(b) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or

(c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Section 151 Officer.

**Cabinet Procedure Rules**

## 1.0 HOW DOES THE CABINET OPERATE?

**1.1** Who may make Cabinet decisions?

The arrangements for the discharge of executive functions are determined by the Leader. The Leader may provide for executive functions to be discharged by:

- the Cabinet as a whole;
- a committee of the Cabinet
- an individual member of the Cabinet;
- an officer;
- joint arrangements; or
- another local authority.

**1.2 Delegation by the Leader**

Following the annual meeting of the Council, the Monitoring Officer, at the direction of the Leader, will draw up a written record of Cabinet delegations made by the Leader for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. This will contain the following information about executive functions in relation to the coming year:

(i) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;

(ii) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;

(iii) the nature and extent of any delegation of Cabinet functions to any other authority or any joint arrangements; and

(iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

**1.3 Sub-delegation of Cabinet functions**

(a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an Cabinet function, they may delegate further to joint arrangements or an officer or another local authority.

(b) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.

(c) Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

**1.4 The Council's scheme of delegation and Cabinet functions**

(a) The Leader may amend the scheme of delegation relating to Cabinet functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and to the person, body or committee concerned. The

notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

(b) Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when he has served it on its Chair.

**1.5 Conflicts of Interest**

(a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

(b) If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

(c) If the exercise of an cabinet function has been delegated to a committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

**1.6 Cabinet meetings – when and where?**

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader.

The Cabinet will meet at least 10 times per year at times to be agreed by the Leader of the Council. In addition:

- the Leader of the Council may also arrange other meetings at his/her discretion;
- The Head of Paid Service may also call for additional meetings at his/her discretion with the approval of the Leader of the Council, or in his/her absence the Deputy Leader of the Council;
- The Monitoring Officer and/or the Section 151 Officer may call an additional meeting if either believes it is necessary to do so in order to fulfil their statutory duties; in other circumstances where any of the Head of Paid Service, Monitoring Officer and Section 151 Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision he/she will have the right to call a meeting

**1.7 Public or private meetings of the Cabinet?**

The Cabinet will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (c) of Regulation 4(2) of the Local Authorities (Executive Arrangements) (meetings and Access to Information) (England) Regulations 2012. Briefly, these circumstances cover:

(a) confidential information;

(b) exempt information; and

(c) disorderly conduct.

**1.8 Quorum**

The number of members of the Cabinet is nine including the Leader of the Council and Deputy Leader of the Council.

The quorum for a meeting of the Cabinet shall be 5 including the Leader or Deputy Leader, or any 5 members in circumstances to be considered exceptional by any two of the Statutory Officers.

**1.9 How are decisions to be taken by the Cabinet?**

(a) Cabinet decisions made by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.

(b) Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

**2.0 HOW ARE CABINET MEETINGS CONDUCTED?**

**2.1 Who presides?**

The Leader will preside at any meeting of the Cabinet or its committees at which he/she is present. In his/her absence, the Deputy Leader will preside. In his/her absence, then a person appointed to do so by those present shall preside.

**2.2 Who may attend?**

These details are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

**2.3 What business?**

At each meeting of the Cabinet the following business will be conducted:

consideration of the minutes of the last meeting;

(a) declarations of interest, if any;

(b) matters referred to the Cabinet (whether by Scrutiny Committees or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

(c) consideration of reports from Scrutiny Committee; and

(d) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

**2.4 Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and the outcome of that consultation. Reports about other matters will set out the details and outcome

of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

**2.5 Who can put items on the Cabinet agenda?**

(a) The Leader will decide upon the schedule for meetings of the Cabinet. He/she may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter.

(b) Any member of the Cabinet may require the Head of Paid Service to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Head of Paid Service will comply.

(c) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.

(d) In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be considered at which the matter will be considered.

(e) Full Council may require any item to be placed on the agenda of the next reasonably available meeting of the Cabinet

(f) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by non-Cabinet bodies of the Council but the amount of business which can reasonably be dealt with at any one meeting of the Cabinet shall be within the discretion of the Leader of the Council.

**2.6 Non-Cabinet member involvement in Cabinet meetings**

At a meeting of the Cabinet, the Leader may allow non-Cabinet members to speak on any item of Cabinet business on the agenda.

**3.0 THE CABINET MAY CONSULT COUNCIL**

**3.1** Where it appears to the Cabinet that a decision involves matters on which it would like to receive the views of members at a meeting of the Council, the Cabinet may resolve so to do.

**3.2** The effect of a resolution under Rule 3.1, is that the decision will stand deferred to the next meeting of the Cabinet which follows the Council's consideration of the matter in question.

**3.3** For the avoidance of doubt,

(a) a resolution under Rule 3.1 is entirely a matter for the Cabinet at its absolute discretion;

(b) the views of the Council are not binding on the Cabinet; and

(c) nothing in this Rule 3 (or a decision or resolution under it) transfers responsibility for any function or matter to the Council where, under this Constitution and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, such function or matter is the responsibility of the Cabinet.

**Scrutiny Committee, Audit Committee, Standards Committee and Policy Development Group Procedure Rules**

**1.0 General arrangements**

**1.1** The Council will have one Scrutiny Committee, five Policy Development Groups an Audit Committee and a Standards Committee as set out in Articles 7 to 10 and will appoint to them as it considers appropriate from time to time. Such groups, subject to the approval of the Programming Panel, may appoint working groups which shall be time limited.

**1.2** The Programming Panel, comprising the Leader of the Council or Deputy Leader, the Chair or Vice-Chair of Scrutiny Committee, Policy Development Groups and Audit Committee, will co-ordinate the forward programme of these five bodies. However Scrutiny Committee will have the primary responsibility for setting its own agenda.

**1.3** The number of members of the Scrutiny Committee shall be twelve. The number of members of each Policy Development Group shall be nine. The number of members on the Audit Committee shall be nine, plus one independent member. The number of members on the Standards Committee shall be nine.

**1.4** Scrutiny Committee, Policy Development Groups, Audit Committee and Standards Committee shall meet in accordance with the Council's Procedure Rules and the Access to Information Rules. Working groups will meet informally, subject to the approval of the Programming Panel, to help inform the Scrutiny and policy development process and may submit reports to the Scrutiny Committee, the Policy Development Groups, Audit Committee and Standards Committee.

**2. Programming Panel**

(a) The Programming Panel will comprise the Chairs or Vice Chairs of the Scrutiny Committee, Policy Development Groups and Audit Committee and the Leader of the Council or Deputy Leader of the Council. The Panel to be chaired by the Chair of the Scrutiny Committee.

(b) The panel shall have the following terms of reference:

(i) To oversee the workloads of the seven bodies to ensure efficiency of the scrutiny and policy development process;

(ii) To co-ordinate requests for reviews referred to by the Cabinet or the Council which do not fall within the remit of any one group;

(iii) To resolve any disputes between groups.

The panel shall not have the power of call in.

(c) The panel will meet as and when necessary at the request of the Chair of Scrutiny Committee, the Leader of the Council or Head of Paid Service.

**3 Scrutiny Committee**

The terms of reference of the Scrutiny Committee will be:

(a) the performance of all Scrutiny Committee functions as defined in Article 7 on behalf of the Council;

(b) the appointment of such time limited working groups as it considers appropriate to fulfil those functions, subject to approval from the Programming Panel;

(c) to receive reports from the Leader of the Council at its first meeting after each annual Council meeting (or next available meeting) on 'the state of the district', the Cabinet's priorities for the coming year and its performance in the previous year;

(d) to approve its work programme in consultation with the Programming Panel;

(e) to refer those matters which fall within the remit of the Scrutiny Committee, the Policy Development Groups or the Audit Committee, to the Programming Panel for allocation;

(f) to review the system of referrals from Scrutiny Committee to the Cabinet to ensure that these are managed efficiently and do not exceed reasonable limits as set out in this Constitution;

(g) to respond to reasonable requests from the Cabinet to develop or review policy not within the remit of any Policy Development Group;

(h) in the event of reports to the Cabinet exceeding reasonable limits, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to make decisions about the priority of referrals made.

**4 Policy Development Groups**

The terms of reference of the Policy Development Groups will be:

(a) The performance of policy development functions as defined in Article 8 on behalf of the Council;

(b) the appointment of such time limited working groups as it considers appropriate to fulfil those functions, subject to approval from the Programming Panel;

(c) to approve a work programme on the advice of the Programming Panel;

(d) to refer those matters which fall within the remit of the Scrutiny Committee, Policy Development Groups or Audit Committee to the Programming Panel for allocation;

(e) to respond to reasonable requests from the Cabinet to develop or review policy within their remit;

**5 Who may sit on the Scrutiny Committee, Policy Development Groups, Audit Committee and Standards Committee?**

All councillors except members of the Cabinet may be members of the Scrutiny Committee, Policy Development Groups or Audit Committee.

All councillors including members of the Cabinet may be members of the Standards Committee.

**6 Co-optees**

Scrutiny Committee, Policy Development Groups and Audit Committee shall each be entitled to involve up to 3 people at any time as non-voting co-optees. The appointment of co-optees shall be time limited.

**7 Meetings of Scrutiny Committee**

There shall be at least six ordinary meetings of the Scrutiny Committee in each year. In addition, provision for a further six meetings shall be made which may be called when appropriate and specifically where there is a need to call in a Cabinet decision. A Scrutiny Committee meeting may be called by the Chair of Scrutiny Committee, by any four members of Scrutiny Committee or by the Head of Paid Service if he/she considers it necessary or appropriate. Cancellation of any meeting shall be with the agreement of the Chair.

**8 Meetings of Policy Development Groups and Audit Committee**

There shall be at least four (or more frequently as required) ordinary meetings of each Policy Development Group and Audit Committee in each year. There shall normally be other informal sessions as necessary to deliver the pre-agreed work programme. The frequency and number of meetings and informal sessions shall not overstretch the resource of the Council. Meetings shall be called by the Head of Paid Service.

**9 Meetings of the Standards Committee**

Meetings of the Standards Committee shall be called as and when appropriate. Meetings shall be called by the Head of Paid Service.

**10 Quorum**

The quorum for Scrutiny Committee shall be six, for Policy Development Groups shall be five, for Audit Committee shall be five (not inclusive of the Independent member) and for Standards will be five, normally including the Chair or Vice-Chair or any five councillors in relation to Scrutiny Committee and Policy Development Groups and any four councillors in relation to the Audit Committee in circumstances considered to be exceptional by any two of the statutory officers.

**11 Who chairs meetings?**

The Chair of the Scrutiny Committee shall be appointed by the Council. Without limiting the discretion of the Council, consideration shall be given to the selection of a chair on ability and expertise without reference to party political affiliation. *In these circumstances, there will be a presumption that the Chair of Scrutiny Committee will be drawn from the minority group(s).*

**12 Work programme**

The Scrutiny Committee will, subject to co-ordination by the Programming Panel and reasonable request from the Cabinet, be responsible for setting its own work

programme and in doing so shall take into account wishes of councillors who are not members of the largest political group on the Council.

Policy Development Groups and Audit Committee will, on the advice of the Programming Panel and in response to reasonable requests from the Cabinet, set a work programme.

**13 Agenda items: Scrutiny Committee**

(a) Any member of Scrutiny Committee or Policy Development Group shall be entitled to give notice to the Head of Paid Service that he/she wishes an item relevant to its functions to be included on the agenda for the next available meeting. On receipt of such a request the Head of Paid Service will ensure that it is included on the next reasonably available agenda.

(b) Any Member of the Council who is not a member of the Scrutiny Committee shall be entitled to refer to that Committee any local government matter which is relevant to the functions of that Committee. On receipt of such a request the Head of Paid Service will ensure that it is included on the next reasonably available agenda.

(c) Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet to review particular areas of Council activity. Where it does so, Scrutiny Committee shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of Scrutiny Committee within one month of it being submitted to the Head of Paid Service or at the next available meeting thereafter.

**14 Policy review and development**

(a) The role of the Scrutiny Committee, Audit Committee and Policy Development Groups in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules and in Articles 7 to 9.

(b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Policy Development Groups (and where relevant Scrutiny Committee) may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

(c) Policy Development Groups (and where relevant Scrutiny Committee) may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisors, assessors and witnesses a reasonable fee and expenses for doing so.

**15 Reports on policy proposals**

(a) Once they have formed recommendations on proposals for policy development, Policy Development Groups (and where relevant Scrutiny Committee) will prepare a formal report and submit it to the Head of Paid Service for consideration by the Cabinet, or to the Council as appropriate (e.g., if the recommendation would require a departure from or a change to the agreed budget and policy framework).

(b) If Scrutiny Committee or Policy Development Groups cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

(c) The Council or Cabinet shall consider such report of Scrutiny Committee within 2 months of being submitted to the Head of Paid Service.

**16 Rights of Scrutiny Committee members to documents**

(a) In addition to their rights as councillors, members of the Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

(b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committee as appropriate depending on the particular matter under consideration.

**17 Councillors and officers giving account**

(a) Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require a member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

(i) any particular decision or series of decisions;

(ii) the extent to which the actions taken implement Council policy; and/or

(iii) their performance.

and it is the duty of those persons to attend if so required.

(b) Where any councillor or officer is required to attend Scrutiny Committee under this provision, the chair will inform the Head of Paid Service. The Head of Paid Service shall inform the councillor or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced. Where the account to be given to Scrutiny Committee will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.

(c) Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the councillor or officer arrange an alternative date for attendance.

(d) Non-Cabinet members may attend. Non-Cabinet members may speak at the discretion of the chairman.

**18 Attendance by others**

(a) When discussing policy development and review, Policy Development Groups shall and Scrutiny Committee may invite relevant members of the Cabinet to attend and speak. Other councillors, who are not members of the Scrutiny Committee, or Policy Development Group or invited members of the Cabinet, may attend and may speak at the discretion of the chairman.

(b) Scrutiny Committee or Policy Development Groups may also invite people other than those people referred to in paragraph 17(a) above to address them, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and councillors and officers in other parts of the public sector and shall invite such people to attend.

(c) Cabinet Members shall be required to attend their relevant Policy Development Groups.

**19 Call-in**

Call-in by Scrutiny Committee should only be used in exceptional circumstances. These are where members of Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 15 (Decision Making).

(a) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

(b) The process begins with the distribution of the Cabinet agenda which will give all councillors the opportunity to examine items for discussion and clarify issues before meetings

(c) When a decision is made by the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within three working days of being made. Decisions will be sent to all councillors within the same timescale.

(d) The decisions will indicate the date on which decisions will come into effect unless:

(i) called-in;

(ii) they are adjudged to be not in accordance with the Council policy or budget framework (see Budget and Policy Framework Procedure Rules – paragraphs 2 and 3) and the decision falls to be referred to Council or is urgent and otherwise satisfies paragraph 4 of the Policy and Budget Framework Procedure Rules or where paragraph 7 of those Rules has been triggered.

(e) A decision will normally come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless Scrutiny Committee objects to it and calls it in (except in cases of urgency and special urgency as defined in the Access to Information Procedure Rules).

(f) During that period, the Head of Paid Service shall call-in a decision for scrutiny by Scrutiny Committee if so requested by the Chairman or any three members of Scrutiny Committee or any four councillors of the Council, and shall then notify the decision-taker of the call-in. Members who wish to call-in a decision are required to seek guidance from the Monitoring Officer on the veracity of their stated grounds for the call-in and demonstrate that they have been mindful of the advice they have received when deciding whether or not to proceed. The Head of Paid Service shall refer the matter to the next available meeting of the Scrutiny Committee.

(g) Those councillors calling-in will need to specify the reasons for the call-in.

(h) When the relevant Cabinet minutes are put before the Scrutiny Committee, together with the advice from the Monitoring Officer on the grounds for the call-in, the councillors who called in the decision shall have the right to attend and speak. The Leader of the Council and/or relevant Cabinet members shall be invited to attend to explain the basis for the decision but may then be asked to leave. They may choose also to make submissions in writing. Relevant officers shall also be invited to attend.

(i) If, having considered the decision, Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to the next full Council meeting or, if urgent to a Special Council meeting. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.

(j) If following an objection to the decision, Scrutiny Committee meets but does not refer the matter back to the decision making person or body or refer it to full Council, the decision shall take effect on the date of the Scrutiny Committee meeting.

(k) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened to reconsider within 15 working days of the Council request.

(l) If Council does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting.

(m) The call-in procedure set out above shall not apply where the decision being taken is urgent as defined in the Access to Information Procedure Rules. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

**20 <u>The party whip</u>**

There is a presumption that a party whip must not be applied to matters considered by Scrutiny Committee.

**21 <u>Procedure at Scrutiny Committee meetings</u>**

(a) Scrutiny Committee shall consider the following business:

(i) minutes of the last meeting;

(ii) declarations of interest;

(iii) consideration of any matter referred to Scrutiny Committee for a decision in relation to call in of a decision;

(iv) responses of the Cabinet, or Council where relevant to reports of Scrutiny Committee; and

(v) the business otherwise set out on the agenda for the meeting.

**22 <u>Procedure at Policy Development Group meetings</u>**

(a) Policy Development Groups shall consider the following business:

(i) minutes of the last meeting;

(ii) declarations of interest;

(iii) responses of the Cabinet or Council where relevant to reports of the Policy Development Group;

(iv) requests from the Cabinet for policy development work;

(v) the business otherwise set out on the agenda for the meeting.

**23 <u>Conduct towards invitees to Scrutiny Committee and Policy Development Groups meetings</u>**

(a) Where Scrutiny Committee or Policy Development Groups conduct investigations and ask people to attend to give evidence at meetings these are to be conducted in accordance with the following principles:

(i) that the investigation be conducted fairly and all councillors be given the opportunity to ask questions of attendees, and to contribute and speak;

(ii) that those assisting by giving evidence be treated with respect and courtesy; and

(iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

Following any investigation or review, Scrutiny Committee or Policy Development Groups shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**24 <u>Councillor Call for Action</u>**

**24.1** The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council, via the Scrutiny process.

**24.2** Any Member may request that an item is placed on the agenda of the Scrutiny Committee for consideration. The Member making that request does not have to be a member of the Scrutiny Committee.

**24.3** The Call for Action should be an option of "last resort". In considering whether to refer to a matter in accordance with these provisions, Members must have regard to relevant guidance issued by the Secretary of State. A Call for Action will only be included on the Scrutiny Committee agenda if the Chair, in consultation with the Monitoring Officer, is satisfied that:

(a) the Member has made all reasonable efforts to resolve the matter via direct liaison with council officers and/or relevant partners; and

(b) the issue of concern has a demonstrable impact on a part or the whole of the Member's ward

(c) and accordingly information to support the above matters should accompany the Call for Action request.

**24.4 <u>A Call for Action cannot, in any event, relate to:</u>**

(a) a planning decision;

(b) a licensing decision;

(c) any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment; and

(d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Scrutiny Committee.

(e) any matter which is a local crime and disorder matter for the purposes of Section 19 of the Police and Justice Act 2006.

**24.5** If the Chairman rejects the Call for Action the Member who made the request shall be provided with reasons for the decision.

**24.6** A valid Call for Action will be considered at the next ordinary meeting of the Scrutiny Committee or at a special meeting of the Committee within 14 days of validation whichever is the sooner.

**24.7** The subject matter of the Call for Action will be the subject of a report from the relevant Head of Service, with such supporting information and evidence as is reasonably available. If the matter also or exclusively entails consideration of information held by another public body or partner, an appropriate representative

shall be invited to the Scrutiny Committee meeting to provide that information, make representations and answer questions.

**24.8** The Call for Action will be considered by the Scrutiny Committee in public session unless consideration of the issues involves the disclosure of exempt or confidential information as defined by the Access to Information Procedure Rules of the Constitution.

**24.9** The Member who referred the matter under sub-paragraph 24.2 above may address the Scrutiny Committee in respect of the Call for Action for up to 10 minutes.

**24.10** The Scrutiny Committee may also consider representations from any residents of the ward affected by the Call for Action, subject to the discretion of the Chair.

**24.11** If the Call for Action concerns issues that fall within the remit of the Cabinet, the relevant Cabinet Member shall also attend the Scrutiny Committee to answer questions and make any representations.

**25 Reports and Recommendations on Calls for Action**

**25.1** Where the Scrutiny Committee makes a report or recommendations to the Council or the Cabinet as a result of a reference under paragraph 24 above, the Scrutiny Committee may publish the report, subject to the provisions of Part 5 of the Local Government Act 2000 ("the 2000 Act") in relation to confidential or exempt information.

**25.2** The Scrutiny Committee will, by notice in writing to the Monitoring Officer, require the Council or Cabinet:

(a) consider the report or recommendations,

(b) respond to the Scrutiny Committee indicating what, if any action the Council or Cabinet propose to take,

(c) if the Scrutiny Committee has published the report or recommendations, to publish the response, subject to the provisions of Part 5 of the 2000 Act relating to confidential or exempt information,

(d) if the Scrutiny Committee provided a copy of its report or recommendations to the Member who referred the matter to the Committee, to provide that Member with a copy of the response, subject to the provisions of Part 5 of the 2000 Act in relation to confidential or exempt information,

(e) and to do so within two months of the date when the Council or Cabinet received the report or recommendations or (if later) the date when the Monitoring Officer received the notice.

**26 Scrutiny of Crime and Disorder Matters**

**26.1** The Scrutiny Committee is designated as the Council's Crime and Disorder Committee (in accordance with section 19 of the Police and Justice Act 2006) with responsibility for scrutinising crime and disorder and community safety matters.

**26.2** Any Member of the Council may give notice to the Monitoring Officer that he/she wishes an item which he/she considers to be a crime and disorder matter to be

included on the agenda for discussion at the next meeting of the Scrutiny Committee.

**26.3** On receipt of the request, the Monitoring Officer will ensure that the item is included on the next available agenda for consideration by the Scrutiny Committee.

**26.4** Sub-paragraphs 24.7 to 24.11 above shall apply to the consideration of a crime and disorder matter by the Scrutiny Committee as they apply to the consideration of a Call for Action by the Scrutiny Committee.

**26.5** If the Scrutiny Committee decides not to make a report or recommendation to the Council in relation to the crime and disorder matter, it must notify the Member who referred the matter of its decision and the reasons for it.

**26.6** Where the Committee makes a report or recommendations to the Council it must:

(a) provide a copy of the report or recommendations to the Member who referred the matter to the Committee and

(b) provide a copy of the report or recommendations to such of:

(i) the responsible authorities (within the meaning of Section 5 of the Crime and Disorder Act 1998); and

(ii) the co-operating persons and bodies (i.e. those persons and bodies with which the responsible authorities have a duty to cooperate under Section 5(2) of the Crime and Disorder Act 1998); as it thinks appropriate.

**26.7** Where the Committee makes a report or recommendations to the Council or provides a copy of a report or recommendations under sub-paragraph 26.6 (b) above, the Committee must notify the Council, body or person to whom it makes or provides a copy of the report or recommendations that the Council, body or person must:

(a) consider the report or recommendations;

(b) respond to the Committee indicating what (if any) action it proposes to take;

(c) have regard to the report or recommendations in exercising its functions.

**26.8** For the purpose of carrying out its functions under the Crime and Disorder (Scrutiny) Regulations, 2009, the Committee will meet to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of the crime and disorder functions, no less than twice in every 12 month period.

**26.9** Where the Committee makes a report or recommendations to a responsible authority or to a co-operating person or body in accordance with section 19(8)(b) of the Police and Justice Act, 2006, the Committee shall review the responses received and monitor the action (if any) taken by the relevant authority, person or body in accordance with its powers under section 19(1) of the 2006 Act.

**27 <u>Procedure at Audit Committee</u>**

**(a) Audit Committee shall consider the following business:**

(i) minutes of the last meeting;
(ii) declarations of interest (including whipping declarations);
(iii) consideration of any matter referred to Audit Committee for a decision in relation to call in of a decision;
(iv) responses of the Cabinet, or Council where relevant to reports of Audit Committee; and
(v) the business otherwise set out on the agenda for the meeting.

**(b) Composition**

(i) The Audit Committee will be appointed in accordance with the statutory requirements to achieve political balance.
(ii) All Councillors except Members of the Cabinet or the Chair of the Scrutiny Committee may be Members of the Audit Committee.

**(c) Chair and Vice-Chair**

The Committee will appoint a Chair and Vice-Chair at its first meeting in each municipal year which runs from May to April each year. The Chair will lead the audit committee giving direction and support to ensure a full and meaningful work programme. The role of the Vice-Chair is to support the Chair.

**(d) Officer Attendance**

The Audit Committee will be attended by the Deputy Chief Executive (S151) or his nominated deputies.

**Specific Functions**

**(A) Audit Activity:-**

(i) To consider and approve the strategic audit approach and the annual audit programme;
(ii) To consider the annual internal audit report including an overall opinion on the adequacy of the Council's control environment, the extent to which the audit plan has been achieved, and a summary of any unresolved issues;
(iii) To consider summaries of specific internal audit reports as requested;
(iv) In the event of the audit service being contracted out, to consider reports dealing with the management and performance of the providers of internal audit services;
(v) To consider reports from internal audit on agreed recommendations not implemented within reasonable timescales;
(vi) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
(vii) To consider specific reports as agreed with the external auditor;
(viii) To comment on the scope and depth of external audit work and to ensure it gives value for money;
(ix) To liaise with the Audit Commission over the appointment of the Council's external auditor should that become necessary;
(x) To commission work from internal and external audit.

**(B) Internal Controls**

(i) To review any issues referred to by the Chief Executive or any Council body;

(ii) To monitor the Council's confidential reporting policies in relation to anti-fraud and anti-corruption and whistle blowing, including monitoring the use of the Whistle Blowing policy and the Council's Complaint process;

(iii) To annually approve the Council's Risk Management Strategy and review the effectiveness of the Council's Risk Management process on a regular basis and gain assurance that appropriate action is being taken to ensure that corporate risks are being managed, including a report to the Council annually;

(iv) To oversee the production of the Council's Annual Governance Statement and to ensure that relevant and suitable evidence has been obtained to support the disclosures within the Statement;

(v) To review the Council's Annual Governance Statement and recommend its approval to Full Council and monitor the progress against the Annual Statement action plan on a regular basis;

(vi) To annually review and update the Council's Code of Corporate Governance to ensure compliance with best practice and legislative guidance;

(vii) To consider the Council's compliance with its own and other published standards and controls.

**(C) To review and formally approve the Annual Statement of Accounts**

(i) To consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from audit regarding the robustness of the accounts that need to be brought to the attention of the Council;

(ii) To consider the external auditor's reports to those charged with governance on issues arising from the audit of the accounts.

**Financial Regulations**

The Financial Regulations are in Appendix F to this Constitution and are located on the website on the Finance pages.

## Officer Employment Procedure Rules

**Definitions:**

The Head of Paid Service is the Council's Senior Officer.

Chief Officers are employed under the Conditions of Service of the Joint Negotiating Committee for Chief Officers of local authorities. They are directly responsible to the

Head of Paid Service. Their responsibilities include the management of a group of major services.

Deputy Chief Officers are also employed under the Conditions of Service of the Joint Negotiating Committee for Chief Officers of local authorities. They are directly responsible to a Chief Officer or the Head of Paid Service for the management of a significant area of the Council's services.

The "Proper Officers" under these rules is the Chief Executive, Monitoring Officer, Section 151 Officer and Head of Service.

**1 Recruitment and appointment**

(a) Declarations

(i) The Council requires any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, spouse, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of any existing Councillor or officer of the Council; or of the partner of such persons.

(ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by him/her.

(b) Seeking support for appointment.

(i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.

(iii) Nothing in paragraphs (a) and (b) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

**2 Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:
  (i) the duties of the officer concerned; and
  (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.

**3 Appointment of Head of Paid Service**

**3.1** An appointment panel will be appointed by the Proper Officer.

**3.2** The appointment panel shall include:-

- The Chair or Vice-Chair of the Scrutiny Committee or the Chair or Vice-Chair of a Regulatory Committee;
- The Leader and two other Members of the Cabinet;
- The Chair or Vice-Chair of the Council.

The above representatives may appoint a substitute as necessary and that all the above, where possible, should reflect the political balance of the Council.

**3.3** The Proper Officer communicates the panel's recommendations to each Member of the Cabinet giving a deadline for responses.

**3.4** If no Member of the Cabinet objects, the recommendation then goes forward before the Council for approval.

**3.5** If any Member of the Cabinet objects they must notify the Leader. The Leader is then required to consult the Cabinet. If the Cabinet wishes to pursue the objection the Leader notifies the Proper Officer. The Proper Officer then reconvenes the appointment panel to consider whether the objection is material and well founded. Following this process the appointment panel either reconsiders its recommendation or affirms its recommendation. Any revised recommendation is subject to the process above.

**3.6** The appointment panel's recommendation is placed before the Council for approval prior to any offer being made.

**4 <u>Appointment of Heads of Service (Chief Officers)</u>**

**4.1** An appointment panel will be appointed by the Proper Officer.

**4.2** The appointment panel shall include:-

- The Chair or Vice-Chair of the Scrutiny Committee or the Chair or Vice-Chair of a Regulatory Committee;
- The Leader and two Members of the Cabinet (two Members of the Cabinet for Service Lead appointments);

The Chief Executive to make the appointment having consulted the members of the panel.

**5 <u>Other appointments Below Deputy Chief Officers (Service Leads)</u>**

**5.1** All officer appointments below Service Lead level ie officers on JNC Chief Officer's terms and conditions shall be made by the relevant Head of Service (Chief Officer) or their nominee.

**6 <u>Disciplinary action – Chief Executive (Head of Paid Service), Monitoring Officer and Chief Finance Officer (Section 151 Officer)</u>**

**6.1**(a) **Suspension**.

The Head of Paid Service, Monitoring Officer, Chief Finance Officer and Deputy Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. The decision to suspend shall be made by the Appointments and Disciplinary Panel. The Chief Executive and the Head of People, Performance & Waste will be responsible for implementing the suspension of the Chief Finance Officer or Monitoring Officer. The Head of People, Performance & Waste will be responsible, in consultation with the Leader, for implementing the suspension of the Chief Executive.

(b) **Disciplinary Action and Dismissal.**

The Appointments and Disciplinary Panel may take disciplinary action short of dismissal or recommend to Council that the Chief Executive, Section 151 Officer or Monitoring Officer be dismissed. The procedure for the Panel and for considering its recommendations/proposals is as follows:

- The Panel must be appointed and convene at least 20 working days before the meeting at which the Council is to consider a proposal to dismiss the relevant officer;
- The Panel will be the appointments panel described in paragraph 3.2 of these rules and must also include not less than two independent panel members. The legislation requires that this be the Independent Persons appointed under the Localism Act 2011, but where the Council only has one Independent Person, it must select the second independent panel member from those appointed as Independent Persons at another local authority;
- Before taking a vote on whether to approve a proposal to dismiss the relevant officer, the Council must take into account in particular –
  - any advice, views or recommendations of the Panel;
  - the conclusions of any investigation into the proposed dismissal; and
  - any representations from the relevant officer.

(c) Councillors will not be involved in the disciplinary action against any officer save as set out above, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

(d) Further details of disciplinary procedures are contained in the Officers' Disciplinary Procedure and Code of Conduct Rules.

**7 Dismissal**

**7.1** Dismissal of the holder of post of Head of Paid Service (Chief Executive) and Heads of Service (Chief Officers) vary from other officers. Dismissal could be for any reason, eg:-

(a) ill-health;
(b) redundancy;
(c) the interest of efficiency of Council's service;
(d) disciplinary reasons.

**7.2** The Proper Officer – the Chief Executive shall advise the Cabinet of the person to be dismissed, the relevant particulars and the period of objections.

**7.3** The Leader shall report whether there are any objections. The Proper Officer shall report any objections to the "dismissor" for the dismissor (the Council, committee, sub-committee or another officer) to determine if the objection is material or well founded.

**7.4** Any decision to dismiss the Head of Paid Service (Chief Executive), Chief Finance Officer (Section 151 Officer) or Monitoring Officer may only be made by the Council and only in compliance with rule 6.

**8. Dismissals generally**

Save as set out in this rules, councillors will not be involved in the dismissal of any officer below Chief Executive/Head of Paid Service.

Further details of dismissal procedures are contained in the Officer's Disciplinary Procedure.

**9 Appeals**

See the Staff Disciplinary and Grievance Procedures and Code of Conduct Rules for further details.

**10 Training**

**10.1** Officers and Members taking part in any interview process must have had in-house training regarding the recruitment process.

**11 Appraisal of the Chief Executive**

There shall be an annual appraisal of the Chief Executive unless circumstances require appraisal to be on a more frequent basis. The Appraisal Panel shall consist of the Leader, Deputy Leader, the Chair of the Scrutiny Committee, and the Chair or Vice-Chair of the Council. Any nominee of the above appointed Panel should have undergone appropriate training.

# Part 5 – Codes and Protocols

- **Members Code of Conduct**
- **Officers Code of Conduct**
- **Member/Officer Protocol**

**CODE OF CONDUCT FOR COUNCILLORS**
**AND CO-OPTED MEMBERS**

## 1. Introduction and Interpretation

**1.1** This Code came into effect on February 2016 and was reviewed in October 2021. It applies to you only when acting in your capacity either as a Councillor or Co-opted (voting) Member of the Council or its Committees and Sub-committees. This covers situations where you are not only actually acting in such capacity but also where you would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor or co-opted member, or otherwise are misusing your position as a councillor or co-opted member.

### 1.2 The Nolan Principles

It is your responsibility to comply with the provisions of this Code. These provisions are compatible with the Seven Principles of Public Life otherwise known as the Nolan Principles. Compliance with the Code will not only help ensure you adhere to the Nolan Principles, it will assist the Council in meeting its statutory obligation to promote and maintain high standards of conduct by its Councillors and Co-opted Members in accordance with the principles:

- **Selflessness -** Holders of public office should act solely in terms of the public interest.

- **Integrity -** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.

- **Objectivity -** Holders of public office must act and take decisions impartially fairly and on merit using the best evidence and without discrimination or bias.

- **Accountability -** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

- **Openness -** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

- **Honesty -** Holders of public office should be truthful.

- **Leadership -** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**1.3** In this Code:-

A disclosable pecuniary interest **("DPI")** is an interest within the prescribed descriptions set out below that you have personally, or is an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners; and you are aware that that other person has the interest:

| *Subject* | *Prescribed description* |
|---|---|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain. |
| Sponsorship | Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. |
| Contracts | Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—<br>(a) under which goods or services are to be provided or works are to be executed; and<br>(b) which has not been fully discharged. |
| Land | Any beneficial interest in land which is within the area of the relevant authority. |
| Licences | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer. |
| Corporate Tenancies | Any tenancy where (to M's knowledge)—<br>(a) the landlord is the relevant authority; and<br>(b) the tenant is a body in which the relevant person has a beneficial interest. |

| *Subject* | *Prescribed description* |
|---|---|
| Securities | Any beneficial interest in securities of a body where—<br>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and<br>(b) either—<br>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or<br>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class. |

These descriptions on interests are subject to the following definitions:

**"the Act"** means the Localism Act 2011;

**"body in which the relevant person has a beneficial interest**" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

**"director"** includes a member of the Committee of management of an industrial and provident society;

**"land"** includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

**"M"** means a Member of a relevant authority;

**"Member"** includes a Co-opted Member;

**"relevant authority"** means the authority of which M is a Member;

**"relevant period"** means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31 (7), as the case may be, of the Act;

**"relevant person"** means M or any other person referred to in section 30(3)(b) of the Act;

**"securities"** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**"meeting"** means any meeting of:-

(a) the Council;
(b) the Executive of the Council;
(c) any of the Council's or its Executive's Committees, Sub-committees, joint committees, joint Sub-committees or area committees, including any site visit authorised by the Council, the Executive or any of the aforementioned Committees.

**1.4** In addition, in this Code reference is made to:

"**ORIs**" which means Other Registrable Interests. These are types of Personal Interests which should also be recorded in the Register of Interests and are listed as "7. Personal Interests" in the Interests Form.[1]

"**Personal Interests**" means all interests which are not DPIs but which may reasonably be viewed by a member of the public as giving rise to a conflict of interest. They include ORIs but are not limited to such. Please see Section 6 of this Code.

**1.5** This Code does not cover matters in respect of which the Localism Act 2011 specifically provides that criminal sanctions will apply.

**1.6** A failure of a Councillor or Co-opted Member to comply with this Code is not to be dealt with otherwise than in accordance with arrangements approved by the Council under which allegations of such failure can be investigated and decisions on such allegations can be made. In particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure by a Councillor or Co-opted Member to comply with the Code.

**1.7** Guidance on the provisions of the Code is included in the footnotes to this Code. In addition in interpreting this Code, reference may be made to relevant parts of the Local Government Association Guide on its Model Councillor Code of Conduct as that model includes similar provisions to those contained within the Council's Code of Conduct. [2]

[1] These include for example your membership of any body which you have been appointed by the District Council and membership of any other body exercising functions of a public nature.

[2] The LGA published a guide in July 2021 which is available at https://www.local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct and will be updated from time to time. It provides useful

## 2. General Obligations

**2.1** You must treat others with respect.

**2.2** You must not:-

(a) do anything which may cause the Council to breach any of the equality enactments;
(b) bully or harass any person; [3]
(c) intimidate or attempt to intimidate any person who is or is likely to be:-

(i) a complainant,
(ii) a witness, or
(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Councillor or Co-opted Member (including yourself) has failed to comply with this code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

**2.3** You must not:-

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

(i) you have the consent of a person authorised to give it;
(ii) you are required by law to do so;
(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
(iv) the disclosure is:-
(aa) reasonable and in the public interest; and
(bb) made in good faith and in compliance with the reasonable requirements of the Council; or

guidance on key provisions in the Code which are particularly relevant to Sections 2 to 7 of this Code and how it applies in practice.

[3] "Bullying" may be characterised as offensive, intimidating, malicious or insulting behaviour or an abuse or misuse of power in a way that intends to undermine, humiliate, criticise unfairly or injure someone. "Harassment" may be characterised as unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimating, hostile, degrading, humiliating or offensive environment for an individual.

(b) prevent another person from gaining access to information to which that person is entitled by law.

**2.4** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute, or in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Councillors and Co-opted Members.

**2.5** You:-

(a) must not use or attempt to use your position as a Councillor or Co-opted Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the Council's resources:-

(i) act in accordance with the Council's reasonable requirements;
(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**2.6** When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council's Chief Finance Officer or Monitoring Officer where that Officer is acting pursuant to their statutory duties.

**2.7** You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

**3. Predetermination**

**3.1** Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as a Councillor.

**3.2** However you should not place yourself under any financial or other obligation to outside organisations that might seek to influence you in the performance of your official duties.

**3.3** When making decisions you must consider the matter with an open mind and on the facts before the meeting at which the decision is to be made.

**3.4** If a Councillor considers that they could be biased or they have predetermined their position to a decision, he or she should disclose this and should not take part in the decision making process whenever it becomes apparent that the matter is being considered.

**4. Registration of DPIs and ORIs**

**4.1** The Monitoring Officer must, by law, establish and maintain a register of interests, open for inspection by the public at the Council's offices and publicly accessible on our website:

https://democracy.middevon.gov.uk/mgMemberIndex.aspx?bcr=1

**4.2** You must, before the end of 28 days beginning with the day on which you became a Councillor or Co-opted Member of the Council, notify the Monitoring Officer of *the following interests which will then be entered onto that public Register of Member Interests:*

*(a)* any DPIs which you have at the time when the notification is given. You should be aware that these interests include those of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner so far as you are aware of the interests of that person.

and

(b) any ORIs which you have at the time when the notification is given. Unlike DPIs these interests do not include those of your spouse or civil partner.

**4.3** Where you become a Councillor or Co-opted Member of the Council as a result of re-election or re-appointment, paragraph 4.2 applies only as regards interests not entered in the register when the notification is given.

**5. Participation with a DPI**

**5.1** Subject to paragraphs 8.1 to 8.4 (dispensations), if you are present at any meeting and you are aware that you have a DPI in any matter that will be, or is being, considered at that meeting, you must, irrespective of whether that interest has been registered:

(a) disclose the nature of the interest to the meeting (or, if it is a sensitive interest as described in paragraph 9 below, disclose merely the fact that it is a DPI);
(b) not participate in any discussion or vote regarding that matter; and

(c) withdraw immediately from the room or chamber (including the public gallery) where the meeting considering that matter is being held.

Where you have not previously notified the Monitoring Officer of that DPI you must do so within 28 days of the date of the meeting at which it became apparent.

**5.2** Subject to paragraphs 8.1 to 8.4 (dispensations), if you are aware that you have a DPI in any matter on which either:

(a) you are authorised to make decisions, or
(b) you are consulted by an Officer discharging powers delegated to them,

you must not, in relation to (a) above, take any decision on that matter or, in relation to (b) above, participate in any consultation with such Officer in respect of that matter.

Where you have not previously notified the Monitoring Officer of that DPI you must do so within 28 days of the date on which it became apparent.

**5.3** You may participate in any business of the Council where that business relates to the Council's functions in respect of:-

(a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
(b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full-time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
(c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
(d) an allowance, payment or indemnity given to Councillors or Co-opted Members
(e) any ceremonial honour given to Councillors; and
(f) setting Council Tax or a precept under the Local Government Finance Act 1992.

**6. Participation with any other interests**

**6.1** In the case of interests other than DPIs (which include but are not limited to ORIs), if you are present at any meeting and you are aware that you have a Personal Interest[4] in any matter that will be, or is being, considered at that meeting, you must,

[4] A Personal Interest might include for example interests of your relatives or close associates or ones which don't otherwise fall within the definition of a DPI, but which nevertheless taking account of all the facts could reasonably be viewed as creating a conflict of interest and for which your participation would not be in the wider public interest.

irrespective of whether that interest has been registered disclose the nature of the interest to the meeting (or, if it is a Sensitive Interest as described in paragraph 9 below, disclose merely the fact that it is a personal interest).

**6.2** In deciding whether it is appropriate for you to still participate in the discussion or voting on the matter, you should note that in accordance with paragraph 2.5(a) of this Code, you "must not use or attempt to use your position as a Councillor or Co-opted Member **improperly** to confer on or secure for yourself or any other person, an advantage or disadvantage".

**7. Gifts and Hospitality**

**7.1** As a Councillor or Co-opted Member of the Council you must avoid accepting any gift, hospitality or other favour which could give the impression of compromising your integrity, honesty or objectivity. In particular, you

(a) should avoid any behaviour which might reasonably be seen as motivated by personal gain;

(b) should exercise caution in accepting any gifts or hospitality which are (or which you might reasonably believe to be) offered to you because you are a Councillor or Co-opted Member;

(c) should never accept significant gifts or hospitality (i.e. anything with a value of £50 or more) from suppliers or contractors seeking to acquire or develop business with the Council; and

(d) must, within 28 days of receipt or acceptance, notify the Monitoring Officer of any gift you receive or hospitality you accept (of a value of £50 or more).

**8. Dispensations**

**8.1** A Councillor or Co-opted Member with a DPI or any other interest in a matter may submit a written request to the Monitoring Officer for the grant of a dispensation allowing that Councillor or Co-opted Member to participate in any discussion and/or vote on that matter at a meeting.

**8.2** The Monitoring Officer may, after having had regard to all relevant circumstances, grant a dispensation to the Councillor or Co-opted Member only if, he considers that without the dispensation:

- the number of persons prohibited from participating in any particular business in relation to the matter would be so great a proportion of the body transacting the business as to impede the transaction of that business, or

- considers that without the dispensation each Member of the Executive would be prohibited from participating in any particular business to be transacted by the Executive in relation to the matter.

**8.3** The Standards Committee may, after having had regard to all relevant circumstances, grant a dispensation to the Councillor or Co-opted Member only if, the Committee considers that:

(a) without the dispensation the representation of different political groups on the body transacting the particular business would be so upset as to alter the likely outcome of any vote relating to that business, or
(b) granting the dispensation is in the interests of persons living in the District, or
(c) it is otherwise appropriate to grant the dispensation.

**8.4** Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.

**9. Sensitive Information**

**9.1** Paragraphs 9.2 and 9.3 apply where:

(a) a Councillor or Co-opted Member of the Council has an interest (whether or not a DPI), and
(b) the nature of the interest is such that the Councillor or Co-opted Member, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to the Councillor or Co-opted Member, or a person connected with that Councillor or Co-opted Member, being subject to violence or intimidation.

**9.2** If the interest is entered in the Register of Interests, copies of the register that are made available for inspection, and any version of the register published on the Council's website, must not include details of the interest (but may state that the Councillor or Co-opted Member has an interest the details of which are withheld under this provision of the Code).

**9.3** Where an interest is not entered on the Register of Interests and would otherwise require disclosure at a meeting, the Councillor or Co-opted Member shall be entitled to merely disclose at the meeting the fact that they have such an interest in the matter concerned.

**10. Removal of entries in the register**

**10.1** An entry in the register of interests will be removed once the person concerned:

(a) no longer has the interest, or

(b) is (otherwise than transitorily on re-election or re-appointment) neither a Councillor nor a Co-opted Member of the Council.

**MID DEVON DISTRICT COUNCIL**

**REGISTER OF MEMBERS' INTERESTS**

**GENERAL NOTICE OF REGISTRABLE INTERESTS**

I, Councillor ……..,

**a Member of ……..Council (the Council') give notice that**

Either

**I have no registrable interests which are required to be declared under the Council's Code of Conduct, and I have put 'none' where I have no such interests under any heading.**

Or

I have set out below under the appropriate headings my interests, and those of my spouse/civil partner (or person with whom I am living as such) of which I am aware, which I am required to declare under the Council's Code of Conduct. These include any disclosable pecuniary interests under sections 29 to 31 of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and I have put 'none' where I have no such interests under any heading.

Note:

- Where you consider that information relating to any of your interests is a 'Sensitive Interest' you need not include that interest provided you have consulted with the Monitoring Officer and he/she agrees that it need not be included. A 'Sensitive Interest' is an interest which could create or is likely to create a serious risk that you or a person connected with you may be subjected to violence or intimidation.
- Where the interest is no longer a 'Sensitive Interest' you must notify the Monitoring Officer within 28 days of that change.
- This form gives general guidance, but is not comprehensive. The Council's Code of Conduct gives precise requirements. The Localism Act and the Regulations named above should be referred to where necessary. Continuation sheets should be used where needed and clearly marked.

**1. Employment, Office, Trade, Profession or Vocation**

- You should disclose any employment, office, trade, profession or vocation carried on for profit or gain, including the name of any person or body who employs or has appointed you.

  ……

  ……

  And of your spouse/civil partner (or person with whom you are living as such) of which you are aware

  ……

  ……

**2. Sponsorship**

- You should declare any payment or provision of any other financial benefit (other than from the Council) made or provided within the last 12 months in respect of expenses incurred by you in carrying out your duties as a member, or towards your election expenses.

  Note – This includes any payment or financial benefit from a trade union

  ……

  ……

  And of your spouse/civil partner (or person with whom you are living as such) of which you are aware

  ……

  ……

**3. Securities**

- You should detail any beneficial interest in securities of a body which has to your knowledge a place of business or land in the area of the Council and

  **Either**

  The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body

  **Or**

  If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

  ……

  ……

And of your spouse/civil partner (or person with whom you are living as such) of which you are aware

……

……

**4. Contracts**

- You should detail any current undischarged contract made between you, or a body in which you have a beneficial interest, and the Council under which goods or services are to be provided or works are to be executed.

  ……

  ……

  And of your spouse/civil partner (or person with whom you are living as such) of which you are aware

  ……

  ……

**5. Land, Licences and Corporate Tenancies**

- Land

  You should detail any beneficial interest in land in the area of the Council (excluding any easement, or right in or over land which does not carry the right to occupy or receive income).

  ……

  ……

  And of your spouse/civil partner (or person with whom you are living as such) of which you are aware

  ……

  ……

- **Licences**

  You should detail any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

  ……

  ……

  And of your spouse/civil partner (or person with whom you are living as such) of which you are aware

  ……

  ……

- **<u>Corporate Tenancies</u>**

  You should detail any tenancy where to your knowledge the Council is the landlord and the tenant is a body in which you have a beneficial interest.

  ……

  ……

  And any such tenancy of your spouse/civil partner (or person with whom you are living as such) of which you are aware

  ……

  ……

**6. Membership of other bodies**

Councillors and co-opted Members of the Council should give details of any:

- Body to which he/she has been appointed or nominated by the authority as its representative;
- Public authority or body exercising functions of a public nature;
- Company, industrial and provident society, charity or body directed to charitable purposes;
- Body whose principal purposes include the influence of public opinion or policy

| **Name and Nature of Organisation** | **Category (a)– (d) above** | **Position Held** |
|---|---|---|
| | | |
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**7. Changes to Registered Interest**

- I understand that I must, within 28 days of becoming aware of any new or change in the above interests, including any change in relation to a sensitive interest, provide written notification therefore to Mid Devon District Council's Monitoring Officer.
- I understand that the details of my registered interests will appear on the Mid Devon District Council's website and where relevant the Parish/Town Council, website.
- I recognise that it is a breach of the Council's Code of Conduct to:

- Omit information that ought to be given in this notice;
- Provide information that is materially false or misleading;
- Fail to give further notices in order to
- bring up to date information given in this notice;
- declare an interest that I acquire after the date of this notice and have to declare

and that any breach of the Code of Conduct can be referred to the Standards Committee at Mid Devon District Council.

7.4 I understand that failure (without reasonable excuse) to register or disclose any disclosable pecuniary interest in accordance with section 30(1) or 31 (2), (3) or (7) of the Localism Act 2011, or participating in any discussion or vote in contravention of section 31 (4) of the Localism Act 2011, or taking any steps in contravention of section 31 (8) of the Localism Act 2011 is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently Unlimited) or disqualification as a member for a period not exceeding 5 years.

**Signed ……(Councillor) Dated ……**

**RECEIVED:**

**Signed …… (Monitoring Officer) Dated ……**

**AMENDMENTS**

| Signed - Member | Dated | Signed - Monitoring Officer | Dated |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

**Officers' Code of Conduct**

The public is entitled to expect the highest standards of conduct from all employees who work for the Council. This Code of Conduct outlines the existing rules and conditions of service which apply to you as a Council employee and is designed to provide clear guidance to assist you in your day-to-day work.

The Code sets out the standards which are expected of you and provides a framework which will help to promote best practice. Reference should also be made to Nolan's Seven Principles of Public Life which are Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. All employees of the Council are required to observe and uphold the standards of the Code and all policies and procedures of the Council. Failure to do so is a serious matter which could result in disciplinary action, including dismissal.

You should therefore read the document carefully, and if you are uncertain about any aspect of its contents, please contact your immediate manager or supervisor.

**1. Standards and Attitudes**

All employees of the Council are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to councillors and fellow employees with impartiality.

Your attitude in dealing with people reflects on the Council so it is important that you are helpful, polite and courteous.

All employees are expected to report, in the first instance, to their manager or supervisor any illegality, impropriety, breach of procedure or policy of the Council. The line manager must then report to their Head of Service and the Monitoring Officer.

There are a number of mechanisms available to employees to do this including the Council's complaints procedure and also the Whistle-Blowing Policy.

In all cases, it is not enough to avoid actual impropriety, as public perceptions are very important. Employees should at all times avoid any appearance of improper conduct which may give rise to suspicion.

**2. Confidentiality and Disclosure of Information**

The law requires that certain types of information must be available to councillors, auditors, government services, service users and the public. Different rules apply in different situations. Employees must be aware of which information within their authority is open and which is not, and act accordingly. If you are in any doubt as to whether you can release any particular information, always check with your manager or Head of Service first.

The confidentiality of information received in the course of your duties should be respected and must never be used for personal or political gain. Also, of course, you should not knowingly pass information on to others who might use it in such a way.

You should not communicate confidential information or documents to others who do not have a legitimate right to know. Information must only be disclosed in accordance

with the requirements of the Data Protection Act 2018, which covers computerised and manual information held on individuals. All staff need to bear in mind that an E-mail is as legally binding as a letter and informal messages sent internally can be used in evidence in court proceedings.

Information given in the course of your duties should be accurate and fair and never designed to mislead.

Any particular information received by an employee from a councillor which is personal to that councillor should not be divulged by the employee without the prior approval of that councillor, except where such disclosure is required by law.

**3. Political Neutrality**

Employees serve the authority as a whole. It follows that you must serve all councillors equally and ensure that the individual rights of all councillors are respected.

From time to time, some employees may also be requested to advise a full meeting of a political group or its executive. You must do so in ways which do not compromise your political neutrality and inform the Chief Executive in advance.

Whether you hold a politically restricted post or not, you must not allow your own personal or political opinions to interfere with your work.

**4. Relationships**

**Councillors**

Mutual respect between employees and councillors is essential for good local government. Some employees need to work closely with councillors. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

**The Local Community and Service Users**

Employees should always remember their responsibilities to the whole of the community they serve and ensure courteous, effective and impartial service delivery to all groups and individuals within that community in accordance with the policies of the authority.

**Contractors and Suppliers**

All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your appropriate manager or supervisor on The Notice of Personal Interest Form Appendix G at the earliest opportunity.

Orders and contracts must be awarded in accordance with the Council's Financial Regulations and no special favour should be shown to anyone, particularly businesses run by, for example, friends, partners or relatives. No part of the community should be discriminated against.

**5. Appointment and Other Employment Matters**

It is unlawful for appointments to be made on the basis of anything other than the ability of the candidate to undertake the duties of the post. If you are involved in making

appointments you should do everything possible to ensure that these are made on the basis of merit and in accordance with the Council's recruitment and selection policies.

In order to avoid any possible accusation of bias, you must not become involved in any appointment if you are related to an applicant, or have a close personal relationship with him or her.

Similarly, you should not be involved in decisions relating to discipline, promotion or pay adjustments in respect of any other employee who is a relative or with whom you have a close personal relationship; nor should you attempt to influence such decisions.

Senior officers (i.e. Head of Service and above) must disclose to the Monitoring Officer/Deputy Monitoring Officer details of any relationship known to exist between them and any person they know who is a candidate for an appointment with the Council. This will include the name and address of the candidate, the post they have applied for and the nature of the relationship.

If you apply for promotion or are seeking another job in the Council, you must not approach any councillor for a reference. Issues relating to your conditions of service, working arrangements or grading should be raised with your manager or Head of Service and not with councillors.

**6. <u>Outside Commitments</u>**

Your off-duty hours are your own concern, but you should make sure that you do not allow yourself to get into a position where your private interests come into conflict with your contractual obligations or are detrimental to the interests or reputation of the Council.

Employees subject to Green Book conditions and paid from Spinal Point 29 are required to devote their whole-time service to the work of the Council and obtain written consent before taking any outside employment. If you fall into this category, and want to seek the Council's agreement, you should complete the notice of personal interest Form Appendix G and submit it to your Head of Service and the Monitoring Officer. The Council will not unreasonably stop officers from undertaking additional employment, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business.

Even if you are not subject to the Green Book provisions you should ensure that none of your outside activities are detrimental to the Council's interests.

If you write a book or article for payment on subjects relating to your work for the Council, you must seek the permission of the Council through your manager or Head of Service using the notice of personal interest Form Appendix G. The general presumption would be that any fee or royalty payable would be passed over to the Council.

You must not undertake private or personal work of any description in working hours or in the office unless you have been given specific permission by your manager or Head of Service.

Private use of Council facilities and equipment, such as stationery and fax machines, is not allowed. Personal use of the telephone is permitted within reason, provided that calls are properly logged and charges paid back to the Council. Also, you should not

arrange to receive correspondence, telephone calls and fax messages in the office related to outside work or private interests.

**7. <u>Personal Interests</u>**

You must declare to your manager or Head of Service on the Notice of Personal Interests Form Appendix G any financial or non-financial interests which could bring about conflict with the Council's interests. The Head of Service will then forward this information to the Monitoring Officer.

If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager or Head of Service so that a decision can be made as to how best to proceed.

You must not make, or become involved with any official or professional decisions about matters in which you have a personal interest.

Section 117 of the Local Government Act 1972 requires you to make a formal declaration about *contracts or personal contracts* with the Council in which you have a pecuniary interest. Such declarations should be made on the Notice of Personal Interests Form Appendix G and sent to the Monitoring Officer. It is a criminal offence to fail to comply with this provision which is set out in full below*:*

If it comes to the knowledge of an officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has an pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section, an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 95 above had he been a member of the authority.

An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.

Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

References in this section to a local authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

You must declare to the Monitoring Officer *membership of any organisation* not open to the public, requiring any commitment of allegiance, or which has secrecy about rules or membership or conduct, for example, the freemasons. A definition of such an organisation is as follows:

Any lodge, chapter, society, trust or regular gathering or meeting (other than a professional association), which:-

a) is not open to members of the public who are not members of that lodge, chapter, society or trust; or

b) includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society or gathering or meeting; or

c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

Such declarations should be made on The Notice of Personal Interest Form Appendix G and sent to the Monitoring Officer.

**8. Equality**

All members of the local community, customers and other Council employees have a right to be treated fairly and equally. You should become familiar with and observe all Council policies relating to equality issues, e.g. the Council's Equal Opportunities Policy, in addition to the requirements of the law.

Employees should be aware of the provisions of, and their responsibilities under the Equality Act 2010 and that they have a duty to promote this.

**9. Tendering Procedures**

Employees involved in the tendering process or who have any other official relationship with contractors, must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

If you are responsible for engaging or supervising contractors and have previously had, or currently have, a relationship in a private or domestic capacity with contractors, you must declare that relationship to your manager or Head of Service using the Notice of Personal Interest Form Appendix G.

If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person.

All employees must ensure that no special favour is shown to current, or recent former, employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in any capacity.

**10. Corruption**

Employees must be aware that it is a serious criminal offence under the Bribery Act 2010 for them to receive or give any gift, loan or reward or advantage in their official capacity "for doing, or not doing, anything", or "showing favour, or disfavour to any person". If an allegation is made against you, it will be for you to demonstrate that any such rewards have not been corruptly obtained. The relevant statutory rules are:

The Bribery Act 2010 creates offences making it unlawful to give or receive financial or other advantages in return for the improper performance of a relevant function or activity. The Act applies to functions and activities of a public nature which an individual is expected to perform in good faith, impartially or in a position of trust.

For your own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to your Head of Service.

## 11. Possible Inducements

### Introduction

A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence. There is a checklist to help you at the end of this section**.**

### Gifts Generally

Casual gifts offered to employees by contractors, organisations, firms or individuals may not be intended as an inducement or connected in any way with the performance of your official duties so as to involve the Bribery Act 2010. Nevertheless, with the exceptions listed below, you should decline any personal gift offered to you or your partner, or to a member of your family, by any person or organisation having dealings with the Council.

Any such offer should be reported to your Head of Service (and the Monitoring Officer) on the Notice of Offer of Gift/Hospitality Form Appendix H(i).

When a gift needs to be refused, this should be done with tact and courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported immediately to your manager or Head of Service or the Monitoring Officer as appropriate.

### Exceptions

Gifts of a token value given at Christmas, such as calendars, diaries, blotters, pens or other simple items of office equipment for use in Council offices, but only if it bears the company's name or insignia.

Gifts of a promotional nature on the conclusion of a courtesy visit to a factory or company offices, of a sort normally given by the company to visitors.

### Hospitality

Offers of hospitality are a normal part of the courtesies of business life but in the public service it is important for employees to avoid creating an appearance of improper influence, thus undermining public confidence.

Hospitality is sometimes offered to representatives of the Council in an official or formal capacity. Normally the only officers who would attend would be Chief Officers and appropriate Heads of Service.

If hospitality is offered to you as an individual employee, special caution is needed, particularly when the host is seeking to do business with the Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers, etc, who may stand to benefit from the goodwill of the Council.

You should also be careful about attending exhibitions, seminars or visiting manufacturers, etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality.

In general terms, it is more likely to be acceptable for you to join in hospitality offered to a group, than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, for example, an arbitration arising from a contract, then clearly common sense dictates that offers of hospitality should be refused even if in normal times they would be acceptable.

All offers of hospitality should be reported to your Head of Service, and the Monitoring Officer on the Notice of Offer of Gift/Hospitality Form Appendix H(i).

**Checklist**

The question in all these cases is one of judgement, and the following checklist of queries should help you to decide whether a gift or an offer of hospitality should be accepted or tactfully declined.

a) Is the donor, or event, significant in the community or area? If so, is the refusal likely to cause offence?

b) Are you expected to attend because of your position in the community or area?

c) Will the event be attended by others of a similar standing in the community or in other communities?

d) What do you think is the motivation behind the invitation?

e) Would acceptance of the invitation be, in any way, inappropriate or place you under pressure in relation to any current or future issue involving the Council?

f) Could you justify the decision to the Council, press and public?

g) Is the extent of the hospitality, or the nature of the gift reasonable and appropriate?

h) Are you likely to be expected to respond to the hospitality, and if so, how?

i) Are you comfortable about the decision?

**12. Sponsorship - Giving and Receiving**

Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the Council wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to their Head of Service of any such interest. Similarly, where the Council through sponsorship grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

**13. Financial Procedure Rules**

All employees involved in financial activities and transactions on behalf of the Council, including budgetary control, payments of accounts, payments of salaries and wages, petty cash and orders for works, goods or services must follow the Council's Financial Procedure Rules.

They must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

**ANY BREACHES OF THESE INSTRUCTIONS MAY LEAD TO DISCIPLINARY ACTION AND COULD LEAD TO DISMISSAL**

**Protocol on Member/Officer Relations**

[Note: This is based on the existing Code of Local Government Conduct and will need to be revised to reflect the new Members' Code of Conduct once the Government has given the expected guidance.]

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## 1.0 Introduction

**1.1** Members and officers must at all times observe this protocol.

**1.2** The protocol has been approved by the Council's Standards Committee which will monitor the protocol and its operation. The Monitoring Officer will produce an annual report for the Standards Committee highlighting the number of complaints that have been made by staff about Members who breach this protocol, and vice versa, so that the effectiveness of this protocol can be examined.

**1.3** The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of conduct.

**1.4** Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy and by not seeking to take unfair advantage by virtue of their position. There must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. It is important that both Members and Employees remember their respective obligations to enhance the Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

**1.5** Whilst members and officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to members (individually and collectively) and to carry out the Council's work under the direction of the Council.

**1.6** The Council has adopted codes of conduct for both members and officers. Both represent best practice. The members' code follows the legislation set out in the Localism Act and includes the Nolan seven principles of public life.

**1.7** These principles in the Codes of Conduct underpin this protocol.

**1.8** Breaches of this protocol by a member may result in a complaint to the Authority's Standards Committee if it appears the members' code has also been breached. Breaches by an officer may lead to disciplinary action.

## 2.0 The Role of Members

**2.1** Members represent their ward and are advocates of for the citizens who live in their area but must also have a strategic view of the whole district.

**2.2** Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior officer(s) and/or the Monitoring Officer.

**2.3** Collectively, members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.

**2.4** Members represent the community, act as community leaders and promote the social economic and environmental well-being of the community often in partnership with other agencies.

**2.5** Every elected member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies and often serves on local bodies.

**2.6** Some members may be appointed to represent the Council on local, regional or national bodies. They will be expected to follow their code of conduct and this protocol.

**2.7** As politicians, members may express the values, policies and aspirations of the party political groups to which they belong whilst recognising that in their role as members they have a duty always to act in the public interest.

**2.8** Members are not authorised to direct officers other than:-

- through the formal decision-making process;
- to request the provision of consumable resources provided by the Council for members' use; and
- where staff have been specifically allocated to give support to a member or group of members
- to request help from staff on ward issues.

**2.9** Members are not authorised to initiate or certify financial transactions or to enter into a contract on behalf of the Council.

**2.10** Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the designated Section 151 Officer.

**2.11** Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

**3.0 The Role of Officers**

**3.1** Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.

**3.2** Briefly, Employees have the following main roles:

- Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services
- Providing advice to the Council and its various bodies and to individual Members in respect of the services provided and council policies
- Initiating policy proposals
- Implementing agreed policy
- Ensuring that the Council always acts in a lawful manner

**4.0 The Relationship between Members and Officers: General**

**4.1** The conduct of members and officers should be such as to instil mutual confidence and trust.

**4.2** The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

**4.3** Informal and collaborative two-way contact between members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.

**4.4** Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.

**4.5** It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the officer on a personal basis.

**4.6** Officers work to the instructions of their senior officers, not individual members. It follows that, whilst such officers will always seek to assist a member, they must not

be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, members should normally direct their requests and concerns the relevant officer, at least in the first instance. Where members are not clear who the relevant officer is, they should speak to the Service Manager or Head of Service.

**4.7** Officers will respond to members' enquiries within five working days. If this is not achievable then an acknowledgement be sent indicating how long it will take to provide a response. However, officers should not have unreasonable requests or timescales placed upon them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.

**4.8** Members will respond to enquiries from officers within five working days.

**4.9** An officer shall not discuss with a member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.

**4.10** Members and officers should respect each other's free (ie non-Council) time.

**5.0 The Council's Role as Employer**

**5.1** In their dealings with Officers, Members should recognise and have regard to the Council's role as employer and the Council's duty of care. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

**6.0 Chair and Officers**

**6.1** Officers will respect the position of Chair and provide appropriate support.

**7.0 Provision of Support Services to Members**

**7.1** The only basis on which the Council can lawfully provide support services (e.g. stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

**7.2 Correspondence**

Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

**7.3 Media**

Communication with the media can be an important part of a Member's workload. In general, Members provide comments, information and views. If a Member is unsure about the circumstances or facts of a particular issue he/she should contact

the appropriate Head of Service or ask the Press Office to do so. Employees must only provide the press with factual information and not give any comments or views.

**8.0** **Party Groups and Officers**

**8.1** Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups but officers have the right to refuse such requests.

**8.2** Officers will normally not attend a meeting of a party group where some of those attending are not members of the Council.

**8.3** Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business and, therefore, should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

**8.4** Party group meetings are not empowered to make decisions on behalf of the Council and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.

**8.5** Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

**8.6** It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.

**8.7** Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

**8.8** In their dealings with party groups, officers must treat each group in a fair and even-handed manner.

**8.9** Members must not do anything which compromises or is likely to compromise officers' impartiality.

**8.10** The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.

**8.11** An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.

**8.12** An officer who is not a senior officer shall not be invited to attend a party group meeting but a senior officer may nominate another officer to attend on his/her behalf.

**8.13** An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.

**8.14** If confidential information is referred to by an officer or a member at a group meeting then no member of officer will refer to it in public.

**8.15** At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not members are not bound by the members' code of conduct. They do not have the same rights to Council information as members.

**8.16** Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.

**9.0 <u>Political Activity</u>**

**9.1** There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

**9.2** In summary, such employees are prevented from:

a) being a Member of Parliament, European Parliament or local authority;

b) acting as an election agent or sub-agent for a candidate for election as a member of any the bodies referred to in 0;

c) being an officer of a political party or any branch of a political party or a member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:-

(i) participate in the general management of the party or branch; or

(ii) act on behalf of the party or branch in dealings with persons other than members of the party;

d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in 0

e) speaking to the public with the apparent intent of affecting public support for a political party; and

f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

**9.3** It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and

contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles e.g. chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

**9.4** Usually the only Employees involved in attending group meetings will be the Chief Executive, Directors and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

**9.5** Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Directors/Heads of Service, and not to individual Members of the Council whatever office they might hold.

**10.0** **Local Members and Officers**

**10.1** To enable them to carry out their ward role effectively, members must be fully informed about matters affecting their ward. Management Team must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision-making process and develop their representative role.

**10.2** This requirement is particularly important:-

- during the formative stages of policy development, where practicable;
- in relation to significant or sensitive operational matters;
- whenever any form of public consultation exercise is undertaken; and
- during a Scrutiny Committee investigation.

**10.3** Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.

**10.4** Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected must be invited to attend the meeting as a matter of course.

**10.5** If a ward member intends to arrange a public meeting in their local area on a matter concerning some aspect of the Council's work, he/she should inform the relevant Head of Service or the Chief Executive. Provided the meeting has not been arranged on a party political basis:-

- an officer may attend but is not obliged to do so; and
- the meeting may be held in Council owned premises.

**10.6** No such meetings should be arranged or held in the immediate run-up to Council elections. The pre-election period (often referred to as Purdah) is the period of time between an announced election and the final election results. This normally begins six weeks before the election.

**10.7** Whilst support for members' ward work is legitimate, officers will not attend Ward Surgeries

**10.8** Officers must never be asked to attend ward or constituency political party meetings.

**10.9** In seeking to deal with constituents' queries or concerns, members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by members in the requested timescale and may need to seek instructions from their managers.

**11.0 <u>Members' access to documents and information</u>**

**11.1** This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution.

**11.2** Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:-

- it is in the public domain; and
- it is not barred by the Data Protection Act from being given.

**11.3** All Members will receive agendas and documents for the Committees that they are on. Members may also have access to documents for committees they are not on provided:-

- he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a member (the "need to know" principle); and
- the documents do not contain "confidential" or "exempt" information as defined by the law.

**11.4** Disputes as the validity of a member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a member's request.

**11.5** A member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:-

- where to do so is likely to be in breach of the Data Protection Act;
- where the subject matter is one in which he/she has a pecuniary or personal interest as defined in the members' code of conduct; or
- where it is specified that the matter is "confidential" or "exempt".

**11.6** Information given to a member must only be used for the purpose for which it was requested.

**11.7** It is an accepted convention that a member of one party group will not have a need to know and, therefore, a right to inspect a document which forms part of the internal workings of another party group.

**11.8** Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.

**11.9** When requested to do so, officers will keep confidential from other members advice requested by a member.

**11.10** Where an item is discussed that is Part Two (i.e. excludes the press and public) Members must ensure that they do not share the confidential information with anyone outside of the Council Chamber, until otherwise directed by the Chief Executive or Head of Service.

**11.11** Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

**12.0 <u>Media Relations</u>**

**12.1** All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.

**12.2** Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.

**12.3** Officers will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

**12.4** Before responding to enquiries from the media, officers shall ensure they are authorised to do so.

**12.5** Likewise, officers will inform the Council's public relations co-ordinator of issues likely to be of media interest, since that officer is often the media's first point of contact.

**12.6** If a member is contacted by, or contacts, the media on an issue, he/she should:-

- indicate in what capacity he/she is speaking (eg as ward member, in a personal capacity, as Cabinet member, as Chair of Policy Development Group, as committee chair, on behalf of the Council, or on behalf of a party group);
- be sure of what he/she wants to say or not to say;
- if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's public relations co-ordinator and/or relevant senior officer, except in relation to a statement which is party political in nature;
- consider the likely consequences for the Council of his/her statement (eg commitment to a particular course of action, image, allegations of jumping to conclusions);

- never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- consider whether to consult other relevant members: and
- take particular care in what he/she says in run up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

**12.7** If a Member or officer shares information with the media that is confidential they will be subject to further action under the code of conduct or disciplinary procedure.

**13.0 <u>Correspondence</u>**

**13.1** Correspondence between an individual member and an officer or member should not be copied to another member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, ie there should be no "blind" copies.

**13.2** Official letters written on behalf of the Council should normally be in the name of the relevant officer. It may be appropriate in some circumstances (eg representations to a Government Minister) for letters to appear in the name of a Cabinet member, a Chair of a Policy Development Group or the chair of the Scrutiny Committee or Audit Committee.

**13.3** The Chair may initiate correspondence in his/her own name.

**13.4** Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a member.

**13.5** When writing in an individual capacity as a ward member, a member must make clear the fact.

**14.0 <u>Access to Premises</u>**

**14.1** Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.

**14.2** Members have a right of access to Council land and premises to fulfil their duties.

**14.3** When making visits as individual members, members should:-

- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
- comply with health and safety, security and other workplace rules;
- not interfere with the services or activities being provided at the time of the visit;
- if outside his/her own ward, notify the ward member(s) beforehand; and
- take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

**15.0 <u>Use of Council Resources</u>**

**15.1** The Council provides all members with services such as photocopying and goods such as stationery and computer equipment to assist them in discharging their roles as members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

**15.2** Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:-

- where facilities are provided in members' homes at the Council's expense;
- in relation to any locally agreed arrangements, eg payment for private photocopying; and
- regarding ICT security.

**15.3** Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples are:-

- business which is solely to do with a political party;
- work in connection with a ward or constituency party political meeting;
- electioneering;
- work associated with an event attended by a member in a capacity other than as a member of the Council;
- private personal correspondence;
- work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
- support to a member in his/her capacity as a councillor of another local authority.

**16.0** **<u>Interpretation, Complaints and Allegations of Breaches</u>**

**16.1** This part of the protocol should be read in conjunction with the "whistleblowing" policy of the Council.

**16.2** Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.

**16.3** A member who is unhappy about the actions taken by, or conduct of, an officer should:-

- avoid personal attacks on, or abuse of, the officer at all times;
- ensure that any criticism is well founded and constructive;
- never make a criticism in public, and
- take up the concern with the officer personally, if appropriate.

**16.4** If direct discussion with the officer is inappropriate (eg because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer's manager or the relevant Head of Service.

**16.5** A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.

**16.6** An officer who believes a member may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group.

**16.7** A serious breach of this protocol by a Member may lead to investigation by the Monitoring Officer and could result in a referral to the Authority's Standards Committee.

**Guidance for Members on Hospitality and Gifts**

**1 Introduction**

**1.1** This guidance is ancillary to guidance in the Code of Conduct and explanatory text.

**1.2** Members should treat with extreme caution any "offer or gift, favour or hospitality" that is made to them personally.

**1.3** People or bodies may have contractual relationships with the Council which they may seek to influence, or which it might be suspected they were attempting to influence, even if the gift was offered innocently. The same would apply within contexts such as applications for planning permission.

**1.4** There are no hard and fast rules, but a working lunch which is approved by the authority and where there is no extravagance, or representing the council at a social function or event organised by an outside body or person would be regarded as acceptable.

**1.5** Members are personally responsible for all decisions connected with the acceptance or offer of gifts or hospitality and for avoiding the risk of damage to public confidence in local government. Paragraph 17 of the Code provides that the receipt of gifts or hospitality over the value of £50 should always be reported to the appropriate senior officer for the council.

**1.6** Members should avoid impropriety and the appearance of it. Members should never use their position to benefit themselves, their family or friends with any financial benefits, preferential treatment or other advantage. On hospitality, members should record all gifts and hospitality received in connection with membership of the Council and, in particular, should not accept gifts or hospitality that might reasonably be thought to influence or be intended to influence the members' trust or bring discredit on the Council.

**2 General Guidance on Gifts and Hospitality**

**2.1** When to accept hospitality is a matter of judgement for each individual member.

**2.2** It would be wrong to produce an atmosphere where even members acting in a representative capacity for the council refuse all invitations for social involvement with those who have or who seem to have business or other dealings with the Council. Contacts established through a social environment are often helpful to the Council's interests. Members have as a key part of their role the establishment of the standing of the Council in the community.

**2.3** Any suggestion of improper influence or giving others the opportunity reasonably to impute improper influence must be avoided.

**2.4** Extravagance can be damaging to the reputation of the authority.

**3 Registration**

**3.1** The Monitoring Officer maintains the Members' Register of Interests which records all gifts and hospitality received.

**3.2** Whenever members are offered hospitality or a gift not officially arranged through the authority but in the broad context of their role as a councillor, they should ensure that the register is completed.

**3.3** The register should be completed whether or not the gift or hospitality in question is accepted.

**3.4** The only exceptions to registration would be very small gifts in kind, below the value of £50, e.g. a diary or calendar.

**3.5** The Monitoring Officer will make regular checks to ensure that the register is properly completed.

**4 Examples of what is Acceptable/Unacceptable**

**4.1** The following general guidelines are examples only, which will assist members in exercising their discretion appropriately.

**5 Acceptable**

**5.1** Working lunch of a modest standard provided to allow a member to discuss matters in which he is involved on behalf of the authority or which arise out of his work as a "constituency" member.

[If there is a series of meetings requiring hospitality, the Council and the other party should alternate on an approximately equal basis.]

**5.2** An invitation to a professional society dinner or one associated with a body with whom the elected member may have been working in his capacity as such. For example, Royal Garden parties or the annual dinner of the Magistrates' Association.

**5.3** An invitation to join other guests in Devon or neighbouring counties as the Council representative at a jubilee or other special occasion for a statutory, charitable or other body (including commercial organisation) with whom the member may expect to work in their role as such.

**6 Unacceptable**

**6.1** Paid holiday or leisure travel or accommodation.

**6.2** Tickets for premium events (eg Wimbledon) which are offered on a personal basis.

**6.3** Use of an individual or organisation's flat or hotel.

**6.4** Discounted services, material, labour etc from contractors or suppliers which are not normally equally available on the same basis to others not having an actual or potential business link with them. (Members should not procure or encourage any such provision to family, friends or business associates.) Members should consider it appropriate to get more than one quote on private works, e.g. on their own house, if a supplier to the Council is involved.

**6.5** Non-reciprocal invitations to high-profile or prestige events, particularly outside Devon, unless specifically authorised on behalf of the Council.

**6.6** Cash gifts.

**6.7** Significant gifts in kind (e.g. a case of whisky but not a company calendar or diary).

**7 Additional Points**

**7.1** An important criterion in exercising judgement as to what is acceptable is what interpretation those in the community or the press might reasonably put upon acceptance.

**7.2** Repeated offers of gifts or hospitality from one person, firm or organisation made by repetition render unacceptable what would otherwise be acceptable.

**7.3** Particular care should be taken where a member has any involvement in making a decision for placement of a contract, or for any decision carrying value for the person or organisation offering the gift or hospitality (e.g. the granting of planning permission), or is involved in a Scrutiny Committee examination which could have an impact on the person or the outcome of the organisation concerned.

**7.4** If you are offered a gift which you do not think you should accept personally but you feel is well intentioned, and particularly if it may cause offence if refused, you have the option, with the agreement of the donor, of passing it to the Chair of the Council, who may place it with an appropriate charity. You should still record the offer and the action taken.

**8 Advice**

**8.1** If a member is in any doubt about the propriety of accepting a particular offer of a gift or hospitality, they should consult the Monitoring Officer before accepting.

**Monitoring Officer Protocol**

**1 General Introduction to Statutory Responsibilities and Functions**

**1.1** The Monitoring Officer is a statutory designation pursuant to section 5 of the Local Government and Housing Act 1989. That Act and the Local Government Act 2000 makes the appointed officer responsible for performing a number of functions in respect of the Council.

**1.2** The duties placed upon the Monitoring Officer in exercising these functions must be performed by him or her personally, unless:-

(a) the Monitoring Officer is unable to act owing to absence or illness – whereupon those duties are to be performed personally during that period by a member of the Monitoring Officer's staff that he or she has for the time being nominated as his or her deputy (the 'Deputy Monitoring Officer'); or

(b) in respect of functions under 60(2) or 64(2) of the Local Government Act 2000, he or she considers that in a particular case the functions should not to be performed by him or herself – those functions are to be performed personally by a person nominated by the Monitoring Officer (or Deputy Monitoring Officer as the case may be) for that purpose.

For the purposes of this Protocol, the term 'Monitoring Officer' thus includes those persons when carrying out those personal duties.

**1.3** To enable these functions to be carried out the Council is also placed under a number of duties. These include a duty to provide the Monitoring Officer with such staff, accommodation and other resources as are, in the Monitoring Officer's opinion, sufficient to allow him or her to perform those duties.

**1.4** The object of this Protocol is therefore to provide some general information on how those statutory duties upon the Monitoring Officer and the Council, which are summarised as a schedule annexed to this document, will be discharged at this Council.

**1.5** Functions 6 to 11 of the attached schedule are functions to be carried out by the Monitoring Officer in respect of the town and parish councils within the Council's area, as relevant authority, as well as for the Council.

**1.6** The Council has also placed 'proper officer' and other obligations on the Monitoring Officer, through the Council's Constitution and elsewhere, but these are delegated functions of the authority rather than personal duties under statute. Whilst the exercise of these functions equally require good working arrangements, they differ slightly from authority to authority and, for the sake of commonality and clarity, they are not directly addressed here.

**1.7** In general terms, the Monitoring Officer's ability to discharge his or her duties and responsibilities will depend, to a large extent, on Members and officers:-

- complying with the law of the land (including any relevant Codes of Conduct);
- complying with any General Guidance issued, from time to time, by the Standards Committee and the Monitoring Officer;

- making lawful and proportionate decisions; and
- generally, not taking action that would bring the Council, their offices or professions into disrepute.

**2 Working Arrangements**

**2.1** Having excellent working relations with Members and officers will assist in the discharge of the statutory responsibilities on the Monitoring Officer and keep the Council out of trouble. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers must, therefore, work with the Monitoring Officer (and his or her staff) to discharge the Council's statutory and discretionary responsibilities.

**2.2** Having effective working liaison and relationships with the External Auditor and the Local Government and Social Care Ombudsman will also assist in the discharge of those statutory responsibilities. This will include having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary.

**3 Monitoring Officer's Rights**

The following arrangements and understandings between the Monitoring Officer, Members and officers are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will have the right to:-

**3.1** be advised by Members and officers of any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, policy, procedural or other constitutional issues that are likely to (or do) arise;

**3.2** access to any meetings of officers or Members (or both) of the authority, whether or not such meetings include any other persons. (For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council);

**3.3** receive advance notice (including receiving Agendas, Minutes, Reports and related papers) of all relevant meetings of the Council at which a decision of the Council may be made, formulated or briefed upon (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet Member, committee meetings and Corporate Management Teams (or equivalent arrangements);

**3.4** require when carrying out any investigations(s):-

(a) advice and assistance from the authority that he or she considers is reasonably needed to assist him or her;

(b) unqualified access to any officer or Member who the Monitoring Officer wishes to make inquiries of or who he or she believes can assist in the discharge of his/her functions; and

(c) any information and documents held by the Council;

**3.5** ensure or facilitate that the other statutory officers (Head of Paid Service and S.151/Chief Finance Officer) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, procedural or other constitutional issues that are likely to (or do) arise;

**3.6** meet with the Head of Paid Service and the S.151/Chief Finance Officer or Electoral Registration & Returning Officer to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, procedural or other constitutional issues that arise or are likely to arise;

**3.7** report on ethical governance issues and on the Constitution following consultation, where appropriate, with the Head of Paid Service and S.151/Chief Finance Officer;

**3.8** report to the authority, as necessary on the staff, accommodation and resources he or she requires to discharge his or her statutory functions and to be provided with the same;

**3.9** obtain legal advice (either internally or externally) on any matter which he or she believes may be a reportable incident at the authority's expense;

**3.10** defer the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body in involved, subject to any necessary consultation with all or any of Head of Paid Service, S.151/Chief Finance Officer, Leader and Standards Committee.

**3.11** notify (after consultation with the Head of Paid Service and the S.151/Chief Finance Officer) the police, the authority's auditors and other regulatory agencies of his or her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;

**3.12** seek to resolve potential reportable incidents by avoiding or rectifying the illegality, failure of process or breach of code, or by identifying alternative and legitimate methods to proceed whilst retaining the right to make a statutory report where, after consultation with the Head of Paid Service and the S.151/Chief Finance Officer, he or she is of the opinion that such is necessary in order to respond properly to such an incident; and

**3.13** prepare any training programme for Members or officers on ethical standards and Code of Conduct issues.

**4 Conflicts of Interest**

**4.1** Where the Monitoring Officer is aware he or she has a potential conflict of interest in performing his or her duties he or she shall consult the Head of Paid Service.

**4.2** The Monitoring Officer may then either refer the matter to the Deputy Monitoring Officer for investigation, request a neighbouring authority to make their Monitoring Officer available to this Council or nominate another person to investigate the matter and report the results to the Monitoring Officer to allow him or her to carry out his or her duties and, as may be appropriate, to the Head of Paid Service and/or the authority.

**5 Insurance and Indemnity Arrangements**

**5.1** The S.151/Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

**6 Sanctions for Breach of the Council's Codes of Conduct and this Protocol**

**6.1** Complaints against any breach of the Council's Code of Conduct for Members must be referred to the Monitoring Officer. Complaints against any breach of this Protocol by a Member will be referred to the Standards Committee and to the relevant Leader and/or Whip of the Political Party Group. Complaints against any breach of this Protocol by an officer may be referred for disciplinary action.

**Schedule of Monitoring Officer Functions**

| Description | | Source |
|---|---|---|
| 1. | Report on contraventions or likely contraventions of any enactment or rule of law. | Section 5 Local Government and Housing Act 1989. |
| 2. | Report of any maladministration or injustice where Ombudsman has carried out an investigation. | Section 5 Local Government and Housing Act 1989. |
| 3. | Report on resources. | Section 5 Local Government and Housing Act 1989. |
| 4 | Nomination of officer(s) as Deputy. | Section 5 Local Government and Housing Act 1989. |
| 5. | Receive copies of whistle-blowing allegations of misconduct. | Public interest disclosure (whistle-blowing policy) |
| 6(a) | Investigate allegations of misconduct of councillors under their authority's Code through the Local Assessment of Complaints procedure | Localism Act 2011<br>- Directions when made in individual cases. |
| 6(b) | Advise and refer complaints to the Standards Committee in determining allegations of misconduct of councillors under their authority's Code as referred by the Local Assessment of Complaints procedure | |
| 6(c) | Nomination of a person to carry out LGA 2000 Section 60(2) or 64(2) | LGA 2000 Section 82A |

| Description | | Source |
|---|---|---|
| | functions where M.O. ought not to | |
| 7. | Establish and maintain registers of members' interests and of gifts and hospitality. | Section 81 LGA 2000 and Code of Conduct. |
| 8. | Key role in support of the Standards Committee in its functions of<br>(a)promoting and maintaining high standards of conduct; and<br>(b)assisting observance of the Code of Conduct by the members and co-opted members of the Council and the town and parish councils within the Council's area | New council constitutions guidance for English Authorities paragraph 8.20 (published 20.6.02) |
| 9. | Advice to members on interpretation of Code of Conduct. | Code of Conduct |
| 10. | New ethical framework functions in relation to Parish Councils. | Section 83(12) LGA 2000 |
| 11. | Advising on appropriateness of compensation for maladministration. | Section 92 LGA 2000 |
| 12. | Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all members. | New council constitutions guidance for English Authorities paragraph 8.21 (published 20.6.02) |

The Officer holding the designation Monitoring Officer also holds certain Proper Officer appointments as detailed in the Constitution.

# Part 6 - Members' Allowances Scheme

**MEMBERS' ALLOWANCES SCHEME**
**1 April 2025 – 31 March 2028**

The Mid Devon District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2003, hereby makes the following scheme:

1. This scheme may be cited as the Mid Devon District Council Members' Allowances Scheme, and shall have effect for the period 1st April 2025 until the 31st March 2028.

2. In this scheme:

   "Approved Duties" means those duties set out in Schedule 2

   "Councillor" and "Member" both mean an elected Member of Mid Devon District Council; and

   "year" means the twelve months ending with 31st March.

**Basic Allowance**

3. Subject to paragraph 6, from 1st April 2025 a Basic Allowance of £6,240 per annum shall be paid to each Councillor. This shall be increased by the median (average) % of the cost of living pay rise awarded across the workforce of MDDC employees each year for a period of 3 years from 1 April 2025 until 31 March 2028.

**Special Responsibility Allowances**

4.
(a) For each year a Special Responsibility Allowance shall be paid to those Councillors who hold the Special Responsibilities in relation to the Council that are specified in the Schedule to this scheme. These allowances shall be calculated based upon a weighting applied to the Basic Allowance. Any increase in the Basic Allowance as a result of a staff

pay award will therefore also result in an increase to the Special Responsibility Allowances.

(b) Subject to paragraph 6, the amount of each such allowance shall be the amount specified against that Special Responsibility in Schedule 1.

(c) No Councillor is entitled to claim more than one Special Responsibility Allowance.

**Renunciation**

5. A Councillor may, by notice in writing given to the Deputy Chief Executive (Section 151 Officer), elect to forego any part of their entitlement to one or more allowances under this scheme.

**Part-Year Entitlements**

6. Where a Councillor's entitlement to an allowance in this scheme begins or ends (for whatever reason) part of the way through the year, their entitlement to such allowance will be in the same proportion as the number of days during the term of office to the number of days in that year.

**Carer's Allowance**

7. Subject to paragraph 6, a Councillor can claim a Carer's Allowance for Approved Duties, except where Schedule 2 states that such an allowance is not payable.

8 The following conditions and limitations apply to any claim for a Carer's Allowance:

(a) The carer must be over the age of 18 and someone who does not normally live with the Councillor as part of their family or household;

(b) The person being cared for is a dependent of the Councillor and is:

(i) a child under the age of 14;
(ii) an elderly person; or
(iii) someone with a recognised disability who cannot reasonably be left unsupervised for the period during which the Councillor is going to be absent on an Approved Duty;

(c) Where the care is booked and paid for by the hour, Councillors may claim the hourly rates set out in sub-paragraph (e) for the time incurred in the Approved Duty, plus the reasonable travelling time taken by the Councillor in:

(i) carrying out the Approved Duty; and

(ii) dropping off or picking up the dependant at the place of care before and after the Approved Duty;

(d) Where the care can only be booked and paid for as a fixed period or session, Councillors may claim for the duration of the fixed period or session plus the reasonable travelling time taken by the Councillor in dropping off or picking up the dependent at the place of care before and after the Approved Duty. If the location or timing of the Approved Duty means that two or more fixed periods or sessions need to be booked, Councillors may claim for those periods or sessions. The amount payable will be the hourly rate set out in sub-paragraph (e), unless the dependent is a child (see sub-paragraph (b)(i)) attending an Ofsted registered nursery, pre-school or playgroup – in such cases, if the hourly rate would not cover the cost of the fixed period(s) or session(s), the actual cost may be claimed;

(e) The hourly rate is the National Living Wage (25 and over);

(f) Councillors may also claim for the carer's reasonable expenses incurred whilst the dependent is in their care in accordance with this paragraph 8, provided the Councillor produces the relevant receipt from the carer in respect of those expenses.

**Parental Leave**

9. (a) The provision covers the period of absence taken following the birth or adoption of a child. Councillors are still required to attend at least one meeting of the authority in any six month period (as per S85 Local Government Act 1972).

(b) The Council may exercise its right to waive expulsion if non-presence relates to Parental Leave, constituting 'some reason approved by the authority before the expiry of that period' with prior agreement between the Councillor and the Council.

(c) Absences from meetings during Parental Leave will be recorded as such (not attributed to general absence).

(d) The Council will help ensure Councillors have adequate IT provision to allow them to work from home and also keep in touch while on Parental Leave and upon returning to their role.

10. The following leave periods will apply.

- Councillors giving birth / adopting through an approved adoption agency shall be entitled to take up to six months leave from the due or placement date, with the option to extend up to 52 weeks by agreement.

- Where a birth is premature, the Councillor is entitled to take leave during the period between the date of the birth and the due date in addition to the six months' period. Any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial six months.
- Councillors are entitled to take a minimum of two weeks leave if they are the biological parent or nominated carer of their partner/spouse following the birth of their child(ren).
- A Councillor who has made Shared Parental Leave arrangements through their employment should advise the Council. The Council will endeavour to replicate such arrangements.
- Where both parents are Councillors, leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks.
- Any Councillor taking leave should comply with the notice requirements of the Council (both when the leave starts and when they return), should respond to reasonable requests for information and keep the Council informed of intended return dates and requests for extensions.
- Unless the Councillor taking leave is removed from their post at an Annual Meeting whilst on leave, or unless their Party loses control of the Council during their leave period, they shall return after their leave period to the same post, or an alternative post with equivalent status and remuneration.
- If a Councillor decides not to return at the end of their leave, they must notify the Council immediately (allowances will cease from the effective resignation date). If an election is held during the leave period and they are not re-elected, or do not stand for re-election, the Basic Allowance (and any Special Responsibility Allowance) will cease from the Monday after the election date when they would technically leave office.

**11.** The relevant Councillors will receive their Basic Allowance in full throughout the agreed period of leave.

**12.** Councillors entitled to a Special Responsibility Allowance (SRA) will continue to receive this in full subject to:

1. Where a replacement is appointed to cover the period of leave, that person will receive an SRA on a pro rata basis for the period of the temporary appointment;
2. The payment of SRA's (to the primary SRA holder or replacement), shall continue for six months, until the date of the next Annual Council Meeting or the date when the Councillor is up for election (whichever is the earliest);
3. At that point, the position will be reviewed, and will be subject to a possible extension for a further six-month period; and

4. Should another Councillor appointed to replace the Councillor on leave already hold an SRA position, the ordinary rules relating to one SRA payment apply.

**Travelling Allowances and Subsistence Allowances**

13. Travelling and subsistence allowances will be paid in accordance with the scales of allowance set out in Schedule 1 to this scheme in connection with or relating to the Approved Duties set out in Schedule 2. The start point for a Councillor claiming travel to attend a meeting must usually be within the administrative boundary of Mid Devon.

**Payments**

14. (a) Payments of the Basic and Special Responsibility Allowances will be made (subject to sub-paragraph (b)), in twelve monthly instalments – one twelfth of the amount specified in this scheme will be paid on the 22nd day of each month.

(b) Where a payment of one twelfth of the amount specified in this scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Councillor receiving more than the amount to which they are entitled, the payment will be adjusted to ensure that no more is paid than the amount to which the Councillor is entitled.

**Claims**

15. Claims for the payment of Carer's Allowance and Travelling and Subsistence Allowances must be made by the person to whom they are payable within two months of the date on which an entitlement to such allowance arises. Such claims must be evidenced by relevant receipts.

**Pensions**

16. The allowances contained within this scheme are eligible for inclusion within the Local Government Pension Scheme. The members can opt into this scheme as of the 11 May 2026.

**Tax and Benefits**

17. **Income Tax**

1. Basic, Special Responsibility and Carers Allowances are subject to Income Tax as they are payments made in respect of the duties of an office.

2. The HMRC is notified of the names and addresses of all Councillors who claim taxable allowances. Tax is deducted at basic rate until the HMRC notifies the Council of the appropriate tax code for each Councillor.

3. Some expenses incurred by Councillors in the course of their Council duties may be deductible against tax. Any Councillor who believes that some of their expenses as a Councillor may be tax deductible should seek appropriate tax advice.

18. **National Insurance Contributions**

1. Basic, Special Responsibility and Carers Allowance payments will attract National Insurance (NI) Contributions at levels that vary depending on the total earnings of Councillors.

2. Some Councillors may not be liable to any NI Contributions on Allowances if they are over the state retirement age; in accordance with prevailing legislation. See the Government website for more information. https://www.gov.uk/tax-national-insurance-after-state-pension-age

3. Some Councillors - married women or widows who have elected to pay reduced rate NI Contributions - may also need to have the NI Contributions on Allowances calculated at a reduced rate.

4. Councillors who are self-employed may also be subject to different levels of NI Contributions.

5. Councillors who believe that they fall into any of the above categories should contact the Corporate Manager for Finance who will seek further information to assist with the query. Councillors should also obtain the appropriate certificates from the Department for Work and Pensions (DWP).

**Chair's Civic Budget**

19. The Chair of the Council is allocated a small budget for civic functions, not to exceed £2,000 per annum and to be agreed each year. Payments with regard to his or her Civic role should be paid retrospectively and only on production of a receipt/s.

**SCHEDULE 1**

With effect from 1st April 2024, the following are specified as Special Responsibilities in respect of which Special Responsibility Allowances are payable, and the amounts of those Allowances:

| | |
|---|---|
| Leader of the Council | £12,000 |
| Deputy Leader of the Council | £6000 |
| Cabinet Member | £6000 |
| Chair of Scrutiny Committee | £6000 |
| Chair's of Policy Development Groups | £3000 |
| Chair of Audit Committee | £3000 |
| Chair of the Planning Committee | £6000 |
| Chair of the Licensing/Regulatory Committee | £1500 |
| Chair of the Standards Committee | £1500 |
| Chair of the Council | £3000 |
| Co/op/ Independent | |
| Standards/ Audit | |
| Co/op | |

With effect from 1st April 2023*, the following amounts are specified as the amounts of allowance payable in respect of travelling and subsistence arising from those approved duties set out within this scheme:

Travelling Allowances:

1. 45p per mile for the first 10,000 miles (as of the 1 April 2026 the travel allowance per mile is 55p for the first 10,000 miles)
2. 25p per mile thereafter
3. 5p per mile per passenger carried (up to a max 4 passengers, payable to the driver)
4. 20p per mile for push bikes
5. 24p per mile for motorcycles

Subsistence Allowances

1. One meal (5 hour) ceiling (Upper limit £5)
2. Two meal (10 hour) ceiling (Upper limit £10)
3. Three meal (12 hour) ceiling (Upper limit £15)

4. 24 hour ceiling (Upper limit £20)

All claims for subsistence must be accompanied by a receipt. The maximum allowance will only be paid where the cost of subsistence is equal to, or greater than, the maximum allowance.

Note: *HMRC rates come into effect on the 1 April each year and therefore these amounts to be increased (or decreased) accordingly at that time.

**SCHEDULE 2**

| Description of Approved Duty | Carer's Allowance | Travel & Subsistence |
|---|---|---|
| 1. Councillors attending meetings of Council, Cabinet, Policy Development Groups, Audit, Scrutiny, Standards and Regulatory Committees (includes Substitutes), whether members of that body or otherwise | YES | YES |
| 2. Duly appointed Councillors attending meetings of bodies to which the Council makes appointments | YES | YES |
| 3. (a) Any meeting authorised by the Council, Cabinet, Policy Development Groups, Audit, Scrutiny, Standards or Regulatory Committees to which Councillors of more than one Political Group have been duly (and specifically) appointed | YES | YES |
| (b) Non duly-appointed Councillors | NO | YES |
| 4. A meeting of a Local Authority Association | YES | YES |
| 5. Any conference or meeting of a body where the Council, Cabinet or a Committee have agreed to send the Councillor as a representative | YES | YES |

| | | | |
|---|---|---|---|
| 6. | (a) Any visits or inspections undertaken by Councillors, approved by the Council or any Cabinet, Policy Development Groups, Audit, Scrutiny, Standards or Regulatory Committees (includes Councillors who are members of the body, Committee, Group and substitutes)<br><br>(b) Non-Committee Members attending such visits or inspections by invitation of the Cabinet, Policy Development Group, Audit, Scrutiny, Standards and Regulatory Committees.<br>(c) Non-Committee Members attending uninvited | YES<br><br>YES<br><br>NO | YES<br><br>YES<br><br>YES |
| 7. | Councillors attending as a member of a deputation approved by the Council, the Cabinet, Policy Development Group, Audit, Scrutiny, Standards or Regulatory Committees. | YES | YES |
| 8. | Attendance by Chair or Vice-Chair of the Council, Cabinet, Policy Development Group, Audit, Scrutiny, Standards and Regulatory Committees at meetings with a Chief Officer where Council or Committee business is discussed | YES | YES |
| 9. | Attendance by Chair of the Council and Chair of Committees acting in such capacity at meetings of Parish Councils | YES | YES |
| 10. | For any particular duty undertaken by a Councillor for which express authority from time to time is given by the Council or in case of emergency by the Chair or Vice-Chair of the Council | NO | YES |
| 11. | Civic Receptions and other social functions | NO | YES |

| | | |
|---|---|---|
| 12. Councillors attending meetings of Parish Councils within their Wards, or as Ward Member at meetings at the specific request of a Parish Council | NO | YES |

Notes:

1. In all cases, the duties for which claims are made must have been approved prior to the event.
2. Meetings (3 above) includes Working Groups, approved seminars, and Briefing meetings where more than one Political Group is invited
3. Other Briefing meetings fall within (8) above.

# Part 7 – Management Structure

| | |
|---|---|
| **Chief Executive** | **Stephen Walford** |
| **Deputy Chief Executive (S151)** | **Andrew Jarrett** |
| **Director of Legal, People & Governance (Monitoring Officer)** | **Maria De Leiburne** |
| **Director of Place and Economy** | **Nick Bryant** |

**Commented [MD1]:** Check throughout all same title

**Appendix A - Functions of the Licensing Committee**

| Matter to be dealt with | Full Committee | Sub-Committee | Officers |
|---|---|---|---|
| Application for personal licence | | If an objection made | If no objection made |
| Application for personal licence with unspent convictions | | All cases | |
| Application for premises licence/club premises certificate | | If a representation made | If no representations made |
| Application for provisional statement | | If a representation made | If no representations made |
| Application to vary premises /licence/club premises certificate | | If a representation is made | If no representations made |
| Application to vary designated premises supervisor | | If a police objection | All other cases |
| Request to be removed as designated premises supervisor | | | All cases |
| Application for transfer of premises | | If a police objection | All other cases |
| Applications for interim authorities | | If a police objection | All other cases |

| Matter to be dealt with | Full Committee | Sub-Committee | Officers |
|---|---|---|---|
| Application to review premises licence /club premises certificate | | All cases | |
| Decision on whether a representation is irrelevant, frivolous, vexatious, etc | | | All cases |
| Decision to object when local authority is a consultee and not the relevant authority considering the application | | All cases | |
| Determination of a police objection to a temporary event notice | | All cases | |
| Functions permitted under the Gambling Act 2005 | | | |
| Matter to be dealt with | Full Council | Sub-Committee of Licensing Committee | Officers |
| Three year licensing Statement of Principles | X | | |
| Policy not to permit casinos | X | | |
| Fee Setting (when appropriate) | | | X |
| Application for premises licences | | Where representations have been received and not withdrawn | Where no representations received / representations have been withdrawn |
| Application for a variation to a licence | | Where representations | Where no representations |

| Matter to be dealt with | Full Committee | Sub-Committee | Officers |
|---|---|---|---|
| | | have been received and not withdrawn | received / representations have been withdrawn |
| Application for a transfer of a licence | | Where representations have been received from the Commission | Where no representations received from the Commission |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations received / representations have been withdrawn |
| Review of a premises licence | | X | |
| Application for club gaming / club machine permits | | Where objections have been made (and) not withdrawn | Where no objections made / objections have been withdrawn |
| Cancellation of club gaming / club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of licensed premises gaming machine permits | | | X |
| Consideration of temporary use notice | | | X |
| Decision to give a counter notice to a temporary use notice | | X | |

**APPENDIX A**

**Functions of the Regulatory Committee**

Where delegation is given to Officers, the Public Health Scheme of Delegation should be referred to for further information. This stipulates the delegations in place for specific officers. It must be noted that the following table does not cover all of the specific Officer delegations (as shown in the Scheme of Delegation) and this does not limit the ability of Authorised Officers to carry out the duties required by their post. Nothing that follows prevents Officers from referring a matter for which they have authority to either a Sub-Committee or the Full Committee. These Committees have all powers that have been delegated to Officers.

| Matter to be dealt with | Full Council | Full Committee | Sub Committee | Officers |
|---|---|---|---|---|
| **Hackney Carriage and Private Hire functions**<br><br>The Town Police Clauses Act 1847 (as amended)<br>Local Government (Miscellaneous Provisions) Act 1976 (as amended)<br>Any other relevant legislation | | | | |
| Power to limit the number of hackney carriage vehicles | ✓ | Power of recommendation only to Council | | |
| | | | | |
| Power to create Hackney Carriage stands*<br>Only where Monitoring Officer confirms it is not a Cabinet function | ✓ | Power of recommendation only to Council* | | |
| Power to adopt a hackney carriage and private hire policy | ✓ | Power of recommendation only to Council | | |

| Matter to be dealt with | Full Council | Full Committee | Sub Committee | Officers |
|---|---|---|---|---|
| Power to set fees in relation to all hackney carriage and private related licences (drivers, vehicles and operators) | | | | ✓ |
| Power to licence (first grant and renewal) all hackney carriage and private related licences (drivers, vehicles and operators) | | | ✓ | Power to licence if the application is in compliance with the HC & PH Policy |
| Power to refuse (first grant and renewal) all hackney carriage and private related licences (drivers, vehicles and operators) | | | ✓ | Power to refuse if the application does not comply with the HC & PH Policy |
| Power to suspend or revoke all hackney carriage and private related licences (drivers, vehicles and operators). This includes, where applicable, immediate suspension and revocation on the grounds of public safety. | | | | ✓ |
| **Charitable functions** | | | | |

| Matter to be dealt with | Full Council | Full Committee | Sub Committee | Officers |
|---|---|---|---|---|
| (a) Police, Factories, & c. (Miscellaneous Provisions) Act 1916<br>(b) House to house collections act 1939 | | | | |
| Power to adopt a charity collection policy | ✓ | Power of recommendation only to Council | | |
| Power to issue House to House and Street Collection permits | | | | ✓ |
| Power to refuse House to House Collection Permits | | | | ✓ |
| **Sex establishments**<br>(i) Local Government (Miscellaneous Provisions) Act 1982 | | | | |
| Power to adopt a sex establishment policy | ✓ | Power of recommendation only to Council | | |
| Power to set fees for sex establishments | | | | ✓ |
| Power to licence sex establishments (including first grant, renewal, transfer and variations) | | | On first grant<br>Renewal: If objections are made and not withdrawn<br>Transfer: If objections are made and not withdrawn | Renewal: Power to licence if no objections are received (or if objections are withdraw)<br>Transfer: Power to licence if no objections are received (or if |

| Matter to be dealt with | Full Council | Full Committee | Sub Committee | Officers |
|---|---|---|---|---|
| | | | Variation: If objections are made and not withdrawn | objections are withdraw)<br><br>Variation: Power to licence if no objections are received (or if objections are withdraw) |
| Power to refuse sex establishments (including first grant, renewal, transfer and variations) | | | ✓ | |
| Power to revoke a sex establishment licence | | | ✓ | |
| **Animal licensing**<br><br>Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018<br>Zoo Licensing Act 1981<br>Dangerous Wild Animals Act 1976 | | | | |
| Power to adopt an animal licensing policy | ✓ | Power of recommendation only to Council | | |
| Power to set fees for animal licences | | | | ✓ |

| Matter to be dealt with | Full Council | Full Committee | Sub Committee | Officers |
|---|---|---|---|---|
| Power to licence all animal related activities (including first grant, renewal) | | | | ✓ |
| Power to refuse all animal related activities (including first grant, renewal) | | | | ✓ |
| Power to revoke, suspend and vary an animal related licence (with or without consent of the licence holder) | | | | ✓ |
| Power to consider and determine a review of a decision to vary or suspend a licence and make re-rating determinations following appeal | | | | ✓ |
| **Caravan, camping and moveable dwelling sites**<br><br>(ii) Caravan Sites and Control of Development Act 1960<br>(iii) Public Health Act 1936<br>(iv) Mobile Homes Act 2013 | | | | |
| Power to adopt a caravan site and camping site policy | ✓ | Power of recommendation only to Council | | |
| Power to licence a caravan Site / | | | | |

| Matter to be dealt with | Full Council | Full Committee | Sub Committee | Officers |
|---|---|---|---|---|
| camping site licence (including grant, transfer and variation) | | | | ✓ |
| Power to refuse a caravan Site / camping site licence (including grant, transfer and variation) | | | | ✓ |
| **Hypnotism**<br><br>Hypnotism Act 1952 | | | | |
| Power to set fees for hypnotism licences | | | | ✓ |
| Power to licence performances of hypnotism | | | | ✓ |
| Power to refuse a licence for the performance of hypnotism | | | | ✓ |
| **5. Beauty related (i.e. tattooing, piercing, electrolysis, acupuncture)**<br>Local Government (Miscellaneous Provisions) Act 1982 and Byelaws made under this legislation | | | | |

| Matter to be dealt with | Full Council | Full Committee | Sub Committee | Officers |
|---|---|---|---|---|
| Power to set fees for beauty related registrations | | | | ✓ |
| Power to register individuals and premises for beauty related activities | | | | ✓ |
| **Enforcement**<br>To include the above provisions | | | | |
| The function of determining whether, and in what manner, to enforce:<br>• Any contravention or failure to comply with an approval, consent, licence, permission or registration relevant to the Regulatory Committee, including any contravention of byelaws | | | | ✓ |

| Matter to be dealt with | Full Council | Full Committee | Sub Committee | Officers |
|---|---|---|---|---|
| • Any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject, including any contravention of byelaws | | | | |
| **Fees** | | | | |
| Power to set fees for discretionary services, such as pre-application advice | | | | ✓ |

**Appendix B - Model Decision Recording Form**

| DECISION: |
| --- |
| |

| REASON FOR DECISION: |
| --- |
| |

| DECISION BY: |
| --- |
| * Cabinet Member ……<br><br>* Officer ……<br>* Member or Officer as appropriate |

CONSULTEES

| WARD | |
| --- | --- |

| | |
|---|---|
| HAS/HAVE WARD MEMBER(S) BEEN CONSULTED? | YES*/NO (delete as appropriate) |
| COMMENTS OF WARD MEMBER(S) | |
| COMMENTS OF OTHER CONSULTEES | |
| DATE OF DECISION: | |
| EXEMPT INFORMATION? | YES*/NO (delete as appropriate) |
| *If yes to either question, state why: | |
| FINANCIAL, LEGAL & EQUALITY ISSUES, IF ANY: | |
| | |
| RISK ASSESSMENT | |
| | |
| ADDITIONAL INFORMATION/DOCUMENTS TAKEN INTO ACCOUNT:* | |
| * additional means additional to anything containing exempt information | |

SIGNED ……..

(Member or officer taking decision)

DATE …….. (of decision)

IMPORTANT NOTE: This form shall be circulated to Members and also published on Sharepoint.

## Appendix C - Delegation of Cabinet Functions

**Leader**

| Function | Lead Officer | Committee |
|---|---|---|
| Chairmanship of the Cabinet | CEO | Cabinet |
| Appointment/removal of the Deputy Leader | CEO | N/A |
| Appointment/removal of Cabinet Members | CEO | N/A |
| Determining the number of Cabinet Members as per the Constitution | CEO | N/A |
| Determining the role and responsibilities of each Cabinet Member | CEO | N/A |
| Advice to Council on overall Strategy and Core Policies | CEO | Council / Cabinet |
| Overall Financial Corporate Management of the Council | DCE&S151 | Council / Cabinet |
| Overall Governance arrangements of the Council (including Annual Governance Statement, Risk Management and Performance Management) | DS/DBIO | Audit |
| Liaison with Chair of Scrutiny Committee and Chair of Policy Development Groups as to programme of work of policy development and review | CEO | N/A |
| Duties in relation to urgent business and the call-in mechanism | DS | N/A |
| Media and public relations | CEO | Cabinet |
| Emergency Plan | CEO | Cabinet |
| Ombudsman Complaints | DS | Cabinet |
| Member Development | DS | Cabinet |
| State of the District Debate | CEO | Council |

**Commented [MD2]:** All DS to change to DLP&G (MO) - check others DBIO?

| Function | Lead Officer | Committee |
|---|---|---|
| Developing and maintaining partnerships with other councils | CEO | Cabinet |
| Developing and maintaining joint arrangements for the delivery of services | CEO | Cabinet |
| Review Government agenda for shared services | CEO | Cabinet |
| Brexit | CEO | Cabinet |

**Community Well Being**

| Function | Lead Officer | Committee |
|---|---|---|
| Air Quality | DBIO | C PDG |
| Contaminated Land | DBIO | C PDG |
| Community engagement and consultation | CEO | C PDG |
| Community Development | CEO | C PDG |
| Grants and Funding | CEO | C PDG |
| Equalities | DBIO | C PDG |
| Leisure | DCE&S151 | C PDG |
| Licensing | DBIO | Licensing |
| Food and water control | DBIO | C PDG |
| Pollution and Noise control | DBIO | C PDG |
| External Health and Safety | DBIO | C PDG |
| Local Welfare Assistance | DCE&S151 | C PDG |
| Digital Transformation | DBIO | Cabinet |
| ICT services | DBIO | Cabinet |
| Land Charges | DS | Cabinet |

| Function | Lead Officer | Committee |
|---|---|---|
| Information Management (Data Protection, Freedom of Information, Information Security) | DBIO | Cabinet |
| Gazetteer Management | DBIO | Cabinet |
| Community Safety | DBIO | C PDG |
| Anti-Social Behaviour | DBIO | C PDG |
| CCTV | DBIO | C PDG |

**Environment**

| Function | Lead Officer | Committee |
|---|---|---|
| Open Spaces and Play Areas | DBIO | E PDG |
| Grounds Maintenance | DBIO | E PDG |
| Cemeteries | DBIO | E PDG |
| Waste Collection and Recycling | DBIO | E PDG |
| Street Cleaning | DBIO | E PDG |
| Environmental Enforcement (includes abandoned vehicles, animal control, fly tipping, fly posting) | DBIO | E PDG |
| Flood risk management | HPR/DCE&S151 | E PDG |
| Flood defence and land drainage | HPR/DCE&S151 | E PDG |
| Clocks and Monuments | DCE&S151 | E PDG |

**Finance**

| Function | Lead Officer | Committee |
|---|---|---|
| Revenue budget development and proposals to Council for HRA and GF | DCE&S151 | Cabinet |
| Budget Monitoring | DCE&S151 | Cabinet |
| Review of virement and spending limits | DCE&S151 | Cabinet |
| Medium Term Financial Strategy | DCE&S151 | Cabinet |
| Treasury Management and Investments | DCE&S151 | Cabinet |
| Capital Programme – planning of resources and expenditure | DCE&S151 | Cabinet |
| Financial and Contract Procedure Rules | DCE&S151 | Audit |
| Annual Report and Accounts | DCE&S151 | Audit |
| Internal Audit | DBIO | Audit |
| External Auditor | DCE&S151 | Audit |
| Benefits | DCE&S151 | Cabinet |
| Council Tax & Revenues | DCE&S151 | Cabinet |
| Procurement | DCE&S151 | Cabinet |
| Car Parking | DCE&S151 | Ec PDG |
| Existing Council companies – finance implications – ***liaison only*** | CE/DCE (S151) | Cabinet |

**Housing and Property Services**

| **Function** | **Lead Officer** | **Committee** |
|---|---|---|
| HRA Housing | DBIO | H PDG |
| Neighbourhood and Tenancy Management | DBIO | H PDG |

| Function | Lead Officer | Committee |
|---|---|---|
| HRA Income collection | DBIO | H PDG |
| Tenant Involvement | DBIO | H PDG |
| Homelessness prevention | DBIO | H PDG |
| Housing Needs and Allocations | DBIO | H PDG |
| Housing Enabling | DBIO | H PDG |
| Building Maintenance | DBIO | H PDG |
| Property Services | DCE&S151 | E PDG |
| Public Conveniences | DCE&S151 | E PDG |
| Asset Management | DCE&S151 | E PDG |
| Commercial & HRA properties | DCE&S151 | E PDG |
| MDDC depots & property | DCE&S151 | E PDG |
| Private Sector Housing | DBIO | H PDG |
| Existing Council companies housing and property related – ***liaison only*** | CE/DCE (S151) | Cabinet |

**Planning and Economic Regeneration**

| Function | Lead Officer | Committee |
|---|---|---|
| Local Plan | DP | Cabinet |
| Development Management Policies | DMM | Cabinet |
| Development Control | DMM | Planning |
| Forward Planning | DP | Planning |
| Conservation | DMM | Planning |
| Building Control | DP | Cabinet |

| Function | Lead Officer | Committee |
|---|---|---|
| Planning Enforcement | DMM | Planning |
| Gypsy sites | DP | Planning |
| Urban and Rural regeneration | DP | Cabinet |
| Economic Development | DP | Ec PDG |
| Town Centre Regeneration | DP | Ec PDG |
| Tourism | DP | Ec PDG |
| Services for business | DP | Ec PDG |
| Markets | DP | EcPDG |

**Working Environment and Support Services**

| Function | Lead Officer | Committee |
|---|---|---|
| Customer First | DBIO | C PDG |
| Complaints | DBIO | Cabinet |
| Electoral Services | DBIO | Cabinet |
| Democratic Services | DS | Cabinet |
| Legal Services | DS | Cabinet |
| Complaints about Councillors | DS | Standards |
| Human Resources | DBIO | Cabinet |
| Learning and Development | DBIO | Cabinet |
| Links with Trade Unions | DBIO | Cabinet |
| Job Evaluation | DBIO | Cabinet |
| Internal Health & Safety | DBIO | Cabinet |
| Safeguarding of Children and Vulnerable Adults | DBIO | C PDG |
| Health Services | DBIO | C PDG |

**Climate Change**

| Function | Lead Officer | Committee |
|---|---|---|
| Climate Change | DCE&S151 | E PDG |
| Mid Devon Carbon Emissions | DCE&S151 | E PDG |
| Environmental Sustainability | DCE&S151 | E PDG |
| Energy | DCE&S151 | E PDG |
| Devon Carbon Plan | DCE&S151 | E PDG |
| Trees | DCE&S151 | E PDG |

Key:

CEO – Chief Executive (Head of Paid Service)
DCE&S151- Deputy Chief Executive (Section 151 Officer)
DS- Director of HR, Legal and Governance (Monitoring Officer)
DP – Director of Place and Economy

**Appendix D - Petition Scheme**

**1.1** A petition is a formal, written request made to an official person or organised body, often containing many signatures. Mid Devon District Council welcomes petitions and recognises that they are one way in which citizens can let us know their concerns. The other ways you could consider influencing how the Council works are set out on the Councils website page, "Have My Say". The link for which is https://www.middevon.gov.uk/your-council/consultation-involvement/

**1.2** All petitions sent or presented to the Council will receive an acknowledgement within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it contains a minimum of 25 signatures and is identified as being a petition, or it seems to us that it is intended to be so.

**1.3** There are a number of ways to present a petition.

**1.4** Paper petitions can be sent to:

Democratic Services Manager

Mid Devon District Council

Phoenix House

Phoenix Lane

Tiverton

EX16 6PP

**1.5** Or be emailed to Committee@middevon.gov.uk

**1.6** Or be created, signed and submitted online by following this link http://www.middevon.gov.uk/your-council/consultation-involvement/petitions

**1.7** Petitions can also be presented to a meeting of the Council. Dates and times can be found here (https://www.middevon.gov.uk/your-council/councillors-democracy/

If you would like to present your petition to the Council, or would like your councillor or someone else to present it on your behalf, please contact the Democratic Services Manager on (01884) 234229 at least 10 working days before the meeting and they will talk you through the process. If your petition has received 1500 signatures or more it will also be scheduled for a council debate and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the Council.

**2.0** What are the guidelines for submitting a petition?

**2.1** Petitions submitted to the Council **must** include:

A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;

The name and address and signature of any person supporting the petition – which must be a resident or a person who works or studies in Mid Devon.

2.2Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will **not** be placed on the website. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

**2.3** Petitions which are considered to be vexatious, abusive or otherwise in appropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

**3.0** What will the Council do when it receives my petition?

**3.1** An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

**3.2** If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgement will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

**3.3** If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available on our website.

**3.4** We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

3.5To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate e.g. the petitions referred to in paragraph 3.4.

**4.0** How will the Council respond to petitions?

**4.1** Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition;
- considering the petition at a council meeting;
- holding an inquiry into the matter;
- undertaking research into the matter;

- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
    - referring the petition for consideration by the Council's Scrutiny Committee*;
    - calling a referendum;
    - writing to the petition organiser setting out our views about the request in the petition.

**4.2** If we are not able to take action for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

**4.3** If your petition is about something that a different council is responsible for, for example highways is the responsibility of Devon County Council, we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

**4.4** The Council's Scrutiny Committee is a committee of councillors who are responsible for scrutinising the work of the Council – in other words, the Scrutiny Committee has the power to hold the Council's decision makers to account.

**5.0 Full Council debates**

If a petition contains more than 1500 signatures it will be debated by the Full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Council's Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

**6.0 Officer evidence**

**6.1** Your petition can ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

**6.2** If your petition contains at least 1500 legitimate signatures, the relevant senior officer will give evidence at a public meeting of the Council's Scrutiny Committee.

**6.3** The senior staff that can be called to give evidence are:

The Chief Executive as Head of Paid Service

Directors or Heads of Service as Chief Officers

**6.4** You should be aware that the Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the Committee by contacting Democratic Services up to ten working days before the meeting.

**7.0 E-petitions**

**7.1** The Council welcomes e-petitions that are created and submitted through our website http://www.middevon.gov.uk/your-council/consultation-involvement/petitions

E-petitions must follow the same guidelines as paper petitions. The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. Most petitions run for six months, but you can choose a shorter or longer timeframe, up to a maximum of 12 months.

**7.2** When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature. If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 14 days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

**7.3** When an e-petition has closed for signature, it will automatically be submitted to our Democratic Services Section. In the same way as a paper petition, you will receive an acknowledgement within ten working days. If your petition has reached 1500 signatures and you would like to present your e-petition to a meeting of the Council, please contact Democratic Services (01884 234229) within ten working days of receipt of our acknowledgement.

**7.4** A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on our website.

**8.0 How do I 'sign' an e-petition?**

**8.1** You can see all the e-petitions currently available for signature here http://www.middevon.gov.uk/your-council/consultation-involvement/petitions

**8.2** You must be a resident, work or study in Mid Devon to place a valid signature on a petition. When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

**9.0** What can I do if I feel my petition has not been dealt with properly?

**9.1** If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Scrutiny Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

**9.2** The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Cabinet and arranging for the matter to be considered at a meeting of the Full Council.

**9.3** Once the appeal has been considered the petition organiser will be informed of the results within ten working days. The results of the review will also be published on our website.

**9.4** Names and e-mail addresses will be deleted six months after the appeal process has been concluded. Paper petitions will be shredded six months after the Council has responded to the petition.

**Appendix E - Access to Information - Exempt Information**

| Category | Qualification | Interpretation |
|---|---|---|
| Information relating to any individual | The exemption applies only if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information (see note on public interest at the end of the table). | |
| Information which is likely to reveal the identity of an individual | The Public Interest Test Qualification applies, as in 1 above. | |
| Information relating to the financial or business affairs of any particular person (including the authority holding that information). | The Public Interest Test Qualification applies, as in 1 above.<br>"Financial or business affairs" includes contemplated, as well as past or current, activities. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under -<br>the Companies Act 2006;<br>the Friendly Societies Act 1974;<br>the Friendly Societies Act 1992;<br>the Industrial and Provident Societies Acts 1965 to 1978;<br>the Building Societies Act 1986 ["registered" in relation to information required to be registered | Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.<br>"person" includes any public authority, company, or other legally constituted organisations and the partners in a partnership or firm. |

| Category | Qualification | Interpretation |
|---|---|---|
| | under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).]; or<br>the Charities Act 2011. | |
| Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connect with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority. | The Public Interest Test Qualification applies, as in 1 above. | Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or document the question whether information is exempt or not falls to be determined. "labour relations matter" means-<br>any of the matters specified in paragraphs (a) to (g) of section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or<br>any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;<br>"employee" means a person employed under a contract of service; |

| Category | Qualification | Interpretation |
|---|---|---|
| | | "office-holder", in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority; |
| Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. | The Public Interest Test Qualification applies, as in 1 above. | |
| Information which reveals that the authority proposes-<br>to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or<br>to make an order or direction under any enactment. | The Public Interest Test Qualification applies, as in 1 above. | Any reference to "the authority" is a reference to the Council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined.<br>"person" includes any public authority, company, or other legally constituted organizations and the partners in a partnership or firm. |
| Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. | The Public Interest Test Qualification applies, as in 1 above. | |

NOTE -The Public Interest Test

The Public Interest Test in the Freedom of Information (FOI) Act 2000 is specifically defined –

The Authority must release the information unless "*in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information*".

The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations.

- There is a distinction between the public interest and what merely interests the public.

- Does it further the understanding of and participation in the public debate of issues of the day?

- Does it promote accountability and transparency by public authorities for decisions taken by them or in the spending of public money?

- Does it allow individuals and companies to understand decisions made by public authorities affecting their lives?

- Does it bring to light information affecting public health and public safety?

**Appendix F - Financial Regulations**

Available on the website Financial Regulation

**Appendix G - The Notice of Personal Interest Form**

NOTICE OF PERSONAL INTEREST

I, [ ]

being employed as ..... in the ..... Unit hereby give notice that I have set out below any interests which I am required to declare.

**1 Contracts with the Authority**

You should describe all contracts of which you are aware which are not fully discharged, and which are:

(a) contracts for the supply of goods, services or works to the authority or on the authority's behalf; and

(b) between the authority of which you are an employee, and either yourself or a company in which you have a beneficial interest or of which you are a director.

You need not say what the financial arrangements are, but should say for how long the contract is.

**2 Personal Interest in Organisation, Society, Trust, etc**

You are only required to register any personal interest that you feel conflicts with the authority's interests. You are only likely to conflict if you are dealing in a professional capacity with the organisation or you are on the managing committee of that organisation eg acting as a school governor.

Signed .....Dated .....

Signed .....Dated .....

(Head of Service)

Received by Monitoring Officer on (date) ..... and entered into Register

Signed .....

(Monitoring Officer)

**Appendix H - Gifts and Hospitality Form (Members)**

I , ……

being a member of Mid Devon District Council give notice that I have been offered/accepted/I intend to accept* hospitality/gift* the details of which are set out below.

**1** **Details of Hospitality Accepted – I will justify all of this.**

**2** **Details of Hospitality Not Accepted**

**3** **Details of Gift Accepted**

**4** **Details of Gift Not Accepted**

**5** **Estimated Value of Hospitality/Gift**

**6** **Details of Person/Organisation offering Hospitality/Gift**

**7** **Circumstances in which Hospitality/Gift offered (eg conference/course, etc)**

**8** **Justification for accepting Hospitality/Gift –** (see guidance for Members on Hospitality and Gifts in relation to gifts over the value of £50 within the Constitution)

Signed .....

Dated .....

Received by Monitoring Officer on (date) ..... and entered into Register

Signed .....

(Monitoring Officer)

**Appendix H (i) - Gifts and Hospitality Form (Officers)**

I, [ ]

being employed as ..... in the ..... Unit give notice, in accordance with the Mid Devon Code of Conduct for Local Government Employees, that I have been offered/accepted/I intend to accept* hospitality/gift* the details of which are set out below.

**1 Details of Hospitality Accepted**

**2 Details of Hospitality Not Accepted**

**3 Details of Gift Accepted**

**4 Details of Gift Not Accepted**

**5 Estimated Value of Hospitality/Gift**

**6 Details of Person/Organisation offering Hospitality/Gift**

**7 Circumstances in which Hospitality/Gift offered (eg conference/course, etc)**

8 **Justification for accepting Hospitality/Gift** (see Code of Conduct. Heads of Service are required to use their discretion in relation to gifts over the value of £50)

Signed .....Dated .....

Signed .....Dated .....

(Head of Service)

Received by Monitoring Officer on (date) ..... and entered into Register

Signed .....(Monitoring Officer) * delete as appropriate

**Appendix I**

**Councillor Job Role**

All Councillors must adhere to the code of conduct and the 7 Nolan Principles of Public Life

Councillors need to balance the needs and interests of their community, their political party or group (if they are a member) and the council as a whole.

As a councillor you would have an important role in the major decisions that affect people's lives. Local councils are responsible for a whole range of services; waste, recycling, environmental services, planning, housing, benefits, leisure facilities and many more. As a Councillor you will help determine the way these services are provided, funded and prioritised.

All Councillors are advocates for their communities and are 'case workers' for their individual constituents when advice or support is requested. Whilst Councillors do spend time in council meetings, much of a Councillor's time is spent within their communities speaking and working with members of the public and community groups.

All Councillors are members of the full Council which sets the overall policies and budget.

A common role for all Councillors however, irrespective of any formal position or membership of a committee is that of 'community leadership'. For the individual Councillor, being a community leader can mean a number of things. Acting as an advocate for the best interests of one's ward; lobbying for local concerns; influencing partner organisations to work to a common vision; resolving conflict amongst community organisations; encouraging community organisations to develop solutions in their own communities; balancing competing demands for resources when making decisions in the best interests of the whole authority area.

In your role as a Mid Devon District Councillor you may be appointed to serve on outside bodies such as a partnership between the council and other organisations, or to the committee or board of a local voluntary organisation. These are important positions for the council to fulfil its community leadership role. Some of these positions can be very demanding and some may require you to build up new knowledge or develop specialist skills. Some positions have legal responsibilities and liabilities as you may be accepting the position of director of a company or trustee of a charity, depending on the legal structure of the organisation concerned. If in doubt, ask for full advice before being nominated for a position.

**All Councillors:-**

**Community Leader**

Champion your Ward

- To represent individual constituents and local organisations, undertaking casework and enquiries on their behalf
- Represent the community within the Council and other agencies
- Campaign on local issues
- Able to engage with all groups within your Community

- Keep in touch with community issues and be accessible to constituents

**Decision maker and influencer**

- Make well informed decisions at Council meetings
- Make decisions based on the best interest of the whole District
- To represent the Council (subject to appointment) on outside bodies
- Liaise with Town and Parish Councils and Parish Meetings
- To contribute actively to the scrutiny of the Council.

**Day to Day Councillor**

- Adhere to the various codes of conduct and protocols that the Council may adopt and to act at all times with probity
- Develop and maintain a general working knowledge of the Council and other organisations and services within the District
- Develop good working relationships with Council officers
- Prioritise and manage own workload, managing conflicting demands on your time
- Understand, challenge and interpret information
- Maintain confidentiality in all relevant Council business and constituent casework
- Communicate effectively with different audiences
- Act as a facilitator.
- Participate in training and development provided for Councillors by the Council
- Feedback information to the other Councillors from representation on an outside body or from any relevant training
- Being prepared for meetings – reading agendas and if you have questions contact the relevant department

**Rights of Councillors**

- Submit a motion to Council
- Participate in a debate at Council
- Ask a question at Council
- Question the decision-making process by using the 'call-in' facility in respect of Cabinet decisions (if the principles of decision-making in Article 12.02 have not been followed)
- In your capacity as a Ward Councillor request consideration of a Schedule 2 planning application to the gateway review if there is an appropriate material planning consideration to the Planning Committee

**Duties and responsibilities of Councillors**

- To declare any Disclosable Pecuniary Interests and Personal Interests as and when appropriate
- Councillors will not make public information which is confidential or exempt or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it
- Find a substitute for a meeting for which substitution is permissible, when personal attendance is not possible and to brief the substitute on the meeting to be attended

**Chair of non-regulatory Committees**

The non-regulatory Committees are the Policy Development Groups, Audit Committee and Standards Committee

For information on the roles of the Policy Development Groups, the Audit Committee and Standards Committee please see Articles 7 to 10

**The Policy Development Group (PDG)/Committee chair will:**

- Provide leadership and direction to the PDG/Committee
- Ensure that adequate resources (including officer support) are identified and sought from the Council
- Encourage Committee members to obtain necessary skills to contribute the work of the Committee and to work with officers to provide training if necessary
- Chair the PDG/Committee meetings and ensure that the PDG/Committee achieves its terms of reference
- Lead the PDG/committee in prioritising its work so as to ensure effectiveness
- Endeavour to engage all members of the PDG/Committee within the work of the PDG/Committee
- Develop a constructive relationship with relevant Cabinet Members and Heads of Service
- To co-ordinate work with the Scrutiny Committee and PDGs/Audit Committee

**Members on the PDG/Committee will:**

- Assist with the development of an effective work programme
- Be responsible for the outputs and outcomes of the work of the PDG/Committee

- Receive evidence in an impartial manner
- Analyse and challenge information presented to the PDG/Committee
- Make recommendations based on the PDG's/Committee's deliberations
- Obtain necessary skills to carry out the role and to work with officers to provide specialist training if necessary
- Find a suitable substitute and brief them on the meeting due to be attended, on occasions when personal attendance is not possible and where substitutes are permissible
- Ensure that they treat visitors, whether other members or officers or people from outside of the Council, with respect, courtesy and politeness

**Chair of Regulatory Committees**

The regulatory Committees are Planning Committee, Licensing Committee and the Licensing Regulatory Committee

For information on the roles of the Planning Committee, Licensing Committee and Licensing Regulatory Committee please see Article 11

The Planning, Licensing or Licensing Regulatory Committee chair will:

- Provide leadership to the Committee
- Demonstrate to the public, applicants, objectors etc, fair and open decision making by or on behalf of the Committee
- Ensure that adequate resources are identified and sought from the Council
- Chair and manage Committee meetings and ensure the Committee achieves its terms of reference.
- Encourage Committee members to obtain necessary skills to contribute the work of the Committee and to work with officers to provide training if necessary
- Endeavour to engage all members of the Committee in its activities
- Lead the Committee, in consultation with officers, in prioritising its work
- Develop a constructive relationship with the relevant Heads of Service and their staff and where appropriate, with the relevant Cabinet Member(s)
- Be willing to learn about the professional disciplines and services relevant to the work of the Committee
- Find a suitable substitute and to brief them on the meeting due to be attended, on occasions when personal attendance is not possible
- Chair the committee in a fair and open manner in accordance with the procedures of the committee, applicants and objectors to put their arguments to the committee
- Guide, with the assistant of officers, the committee to reach decisions based on the information presented to it.

- Chair all planning working groups and site visits in accordance with the specific procedures
- Chair or Vice-Chair of the Planning Committee to act as Nominated Member in relation to a Gateway review.

**Members on the Planning Committee will:**

- Undertake specialist planning committee training
- Have up to date knowledge of planning and development control, law and regulations
- Have up to date knowledge of local and national planning policy (including Local Development Plans, Code of Good Practice for Planning and the National Planning and Policy Framework)
- Have an understanding of case law
- Have an understanding of the Mid Devon District Council Local Plan

**Members on the Licensing & Licensing Regulatory Committees will**:

- Undertake specialist training
- Have up to date knowledge of licensing regulations
- Have up to date knowledge of the Licensing Act 2003 and the Gambling Act 2005
- Have up to date knowledge of local and national licensing policy
- Have an understanding of case law
- Have an understanding of Community Plans and Crime and Disorder Strategies

**Chair of the Council**

The Chair of the Council is elected annually by Full Council at the Annual General Meeting

For information on the role of the Chair of the Council please see Article 5

Chair of the Council and in his/her absence, the Vice-Chair will have the following roles and functions:

- Chairing the Council meeting, upholding and promoting the purposes of the Constitution, and interpreting the Constitution when necessary
- Presiding over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community
- Ensuring that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the Cabinet to account

- The Chair (or in their absence the Vice-Chair) to attend such civic and ceremonial functions as the Council, the Chair or the Leader determines appropriate
- Be consulted by the Chief Executive in respect of any motions submitted by Councillors to ensure that all appropriate and relevant motions are included on the Council agenda

**Leader of the Council**

- Provide an overall cohesive, political and strategic leadership and direction for the Council
- Appoint, manage and remove the Deputy Leader and Cabinet Members
- Lead and chair the Cabinet and ensure its overall effectiveness
- Work with Cabinet Members to ensure effective delivery of services
- Ensure effective communication and explanation of all Cabinet's decisions and recommendations to Council and the public
- Ensure that the Cabinet manages the business of the Council within the financial parameters and framework set by the Council
- Encourage Cabinet members to obtain necessary skills to contribute the work of the Cabinet and to work with officers to provide training if necessary
- Act as Line manager to the Chief Executive Officer
- Communicate the Administration's policies and priorities to the Management Team and to receive their advice
- Be the main political representative of the Council, with others as appropriate, in dealing with the Community, business, voluntary sector and other local and national organisations
- Contribute to fully effective liaison with political groups within the Council
- Call the annual State of the District debate

Note: The above duties and responsibilities are in addition to the member's role as a Councillor and as a Cabinet Member (see separate job profile)

**Deputy Leader**

- Assist and work with the Leader of the Council in delivering his/her responsibilities to the Council
- Deputise for the Leader of the Council in his/her absence from Cabinet meetings and any other responsibilities as requested
- Carry out the requirements of his/her role so far as legally possible in the absence of the Leader of the Council
- Carry out such other duties and undertake portfolio responsibility as delegated by the Leader of the Council

Note: The above duties and responsibilities are in addition to the member's role as a Councillor and as a Cabinet Member (see separate job profile)

**Cabinet Member**

The Cabinet is responsible for all local authority functions which are not the responsibility of any other part of the Council, provided the decisions made are within the Council's agreed policy and budget framework.

For more information about the roles and functions of the Cabinet Member please see the Cabinet Member functions list – Appendix C

- Act as the Lead Member for a particular portfolio as may be determined by the Leader of the Council, but in doing so, have regard to the overall collective responsibilities of the Cabinet and the Council's corporate policy objectives. Champion the portfolio concerned within that strategic context
- Participate effectively as a Cabinet Member at Cabinet Meetings taking joint responsibility for all actions and be collectively accountable
- Make delegated decisions within the portfolio
- Build good relationships with appropriate officers and work with them in developing policy or strategic issues prior to formal reporting. Be supportive in dealing with any problems at a strategic level
- Take a proactive approach to the early engagement of overview through Policy Development Groups to help in policy development
- Provide political direction to Officers working within the portfolio
- Ensure up to date knowledge of related developments and policies at national, regional and local level
- Enhance the Council's reputation through taking the national stage where possible and participating in regional and national networks
- Attend Scrutiny Committee meetings in relation to Portfolio responsibilities and decision making
- Have an overview of performance management, efficiency and effectiveness of the portfolio
- Act as a strong, competent and persuasive figure to represent the portfolio and be a figurehead in meetings with stakeholders
- Be prepared to take part in learning and development opportunities to ensure that the role is undertaken as effectively as possible
- Represent the Council on external bodies and feed back to Cabinet or Council any issues of relevance and importance.
- Influence operational decisions relating to the Portfolio.

- Deal with the media on issues relating to the Portfolio.
- With colleague Cabinet Members and the Management Team be available and accessible to other Members to discuss queries or matters of concern
- Communicate with ward members any issues taking place in their area and of any visits or meetings that are taking place in their ward area

**Scrutiny Committee**

For information on the role of the Scrutiny Committee please see Article 7

**Scrutiny Committee Chair**

The Chair of Scrutiny is elected annually by Full Council at the Annual General Meeting

The Scrutiny Committee chair will:

- Provide leadership and direction to the Committee
- Ensure that adequate resources (including officer support) are identified and sought from the Council
- To chair the Scrutiny Committee meetings and ensure that the Committee achieves its terms of reference
- Lead the committee in prioritising its work so as to ensure effective scrutiny
- Endeavour to engage all members of the Committee within the Scrutiny process
- Develop a working relationship with the Cabinet
- Develop a constructive relationship with Management Team
- To co-ordinate work with the Policy Development Groups and Audit Committee
- To encourage Committee members to obtain necessary skills to contribute the work of the Committee and to work with officers to provide training if necessary

**Scrutiny Committee Member**

Members on the Scrutiny Committee will:

- Assist with the development of an effective work programme
- Engage with all stages of the scrutiny process
- Be responsible for the outputs and outcomes of scrutiny
- Receive evidence in an impartial manner
- Analyse and challenge information presented to the Committee
- Make recommendations based on the Committee's deliberations
- Obtain necessary skills to carry out the Scrutiny role and to work with officers to provide training if necessary

- Find a suitable substitute and brief them on the meeting due to be attended, on occasions when personal attendance is not possible and where substitutes are permissible
- Ensure that they treat visitors, whether other members or officers or people from outside of the Council, with respect, courtesy and politeness

**Appendix J – Protocol of Good Practice for Councillors Dealing in Planning Matters**

**Protocol of Good Practice for Councillors in Dealing with Planning Matters**

**1.0 Introduction: The Need For Guidance**

**1.1** This Guidance has been written to inform all parties of Mid Devon District Council's standards in its operation of the town and country planning system within the district. The Guidance applies to all Mid Devon District Councillors and staff involved in operating the planning system within Mid Devon.

**1.2** The successful operation of the planning system in Mid Devon depends upon the Council always acting in a way that is seen to be fair and impartial. This relies upon a shared understanding of the respective roles of Councillors and officers, and upon trust between them. The following quotation from the Local Government Association serves to illustrate the point:-

*"The role of an elected member on a planning committee involves balancing representing the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals. It is this dual role which, can give rise to great tensions".*

**1.3** The Local Government Association has advised local planning authorities, such as Mid Devon, to set out clearly their practices and procedures on handling planning matters in a local code of good practice. Much of the guidance set out in this document is derived from the Probity in Planning issued by the Local Government Association in 2013. (Approved by Council as best practice – 31 August 2016) Councillors and staff should read this Guidance thoroughly and apply it consistently. Failure to do so without good reason could be taken into account in investigating allegations of breaches of the Members and Officers Codes of Conduct or maladministration.

This Guidance does not form part of the Members or Officers Codes of Conduct- it is a local protocol that compliments those Codes. However, there is an expectation that all members and officers who deal with planning matters in Mid Devon will comply with this Guidance and failure to do so could result in a referral to the Standards Committee (members) or disciplinary action (officers)- see paragraph 12

**1.4** It is intended to review the Guidance regularly to keep it up-to-date and relevant. If there are points which are unclear or which need review, please contact the Monitoring Officer or the Deputy Monitoring Officer as soon as possible. They will be pleased to help you.

**2.0 General Role and Conduct of Councillors and Officers**

**2.1** Councillors and officers have different, but complementary, roles. Both serve the public but Councillors are responsible to the electorate, while officers are responsible to the Council as a whole. A successful relationship between Councillors and officers

can only be based upon mutual trust and understanding of each other's position. This relationship, and the trust that underpins it, must not be abused or compromised.

**2.2** Legislation emphasises the overriding requirement that the public are entitled to expect the highest standards of conduct and probity by all persons holding public office. While this Guidance deals primarily with planning applications, its principles apply equally to consideration of, Local Plans, Supplementary Planning Documents, Development Briefs, enforcement cases and all other planning matters.

**2.3** An overriding principle is that when local authorities are dealing with planning matters, they should take into account **only material planning considerations.** Section 54A of the Town and Country Planning Act 1990 established a plan-led system whereby all planning applications are determined by primary reference to the Development Plan. Thus, if the Development Plan is material to the application, then the statutory requirement is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.

**2.4** Officers involved in the processing and determination of planning matters must also act in accordance with the Council's Procedure Rules, the Officer Code of Conduct and (for officers who are Chartered Town Planners) with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct. This Guidance supplements the provisions referred to above and provides further specific advice and guidance for Councillors and officers involved in planning matters. A key principle is that Councillors should represent their constituents as a body and vote in the interests of the District as a whole. Councillors should take account of all views expressed; they should not be biased towards any person, company, group or locality.

**2.5** A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is based upon valid planning reasons which can be substantiated.

**2.6** Councillors and officers should not accept gifts, nor should they accept hospitality. However, it is acknowledged that in certain circumstances the acceptance of a small degree of hospitality, (e.g. receipt of tea, coffee or other light refreshments) may be unavoidable without giving offence.

**2.7** Officers must always act impartially. They should consider carefully whether any private work or interest that they wish to take up causes an actual or perceived conflict with the Council's interests.

**2.8** Training will be provided for Councillors to assist them to carry out their planning roles. Only those members who have received training in planning matters will be allowed to sit as members or as substitutes for members on the planning committee.

**3.0 Declaration and Registration of Interests**

**3.1 Councillors**

The rules concerning the declaration of interests are contained in the Code Of Conduct. Councillors will need to make themselves familiar with the Code and understand the distinction between personal interests which must be declared but which do not lead

to the councillor having to withdraw and disclosable pecuniary interests that require withdrawal.

**3.2 Officers**

Where Council Officers become aware that they have a pecuniary, or non-pecuniary interest, in a planning application or other planning matter, they should declare their interest in writing to the Development Management Manager immediately. This written record will then be retained on the relevant file. An officer declaring such as interest should subsequently play no part in processing an application, or considering the planning matter, nor in any decision making on it. In determining whether an interest should be declared, officers should use the same tests as Councillors. Examples of interest that should be declared are relatives or friends submitting applications; belonging to a church, club or other social group who has submitted an application; or living in proximity to a site that is at issue.

**4.0 Development Applications Submitted By Councillors, Officers and The Council**

**4.1** Serving Councillors who are members of the planning committee and officers involved with the planning process should never act as agents for individuals (including a company, group or body) pursuing a planning matter. This includes not only pursuing development proposals, but also works under related legislation such as works to protected trees. If Councillors or officers (or close family or friends) submit a planning application to the Council, they should take no part in processing the application, nor take part in the decision-making. The Development Management Manager should be informed of all such proposals as soon as they become aware that such an application has been submitted.

**4.2** Proposals submitted by Councillors and officers should be reported to the Planning Committee as written reports and not dealt with by officers under delegated powers. They should never seek improperly to influence a decision about the matter.

**4.3** Proposals for the Council's own development (or development involving the Council and another party) should be treated strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted (with the specific exception of local finance considerations that the Government advises are material planning considerations). It is important that the Council is seen to be treating all such applications on an equal footing with all other applications, as well as actually doing so.

**5.0 Lobbying of and by Councillors, and Attendance at Public Meetings by Officers and Councillors**

**5.1** When Councillors undertake their constituency roles, it is inevitable that they will be subject to lobbying by interested parties and the public on planning matters and specific planning applications. When Councillors are lobbied, they need to exercise great care to maintain the Council's, and their own integrity, and to uphold the public perception of the town and country planning process.

**5.2** Councillors who find themselves being lobbied (either in person, over the phone, or by post, fax or e-mail) should take active steps to explain that, whilst they can listen to what is said, it would prejudice their impartiality if they expressed a conclusive point of view or any fixed intention to vote one way or another.

**5.3** Councillors involved in the determination of planning matters should listen to all points of view about planning proposals and are advised to refer persons who require planning or procedural advice to planning officers. Councillors should not indicate conclusive support or opposition to a proposal, or declare their voting intention before the meeting at which a decision is to be taken. Nor should Councillors advise other parties that permission will be granted or refused for a particular development or that land will, or will not, be allocated for development in a Local Plan. To do so without all relevant information and views, would be unfair, prejudicial and could make the decision open to challenge. Taking account of the need to make decisions impartially, Councillors must weigh up all the material considerations reported at each Committee meeting. They should not be biased towards any person, company, group or locality.

**5.4** By law, the District Council has to seek comments from the Town/Parish Councils on planning applications and other planning matters so that their comments can be taken into account when the District Council makes planning decisions. Some District Councillors are also Town/Parish Councillors and they take part in Town/Parish Council debates about planning applications and other planning matters. Merely taking part in Town/Parish Council debates on planning matters does not automatically debar District Councillors from decision-making at the Planning Committee. However, *with few exceptions* Town/Parish Councils do not have professional planning advice or complete information on the application and other planning matters when they make their recommendations to the District Council. Therefore, District Councillors who are also Town/Parish Councillors should be careful not to state that they have reached a conclusive decision when they consider planning issues at their Town/Parish Council meeting. Nor should they declare to the Town/Parish Council what their future voting intention will be when the matter is considered at the District Council.

**5.5** While Councillors involved in making decisions on planning applications will begin to form a view as more information and options become available, a decision can only be taken at the Planning Committee when all available information is to hand and has been considered. Any relevant papers (including letters, photographs, drawings, petitions etc) passed only to Councillors by applicants or objectors prior to a committee meeting should be notified to officers (preferably the case officer) and reported to the Committee.

**5.6** Individual Councillors should reach their own conclusions on an application or other planning matter rather than follow the lead of another councillor. In this regard, any political group meetings prior to Committee meetings should not be used to decide how Councillors should vote on planning matters. Decisions can only be taken after full consideration of the officers' report and information and discussion at the Committee.

**5.7** A Planning Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the councillor responds to lobbying by deciding to go public in support of a particular outcome - or even campaign actively for it - it will be very difficult for that councillor to argue convincingly when the Committee comes to take its decision that he/she has carefully weighed the evidence and arguments presented at Committee. A councillor should avoid organising support for or against a planning application if he or she intends to participate in its determination at Committee. However, it should be possible for a councillor to say that they will make the views of the public known at the Committee whilst themselves waiting until the Committee and hearing all the evidence before making a final decision upon how to vote.

**5.8** Councillors should not lobby other Councillors on proposals in a way that could lead to their failing to make an impartial judgement on the planning merits of these cases when making decisions at Council Committees. Nor should Councillors put undue pressure on officers for a particular recommendation nor do anything which compromises, or is likely to compromise the impartiality of officers.

**5.9** Officers who are wholly or partly involved in the processing or determination of planning matters should not attend public meetings in connection with pre-application development proposals or submitted planning applications unless their attendance has been agreed by their Head of Service. To do so could lead to allegations of prejudice or bias to a particular point of view. If put in such a position, officers should avoid prejudicing the Committee's decision.

**5.10** When attending public meetings, Councillors should take great care to maintain their impartial role, listen to all the points of view expressed by the speakers and public and not state a conclusive decision on any pre-application proposals and submitted planning applications.

**6.0 Discussions with Applicants**

**6.1** It is generally recognised that discussions between potential applicants or applicants and the Council prior to the submission of an application can be of considerable benefit to both parties. Discussions can take place for a variety of reasons, for example to establish whether an application can be improved in design, or to overcome planning objections or to meet relevant neighbour concerns. Such discussions will normally take place at District Council offices.

**6.2** Councillors involved in any discussions should maintain an independent position and avoid committing themselves to either supporting or opposing the application at committee. Planning committee members should not attend meetings on major applications in the absence of a planning officer. If a Councillor feels that they are being put under pressure to support or oppose an application they should suggest to the applicant/objector that they put their views to the planning officer. Planning officers should always make clear at the outset of discussions that they cannot bind the Council to make a particular decision, and that any views expressed are their professional opinions only based upon the information available at that time. Advice given by planning officers will aim to be consistent and based upon the Development Plan (Local

Plan) and other material considerations. Senior officers will make every effort to ensure that there are no significant differences of interpretation of planning policies between planning officers.

**6.3** Planning officers will ensure that their advice and reports, in the sense that they should not favour any particular applicant or objector, are impartial. This is because a consequent report must not be seen as advocacy for a particular point of view. A written note should be made of pre-application discussions and important telephone conversations and placed on the file. Officers will note the involvement of Councillors in such discussions as a written file record. A follow-up letter should be sent, particularly when material has been left with the Council by the applicant or agent for comment.

**6.4** Councillors who also serve on Town & Parish Councils should make clear their separate roles in each Council regarding Mid Devon District planning policies. The councillor and other interested parties should be clear at all times when the Councillors are acting as a Town or Parish Councillor, and when they are acting in their role as a District Councillor.

**7.0 Reports By Officers To Committees**

**7.1** Many planning applications are determined by the Development Management Manager. These are the smaller and less controversial applications as defined by Schedule 1. Where decisions on applications fall to be made by the Planning Committee they will be the subject of full written reports.

**7.2** Reports on planning matters aim to be accurate and will contain a description of the development proposed in the application (including dimensions and areas). They will refer to the provisions of the Development Plan and all other planning considerations including a full description of the site, any relevant planning history, and the substance of objections and other views received. All reports requiring a decision will have a written recommendation and will normally be the subject of an oral presentation to committee before the debate begins. Other oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur. All reports will contain a technical appraisal that clearly justifies the stated recommendation. All reasons for refusal and conditions to be attached to permissions must be clear and unambiguous.

**7.3** Any additional information which is material to a planning decision, and which is received after publication of agendas, will be reported to the meeting provided that such information is received by the Development Management Manager not less than 24 hours prior to the commencement of the committee at which the matter will be considered. Late information will only be reported to Planning Committee at the discretion of the Chair. Applicants and objectors should be aware that the provision of late information may lead to a matter being deferred to a later committee so the information can be properly assessed by members by incorporating it into the written report.

**8.0 The Decision Making Process and Decisions Contrary To Officer Recommendations and/or the Development Plan**

**8.1** The law requires that, where the Development Plan is relevant, planning decisions must be made in accordance with it unless other material considerations indicate otherwise (Section 54A of the Town and Country Planning Act 1990). The relevant Development Plan, and other material considerations, will be identified in officers' reports. Material considerations will vary from case to case. In arriving at a decision, it is a matter of judgement for the Planning Committee as to the weight to be attached to the various material considerations.

**8.2** In discussing, and determining a planning application or other planning matter, Councillors should confine themselves to the planning merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.

**8.3** Councillors should consider the advice of the officers but ultimately they are free to vote as they choose. If Councillors wish to determine an application contrary to officer advice, or to impose additional conditions to a permission, an officer should explain the implications of such action. The Councillors' grounds for any contrary determination, or for wishing to impose additional conditions, must be clearly stated at the time the propositions are made and votes taken at the meeting. The personal circumstances of an applicant will rarely provide such grounds.

**8.4** If a resolution is passed which is contrary to a recommendation of the Development Management Manager whether for approval or refusal, planning reasons should be given. A record of the Committee's reasons will be made, a copy placed on the application file and recorded in the minutes. If the report of the Development Management Manager recommends approval of a departure from the Development Plan, the full justification for this recommended departure should be included in the report.

**8.5** Senior planning officers (and legal officers as necessary) should attend meetings of the Planning Committee to ensure that procedures are properly followed and planning issues properly addressed.

**8.6** It is important that Councillors who determine planning applications do so only after having considered all material planning considerations. They must take all relevant matters into account and they must disregard irrelevant considerations. It is important that they are seen to do this. For this reason, it is important that Councillors only participate in the debate and vote on a planning application if they have been present throughout the whole of the officers' presentation and the subsequent committee debate. Councillors who arrive at a meeting part-way through consideration of an application or who are absent from the meeting for any part of that consideration may not be aware of all the relevant considerations. In any event, their participation can be seen to be unfair – it could amount to maladministration as well as giving rise to a legal challenge that the decision-making process was flawed.

**9.0 Procedure for speaking at Committee**

**9.1** Public Question Time is available at the beginning of the meeting for those present to ask questions about any item of the agenda, or to speak briefly by way of background or introduction to those questions, including planning applications.

**9.2** For applications reserved for individual consideration, the Chair will call those who have indicated a wish to speak in the following order: officer, one objector (3 minutes), one from applicant/agent/supporter (3 minutes), parish council (3 minutes) and ward member(s) (5 minutes each). For the avoidance of doubt, the Chair has the discretion to vary the number and order of speakers, including the amount of time for which they may speak. In some circumstances, it may also be appropriate to hear from the County Councillor.

**9.3** Through the Chair, members of the Planning Committee may ask questions of any person who has spoken under paragraph 9.2 of this Protocol. Further, a ward member who has spoken under 9.2 may raise through the Chair a point of order in order to correct a statement or error of fact which has been made during the course of the debate.

**10.0 Site Visits By Councillors**

**The need for site visits**

**10.1** It is important for the Planning Committee to have a clear rationale for undertaking organised site visits in connection with planning applications and that any visits are conducted properly and consistently. The purpose of a site visit is for Councillors to gain knowledge of the development proposal, the application site and its surroundings. A decision by a Planning Committee to carry out a site inspection should normally only be taken where the impact of the proposed development is difficult to assess from the plans and any supporting information submitted by the applicant, or additional material provided by officers. Site visits cause delay and additional costs, and should only be carried out where Councillors believe a site visit is necessary to make such an assessment. Reasons should be given for the decision to make a site visit.

**Who visits?**

**10.2** Site visits are usually undertaken by the Planning Working Group consisting of the Chair and Vice-Chair of the Planning Committee together with 6 members of the Planning Committee. Ward Members, one Parish Council representative, one applicant and one representative from the objectors to the application will be invited to attend the Planning Working Group. The Committee as a whole may undertake a site visit which if possible should be scheduled to take place in advance of the Planning Committee meeting at which the application will be discussed. If the site visit is open to all members of the committee then those members who are not able to attend should carefully consider whether they will be in receipt of all relevant facts when the matter comes back before Committee for determination. Technical/professional consultees may exceptionally be asked to attend a site visit where it is anticipated that their presence on site will assist the Working Group or Committee gain knowledge of the proposal. If technical/professional consultees are requested to attend then reasons for that decision should be recorded.

**Procedure on Site**

**10.3** A detailed explanation of the proposals, and a summary of the officers' report and recommendations, will be made by the planning officer. Councillors will then be given the opportunity to ask questions and to view the site and surroundings from all relevant vantage points.

**10.4** Site visits will normally involve Planning Committee members and officers, except for any consultee whose attendance has been specifically requested by the Planning Committee (e.g. the County Highway Authority or an Environmental Health Officer) to assist their understanding of the proposals.

**10.5** Councillors should keep together during site visits and not allow themselves to be addressed separately. No decisions are made at site visits although observations may be made to the Committee. An officer will be present to take a written note of the key planning issues and information obtained from the site visit, to be reported to the subsequent meeting of the Planning Committee.

**10.6** The Development Management Manager and the Democratic Services Manager will ensure that all correspondence in relation to site visits clearly identifies the purpose of a site inspection together with the format and conduct of the inspection, so that applicants/agents and interested parties are aware of it.

**Informal Site Visits**

**10.7** There are advantages in Councillors making their own individual site visits to gain knowledge of the development proposal, the application site and its surroundings. In doing so, Councillors should observe sites from public vantage points (highways, rights of way or public open space) and should not enter onto private land without permission. Whilst on individual site visits, Councillors should as far as possible avoid engaging in discussion with applicants, objectors or other interested parties. This can lead to accusations of partiality if the views of one party only are heard. Where application sites are not visible without entering onto private land – for example, rear extensions or country houses in larger plots – officers will make an additional effort to provide appropriate visual information at Committee.

**11.0 Review of Planning Decisions**

**11.1** Arrangements will be made for Councillors to visit a sample of implemented planning permissions annually, so that a regular review of the quality of planning decisions can be undertaken. This will include examples from a broad range of categories such as major and minor development, permitted departures, upheld appeals etc.

**11.2** The outcome of this review will be reported to the Planning Committee which may lead to identification of possible amendments to existing policies or practice.

**12.0 Complaints and Record Keeping**

**12.1** The Council has a complaints procedure, which can be used by any party to the planning process (applicants, objectors or others) to complain about the way in which a matter has been handled. The complaints procedure is not intended to reopen the

planning decision. Copies of a leaflet on the complaints procedure are available on request.

**12.2** In order to ensure that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone and other conversations and any declarations of interest by Councillors. The same principles of good record keeping will be observed in relation to all enforcement and Development Plan matters. Monitoring of record keeping will be undertaken regularly by the senior planning staff.

**12.3** Where a planning application is dealt with under the delegated procedure a complete record will be kept of the planning considerations taken into account in determining the application for 3 years after the decision. This may be electronically.

**13.0 Contravention of This Guidance**

**13.1** Where there is contravention of this Guidance by any Councillor the matter should be referred to the Monitoring Officer who will report the matter to the Standards Committee.

**13.2** Where any breach of this Code constitutes misconduct by an officer, then it is to be dealt with in accordance with the Council's disciplinary procedure.

**APPENDIX K**

**COMPLAINTS AND INVESTIGATIONS INTO MEMBERS CONDUCT**

**UNDER THE LOCALISM ACT 2011**

**PROTOCOLS AND PROCEDURES**


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**REGISTER OF MEMBERS' INTERESTS**

**GENERAL NOTICE OF REGISTRABLE INTERESTS**

**GUIDANCE NOTES FOR DISTRICT /TOWN AND PARISH COUNCILS**

Every elected, re-elected or co-opted Member of Mid Devon District Council or a Town or Parish Council within Mid Devon District is required to notify the Monitoring Officer (within 28 days of being elected, re-elected or co-opted onto the authority) of all current "disclosable pecuniary interests" of which they are aware. The Secretary of State has issued Regulations setting out what constitutes a "disclosable pecuniary interest".

The Localism Act 2011 provides that this will cover the interests not just of the Member, but also of his/her spouse, civil partner or person with whom he/she lives as if they were spouses or civil partners, in so far as the Member is aware of his/her partner's interests. Please note that a bridged version of your Declaration of Interest will be published on the Council's website. The interests you declare in relation to your spouse/civil partner or person with whom you live as if you were a spouse or civil partner will appear on the website as your interests. Your signature will not be published.

Failure to register any such interest, failure to register within 28 days of election, re-election or co-option, or the provision of misleading information on registration without reasonable excuse, will be criminal offences and is liable on conviction to a fine currently not exceeding level 5 on the standard scale (currently Unlimited)/or disqualification as a Member for up to 5 years.

These notes give general guidance on what items Members should include on the disclosable pecuniary interests form.

Members' attention is drawn to the following:

- The onus is on the individual Member to use their own judgment about making a declaration as the Member is personally responsible for the accuracy of the contents
- If in doubt about whether or not something should be declared, Members are urged to err on the side of openness and avoid the risk of not registering something in error
- Complete the register with sufficient detail to accurately identify what the interest is, as failing to do so could place the Member at risk of failing to comply with the

Localism Act 2011

- Mark '**none**'on the register if you have no interest to register in any category. Do **not** leave a box empty.

- Do not use initials, abbreviations or acronyms

- If you are a Member of any other authority, please complete a separate form for each one

| **Relevant part of disclosable pecuniary interests form** | **Guidance** |
|---|---|
| **<u>Employment</u>, office, trade, profession or vocation carried out for profit or gain.** | You should show every employment, office, trade, profession or vocation that you and your partner have to declare for income tax purposes.<br><br>Give a short description of the activity concerned; for example, "Computer Operator", "Accountant", "Nurse", "Property Developer", "Retired" etc.<br><br>If you are an employee, you should give the name of your employer; if employed by a company, please give the name of the company paying your wages or salary, not that of the ultimate holding company.<br><br>If you are a Partner or Director, please give the name of the Partnership or Company.<br><br>If you are Self Employed, please give your trading name and the nature of your business.<br>Where you hold an office, give the name of the person or body which appointed you. In the case of a public office, this will be the authority which pays you. In the case of a teacher in a maintained school, the local education authority; in the case of an aided school, the school's governing body. |

| Relevant part of disclosable pecuniary interests form | Guidance |
|---|---|
| **<u>Sponsorship</u> received in respect of carrying out duties as a member of my Council area, or towards my election expenses** | You should declare the name of any person or body that has made any payments to you in the last year towards your expenses as a councillor or towards your election expenses. You do not need to declare the amounts of any payments, only the name of the person or body making them.<br><br>▪ This would usually mean a political party at election time and<br><br>▪ This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.<br><br>You do **not** need to include payments or Members' allowances from your Parish/Town Council. |
| **Any beneficial interest in <u>securities</u> (stocks, shares, bonds…) of a body where (a) that body has a place of business or land in my Council area and**<br><br>**Either**<br>The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body<br>**Or**<br>If the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you have a beneficial interest exceeds one hundredth of the total issued share capital of that class. | You should list the names of any companies, industrial and provident societies, co-operative societies, or other bodies corporate that (to your knowledge) are active in your Council area and in which you or your partner have a substantial interest. You do not need to show the extent of your interest.<br><br>You have a substantial interest if you own shares or other securities in the company with a nominal value of more than £25,000 or more than 1/100th of the issued share or securities. If there are several classes of shares or securities, the fraction of 1/100th applies to any of these classes.<br><br>This requirement also covers shared securities held in the name of other people (e.g. trustees) in which you have a beneficial interest. You do not need to show the actual amount of your beneficial interest.<br><br>Please note that the nominal value is the value on the face of the security and **not** its value at the time acquired or its current monetary value.<br><br>A company or body corporate is active in your Council area if it has land or a place of business in your Council area. |

| Relevant part of disclosable pecuniary interests form | Guidance |
|---|---|
| **<u>Contracts</u> between myself (or body in which I have a beneficial interest) and the Council (or organisation contracted to carry out business on its behalf)** | You should list any contract made between yourself or your partner or a body in which either of you have a beneficial interest and the Council (or an organisation contracted to carry out business on its behalf):<br><br>(a) under which goods or services are to be provided or works are to be executed;<br><br>and<br><br>(b) which has not been fully discharged.<br><br>(c) You need not include details of the financial arrangements, but state briefly the contractor, what the contract is and for how long.<br><br>Where the contract relates to use of land or a property, it **must** be identified. |
| **<u>Land or</u> property in my Council area in which I have a beneficial interest** | You should include any land in your Council area in which you or your partner have a beneficial interest. You should give the address or a brief description to identify it. If you live in the District, you should include your home under this heading whether as owner, lessee, or tenant.<br><br>You should also include any property from which you receive rent, or of which you are the mortgagee.<br><br>When the information to be recorded relates to a house or a flat, this does not present any difficulty in providing an address. However, the registration of other land interests such as farm land or other land with no address is problematic: in these circumstances, you should include sufficient information to enable it to be identified (e.g. a map should be attached to the form).<br><br>"Land" includes any buildings or parts of buildings (and, e.g. allotments). Please attach a map if appropriate.<br><br>You do not need to register land that you own that is outside your Council's area. |
| **Any <u>licence</u> (alone or jointly with others) to occupy land in my Council area for a month or longer** | You should include land in the area of your Council area which you or your partner have a right to occupy, but neither own nor have a tenancy of. This could include where you live with a partner or family member who owns the property. You should give the address or a brief description to identify it.<br><br>"Land" includes any buildings or parts of buildings. Please attach a map if appropriate. |

| Relevant part of disclosable pecuniary interests form | Guidance |
|---|---|
| **Any <u>tenancy</u> where (a) the landlord is the Council; and (b) the tenant is a body in which the relevant person has a beneficial interest** | "Land" includes any buildings or parts of buildings. Please attach a map if appropriate. |
| **<u>Membership</u> of other bodies as follows:**<br><br>▪ **Body to which I have been appointed or nominated by the authority as its representative;**<br><br>▪ **Public authority or body exercising functions of a public nature;**<br><br>▪ **Company, industrial and provident society, charity or body directed to charitable purposes;**<br><br>▪ **Body whose principal purposes include the influence of public opinion** | ▪ This will include, for example, where the Council has appointed you to sit on an outside body.<br><br>▪ This includes regional and local development agencies, other government agencies, other Councils, public health bodies, organisations carrying out housing functions and school governing bodies.<br><br>▪ This will include, for example National Trust, English Heritage, Rotary Club, Lions Club, local charitable trusts and Freemasons. Freemasons who are members of the Grand Charity must register membership of the Grand Charity in their Register of Members' Interests. If an individual lodge is one which has charitable status or could be described as a body directed towards charitable purposes, then membership of that lodge would also need to be registered.<br><br>This will include membership of a political party as well as well as membership of any pressure group or other organisation which includes lobbying as one of its principal purposes. |

**DECLARATION OF A SENSITIVE INTEREST**

I, Councillor..... (please print)

a Member of ..... Council

request that the interest(s) which I have detailed below should be treated as Sensitive Interests for the reasons which I have stated, and as such I understand that they need not appear in the Register of Members' Interests and will not be detailed on the Council's web pages.

| | |
|---|---|
| **Category of interest**<br>(i.e. insert appropriate heading from the registration proforma e.g. "Land") | |
| **Describe the nature of your interest**<br>(i.e. insert what you would otherwise have written on your registration form) | |
| **Brief explanation why you consider this to be a Sensitive Interest** | |

| | |
|---|---|
| **Signature**<br>(Councillor) | |
| **Date** | |

| | |
|---|---|
| **Signature**<br>(Monitoring Officer) | |
| **Date** | |

NB: This form will be retained by the Monitoring Officer

**Request for a Dispensation**

Request to Monitoring Officer by the Members listed below ("your" and "you" means the members making the request for a dispensation):-

**1. Please summarise the matter to which your interest relates**

**2. What is the nature of your interest?**

**3. For which meeting(s) or period are you seeking a dispensation?**

*Until the end of my office in mm/yyyy or such sooner period as relevant to my personal circumstances.*

**Please set out in detail the reason(s) why you consider you should be granted a dispensation.**

Dispensation granted by the Monitoring Officer to the above mentioned Members to allow them to freely and fully participate and vote in relation to the following:

Signed……. Councillor X

Date…….

Signed: …….. Monitoring Officer

Date: ……

**DISPENSATIONS PROCEDURE GUIDE FOR PARISH COUNCILS**

## 1. Introduction

1.1 Parish Councils are now responsible for determining requests for a dispensation by a Parish Councillor under Section 33 of Localism Act 2011. This is because they are a "relevant authority" under section 27(6) (d) of the Act.

1.2 This guide explains:

(a) The purpose and effect of dispensations;

(b) the procedure for requesting dispensations;

(c) the criteria which are applied in determining dispensation requests; and

(d) the terms of dispensations.

## 2. Purpose and effect of Dispensations

2.1 In certain circumstances Councillors may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest. Provided Councillors act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

2.2 Section 31(4) of the Localism Act states that dispensations may allow the Councillor:

(a) to participate, or participate further, in any discussion of the matter at the meeting(s); and/or

(b) to participate in any vote, or further vote, taken on the matter at the meeting(s).

2.3 If a dispensation is granted, the Councillor may remain in the room where the meeting considering the business is being held.

2.4 Please note: If a Parish Councillor participates in a meeting where he/she has a Disclosable Pecuniary Interest and he/she does not have a dispensation, they may be committing a criminal offence under s34 Localism Act 2011.

**3. Process for making requests**

3.1 Any Councillor who wishes to apply for a dispensation must fully complete a Dispensation Request form and submit it to the Proper Officer of the Parish Council (i.e. the Parish Clerk) as soon as possible before the meeting which the dispensation is required. Applications may also be made at the Parish Council meeting itself (if Parish Councils have a standing item on the agenda to deal with dispensation requests) and the nature of the interest has only become apparent to a Councillor at the meeting itself.

3.2 Suggested wording for a new standing agenda item on declaration of interests and dispensations is as follows:

Declarations of interest and dispensations

1 To receive declarations of interest from Councillors on items on the agenda

2 To receive written requests for dispensations for disclosable pecuniary interests (if any)

3 To grant any requests for dispensation as appropriate

A request for dispensation must be made on an individual basis.

**4. Consideration by the Parish Council**

4.1 The Parish Council can either delegate to the Parish Clerk the authority to grant dispensations or reserve such decisions for the full Parish Council. If the Parish Council decides to delegate this role to the Parish Clerk then it will need to make a formal resolution to this effect, on the lines of:

4.2 "RESOLVE that the Council delegates the power to grant dispensations to the Clerk. The power rests with the relevant authority under section 33(1) of the Localism Act 2011 and the basis is set out under section 33(2). "

4.3 The Parish Clerk or the parish Council may grant a dispensation to a Councillor who has a Disclosable Pecuniary Interest to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter (as per para. 2 above) if they consider that:

(a) So many members of the decision-making body have disclosable pecuniary interests that it would impede the transaction of the business (i.e. the meeting would be inquorate); or

(b) the authority considers that the dispensation is in the interests of persons living in the authority's area; or

(c) it is otherwise appropriate to grant a dispensation.

4.4 The Parish Council may wish to extend the provisions of the above paragraph to apply in the same way in the case of a "non-disclosable pecuniary interest" or a "non-pecuniary interest", as defined in the Code of Conduct, but this is at the discretion of the Council.

4.5 The terms of any dispensation shall be in accordance with paragraph 6.

4.6 The Clerk or Parish Council should formally notify the Councillor of their decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the decision.

**5. Criteria for Determination of Requests**

5.1 In reaching a decision on a request for a dispensation the Parish Council or the Parish Clerk (as appropriate) will take into account:

(a) The nature of the Councillor's prejudicial interest;

(b) the need to maintain public confidence in the conduct of the Council's business;

(c) the possible outcome of the proposed vote;

(d) the need for efficient and effective conduct of the Council's business; and

(e) any other relevant circumstances.

**6. Terms of Dispensations**

6.1 Dispensations may be granted:

(a) For one meeting; or

(b) for a period not exceeding 4 years.

**7. Disclosure of Decision**

7.1 Any Councillor who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it

relates. A copy of the dispensation will be kept with the Register of Councillors' Interests.

**GUIDE TO MAKING A COMPLAINT ABOUT A COUNCILLOR**

**1. Introduction**

1.1 Councillors are elected by the general public to represent the constituents of an electoral division (in the case of the County Council) or a ward (in the case of a District Council).

1.2 Councillors should conduct themselves in a way that is beyond reproach. However, if you believe that a councillor has breached the Code of Conduct this leaflet explains how to make a complaint and how your complaint will be dealt with.

1.3 The District Council takes all complaints seriously and it is our experience that many complaints can be resolved quickly and effectively on an informal basis. We would welcome the opportunity to help put things right for you at an early stage without the need for a formal complaint.

1.4 Please contact the Monitoring Officer to discuss your complaint further.

**2. How to Make a Complaint**

2.1 If we cannot address the problem for you informally, you have the right to make a formal complaint. To do this you need to send your complaint in writing (either using the form accompanying this leaflet or by downloading it from the Council's website) marked confidential, to the Monitoring Officer. Please ensure that when submitting your complaint you provide sufficient information to enable a decision to be made as to whether an investigation or other action is warranted.

**3. Who You Can Complain About**

3.1 You can complain about elected councillors, or co-opted members, of the District Council (a Co-opted Member is a voting member of a Council or one of its Committees, who was appointed to their position rather than being elected).

**4. What You Can Complain About**

4.1 You can complain about a Councillor breaching any part of their Council's Code of Conduct.

4.2 Arrangements adopted by the Council set out the types of behaviour that can be investigated. There are some complaints that cannot be investigated, including:

(a) Complaints where a Councillor is not named;

(b) complaints that are not in writing;

(c) acts carried out in a Councillor's private life when they are not carrying out the work of the Council;

(d) incidents or actions that are not covered by the Code of Conduct;

(e) incidents that are about a fault in the way the Council has or has not done something – this is something that may be dealt with by a different complaint procedure;

(f) complaints about people employed by local Councils – this would be dealt with by the employer;

(g) incidents that happened before a Councillor was elected;

(h) incidents that happened either before the authority adopted its local Code of Conduct;

(i) complaints about the way in which the Council conducts and records its meetings.

**5. Before You Complain**

5.1 Before you send us your complaint, you should be aware that in the interests of fairness and natural justice, we believe Councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with details of the complaint.

5.2 Details of the complaint will be given to:

- The Monitoring Officer of the Council and his/her staff in order to handle the matter; and
- the Councillor(s) you are complaining about
- Members of the Standards Committee
- The Town/Parish Clerk (if applicable)
- The Independent Person

- The Group Leader (if applicable)

**6. What Happens To Your Complaint?**

6.1 When we receive your complaint, we will write to you to let you know that we have received it. Your complaint will then be referred to the Monitoring Officer. The Monitoring Officer (acting in consultation with the Independent Person) will decide either to:

(a) Not refer the complaint for investigation; or

(b) refer the complaint for investigation; or

(c) apply the informal resolution process either before or after an investigation; or

(d) following Investigation; to refer the complaint to the Hearing Panel; or

(e) take no action and close the matter; or

(f) refer the complaint to the relevant political group leader for action.

6.2 In assessing your complaint the following and criteria will be used:

6.3 Legal Jurisdiction Criteria Test:

1. The alleged conduct occur since the adoption of the relevant Code of Conduct.

2. The person complained of was a member of the District Council or Parish Council at the time of the alleged conduct.

3. The alleged conduct occur*red* when the person complained of was acting (or giving the impression he was acting) as a member of the District Council or a parish / town council within the District.

4. If the facts could be established as a matter of evidence, the alleged conduct is capable of amounting to a breach of the Code of Conduct.

5. The complaint is about the councillor's conduct and not dissatisfaction with the District Council's or Parish Council's decisions, policies and priorities, etc.

6.4 If the complaint fails one or more of the jurisdiction tests, no further action will be taken and the complaint will be rejected. You will be notified accordingly with reasons, normally within 10 working days.

6.5 Local assessment criteria test:

(a) If the complaint is a 'repeat complaint' or anonymous unless it is supported by materially new or independent evidence substantiating or indicating that the complaint is exceptionally serious or significant;
(b) There is no or insufficient information/evidence to substantiate a reasonable case for the complaint which has been submitted by the Complainant or on his behalf;
(c) The complaint is malicious, vexatious, trivial, politically motivated or 'tit-for-tat';
(d) The alleged misconduct happened more than last 3 months before the complaint was made;
(e) The complaint is relatively minor in that taking further action would be disproportionate to the impact on both public money and officers' and Members' time;
(f) The circumstances have materially changed since the incident;
(g) The complaint has previously been the subject of an investigation or other similar action
(h) It is unlikely that an investigation will be able to come to a firm conclusion on the matter e.g. where there is no firm evidence on the matter;
(I) The complaint is about a person who is no longer a council or co-opted member.

6.6 If one or more of the local assessment criteria applies to the complaint, no further action will be taken and the complaint will be rejected. You will be notified accordingly with reasons, normally within 10 working days.

**7. Informal Resolution**

If your complaint meets the local assessment criteria and is considered suitable for informal resolution the Monitoring Officer (acting in consultation with the Independent Person) will contact you and the Councillor you have complained about to agree a fair resolution, which will help to ensure higher standards of conduct for the future.

**8. The Investigation**

8.1 If your complaint is referred for investigation, you will have an opportunity to provide the investigator with any further detailed information or documents that you consider to be relevant.

8.2 At the end of an investigation, a decision will be taken whether there is evidence of a failure to comply with the Code of Conduct and, if so, whether to:

i. take no action; or

ii. seek informal resolution; or

iii. refer the matter for consideration by the Hearing Panel.

8.3 A Hearing Panel is a panel made up of councillors of the Council's Standards Committee. The Hearing Panel can decide if there has been a breach of the Code, and if so what sanction to recommend.

**9. Sanctions**

The range of sanctions available to the Hearing Panel if they decide there has been a breach of the Code includes the following:

- reporting its findings to a meeting of the full Council *[or to the relevant Parish Council]* for information and/or censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;

- issuing a press release/or other appropriate publicity;

(c) recommending to the Councillor's political Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council for a specified period;

(d) recommending to the Leader of the Council that an Executive Councillor be removed from the Executive, or removed from particular portfolio responsibilities;

(e) recommending appropriate training for the Councillor;

(f) recommending to the Council the removal of the Councillor *[or recommending to the relevant Parish Council that the Councillor be removed]* from all outside appointments to which they have been appointed or nominated by the Council *[or by the relevant Parish Council]* for a specified period;

(g) withdrawing [*or recommending to the relevant Parish Council that it withdraws]* facilities provided to the Councillor by the Council for a specified period, for example electronic access to the Council's systems; or

(h) excluding *[or recommending that the relevant Parish Council excludes]* the Councillor from the Council's offices or other premises for a specified period,

with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings; or,

- instructing the Monitoring Officer to apply the local/informal resolution process; or,
- sending a formal letter to the Councillor.

**10. Additional Help**

10.1 Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

10.2 We can also help if English is not your first language. However, we recommend that you always try to find a friend or relative who can speak or read English to help you with your enquiry initially. This will help both you and us to deal with your needs more effectively.

10.3 If you need advice or any support in completing this form, please contact the Monitoring Officer as soon as possible or contact your local Citizens Advice Bureau, Law Centre or other advice centre.

**COMPLAINT FORM - DISCLOSURES**

Your address and contact details will not usually be released unless necessary to deal with your complaint.

The following people will see this form:

a) Members of the Standards Committee
b) Monitoring Officer of the Mid Devon District Council
c) The Town/Parish Clerk (if applicable)
d) The Independent Person
e) The Group Leader (if applicable)

A brief summary of your complaint will also be shared with the Councillor(s) against whom you are complaining. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete **Section C** of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

CODE OF CONDUCT FOR COUNCILLORS

COMPLAINT FORM

(Before completing this form please read the attached Guidance Notes)

## A. Your details

1. Please provide us with your name and contact details. Anonymous complaints will only generally be considered if there is independent evidence to substantiate the complaint.

| | |
|---|---|
| **Title:** | |
| **First name:** | |
| **Last name:** | |
| **Address:** | |
| **Daytime telephone:** | |
| **Evening telephone:** | |
| **Mobile telephone:** | |
| **Email address:** | |

Your address and contact details will not usually be released unless necessary to deal with your complaint.

The following people will see this form:

- Members of the Standards Committee
- Monitoring Officer of the Mid Devon District Council
- The Town/Parish Clerk (if applicable)
- The Independent Person
- The Group Leader (if applicable)

A brief summary of your complaint will also be shared with the councillor(s) against whom you are complaining. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete **Section C** of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted councillor of an authority
- An independent member of the Standards Committee
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other ( )

**3.** Equality Monitoring Form - please fill in the attached form.

The *Equality Act 2010* requires us to monitor certain characteristics to ensure that we do not inadvertently discriminate against members of a particular group. It would, therefore, be helpful if you would complete the attached form, although this is not compulsory. The answers will be removed and kept entirely separate from your complaint and will be completely confidential. They will be used for statistical purposes only, in which individuals will not be identified.

## B. Making your complaint

The sanctions available are governed by the Localism Act 2011. For a brief summary of sanctions available and other information about the process and time scales, please refer to the attached Guidance Notes.

**4.** Please provide us with the name of the councillor(s) you believe have breached the Code of Conduct and the name of their authority:

| Title | First name | Last name | Council or authority name |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

**5.** Please explain in this section (or on separate sheets) what the councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done (with dates /witnesses) that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account when a decision is made whether to take any action on your complaint. For example:

(a) You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was they said.

(b) You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.

(c) You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.

(d) You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

C. Confidentiality of complainant and the complaint details

**Only complete this next section if you are requesting that your identity is kept confidential**

**6.** In the interests of fairness and natural justice, we believe councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that you have justifiable grounds, for example:

(a) you believe you may be victimised or harassed by the councillor(s) against whom you are submitting a written complaint (or by a person associated with the same); or

(b) you consider that you may receive less favourable treatment from the Council because of the seniority of the councillor against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the

request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

**(Continue on separate sheet(s), as necessary)**

## D. Remedy sought

Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

**(Continue on separate sheet(s), as necessary)**

E. Additional information

**7.** Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.

**8.** In line with the requirements of the Disability Discrimination Acts 1995 and 2005 and the Equalities Act 2010, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.

If you need any support in completing this form, please contact the Monitoring Officer, or the Deputy Monitoring Officer, as soon as possible.

Monitoring Officer
Mid Devon District Council
Phoenix House
Phoenix Lane
Tiverton
Devon
EX16 6PP

Tel: 01884 255255
Fax: 01884 234318
E-mail: Monitoringofficer@middevon.gov.uk

**Signed** …… **Date** ……

**Mid Devon District Council**

**Equality Monitoring Form - Information for monitoring purposes only**

**Ethnic Origin**

Choose one section from (A) to (E), and then tick the appropriate box to indicate your cultural background. Please also complete (F) & (G).

**A White**

□British □Polish □Romany

□Irish □Portuguese □ White Other

Any other White background please write here: ……..

**B Mixed**

□White and Black - Caribbean □Asian and Black

□White and Black – African □White and Asian

**C Asian or Asian British**

□Indian □Kashmiri

□Pakistani □Bangladeshi

Other Asian background please write here: ……..

**D Black or Black British**

□Caribbean □African

Any other Black background please write here: ……..

**E Chinese or other ethnic group**

| | | |
|---|---|---|
| □Chinese | □Arab | □Afghan |
| □Vietnamese | □Kurdish | |

Any other please write here: ……

**F Your age**

| | | |
|---|---|---|
| □19 years or under | □35 – 49 years | □65+ years |
| □20 – 34 years | □50 – 64 years | |

**G Your sex**

□Male □Female

**LEGAL JURISDICTION TEST**

(a) Legal Jurisdiction Criteria Test:

1. The alleged conduct occur since the adoption of the relevant Code of Conduct.

2. The person complained of was a member of the District Council or Parish Council at the time of the alleged conduct.

3. The alleged conduct occur*red* when the person complained of was acting (or giving the impression he was acting) as a member of the District Council or a parish / town council within the District.

4. If the facts could be established as a matter of evidence, the alleged conduct is capable of amounting to a breach of the Code of Conduct.

5. The complaint is about the councillor's conduct and not dissatisfaction with the District Council's or Parish Council's decisions, policies and priorities, etc.

(a) If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 30 working days of receipt of the complaint by the Monitoring Officer.

**PROTOCOL BETWEEN THE MID DEVON DISTRICT COUNCIL AND THE DEVON AND CORNWALL POLICE**

**INVESTIGATIONS AND OFFENCES UNDER LOCALISM ACT 2011 SECTION 34**

**Introduction**

- This protocol applies in the Mid Devon District Council area to the handling and investigation of criminal offences created by Section 34 of the Localism Act 2011.

- The purposes of this protocol are:

    - to assist the initial investigation and handling of criminal offences connected with the Localism Act 2011,
    - to assist officers and staff in identifying and correctly categorising such offences and
    - to provide guidance as to their handling and initial investigation.

- If such offences are not investigated correctly, there is a clear risk of adverse publicity for both the police and the local authority concerned. It is important that supervising staff who have the responsibility of reviewing the reports and investigation logs relating to such offences under the 2011 Act are aware of the potential for adverse publicity within these reports and undertake any review with this aspect in mind.

**Offences – general considerations**

- Offences under Section 34 are relevant to Members of Councils who are elected, or have a vote on any Committee or Sub-Committee which exercises any function or decision making power on behalf of the Council. Section 34 applies to Members of County Councils, Fire and rescue authorities, District and Borough Councils, and local parish councils.

- Section 34 lists a number of different offences relating to the disclosure of relevant interests in such Committees and extend to those interests held by family members living at the same address.

- Investigators should note that whilst offences under Section 34 are summary only offences, the consent of the Director of Public Prosecutions is required in order for a prosecution to proceed. Accordingly there is a level of seriousness attached to these offences.

- All officers should note that these offences relate to persons who are elected in their role in Councils and should therefore be mindful of the need for impartiality in the political context, and also the potential for adverse publicity and possible media attention in relation to the issues surrounding such offences. For example Planning Committees in local Councils can deal with issues in which there is intense local interest.

- Officers should also be wary in situations in which an investigation may need to be conducted in the period immediately prior to the holding of local or national elections. If pre-election purdah has commenced and an allegation has been made in relation to an offence contrary to the Localism Act against an existing member who is also a candidate in any forthcoming election, then it will be necessary for the matter to be recorded and investigated in due course. However, no investigation shall normally take place until after the election.

**Offences – specific considerations**

- The offences under Section 34 are as follows:
    - **Failure to comply with an obligation imposed on a person by section 30(1).** Failure to declare, within 28 days of appointment as a member or co-opted member, any disclosable pecuniary interests. Such interests are to be kept in the authority's register.
    - **Failure to comply with an obligation imposed on a person by section 31(2).** Failure to disclose an interest to the relevant meeting if not so recorded in the authorities register subject to the provisions of sensitive disclosures. If there is such a sensitive disclosure as defined by Section 32(1) then it is sufficient for a member to declare that an interest exists.
    - **Failure to comply with an obligation imposed on a person by section 31(3).** Failure to notify the monitoring officer of an interest not recorded on the authorities register and not subject to a pending notification within 28 days of such a disclosure.
    - **Failure to comply with an obligation imposed on a person by section 31(7).** Failure to notify the Monitoring officer of an interest within 28 days of the member becoming aware of a disclosable pecuniary interest in any matter to be dealt with or being dealt with by the member in the course of discharging a function of a relevant authority.
    - **Participates in any discussion or vote in contravention of section 31(4).** A Member or co-opted member may not participate, or participate further in any discussion of the matter at the meeting.
    - Unless he has a dispensation to do so (under section 33 of the Act) so granted by the authority. A Member or co-opted member may not participate in any vote, or further vote taken on the matter at the meeting. Unless he has a dispensation to do so (under section 33 of the Act) so granted by the authority.

- **Takes any steps in contravention of Section 31(8).** The member must not take any steps or any further steps in relation to the matter (except for the purposes of enabling the matter to be dealt with otherwise than by the member)
- **Knowingly providing false or misleading information OR is reckless as to whether information is true and not misleading in under Section 30(1).** Failure to declare, within 28 days of appointment as a member or co-opted member, any disclosable pecuniary interests. Such interests are to be kept in the authority's register.
- **Knowingly providing false or misleading information OR is reckless as to whether information is true and not misleading in under Section 31(2).** Failure to disclose an interest to the relevant meeting if not so recorded in the authorities register subject to the provisions of sensitive disclosures. If there is such a sensitive disclosure as defined by Section 32(1) then it is sufficient for a member to declare that an interest exists.
- **Knowingly providing false or misleading information OR is reckless as to whether information is true and not misleading in under Section 31(3).** Failure to notify the monitoring officer of an interest not recorded on the authorities register and not subject to a pending notification within 28 days of such a disclosure.
- **Knowingly providing false or misleading information OR is reckless as to whether information is true and not misleading in under Section 31(7).** Failure to notify the Monitoring officer of an interest within 28 days of the member becoming aware of a disclosable pecuniary interest in any matter to be dealt with or being dealt with by the member in the course of discharging a function of a relevant authority.

- The Localism Act should not be used as a basis for investigation and possible prosecution where there are more serious and substantial offences involved, for example, misconduct in public office, or offences under the Fraud Act 2006 or Bribery Act 2010. Such offences will be recorded and dealt with in accordance with established processes in relation to such matters, and with reference to the relevant force policy and the Investigations Department.

**Administrative requirements**

- Offences under Section 34 are not notifiable and therefore a crime report is not required for [Home Office] National Crime Recording Standards purposes. As with other non-notifiable offences however, it is best practise for the allegation to still be recorded on the Guardian/Niche system.

- Suspect interviews should be conducted with a view to the circumstances of the investigation and fully comply with current codes of practice.

- Investigators should bear in mind that a lot of investigative work can be avoided by an early account from the suspect of these offences and in early liaison with the council

Monitoring Officer, that the relevant circumstances that gave rise to the report are actually correctly reported.

- Investigators should also be mindful of the case of Richardson v Chief Constable West Midlands Police and the provisions of PACE code G for the necessity of arrest.

**The process**

- A statement and analysis of the reporting and investigative process is set out below.

| No. | Step | Notes |
|---|---|---|
| 1 | **Receipt of report of possible offence** | It is expected that these offences will be reported to police from one of the following classes of persons though this list is not exhaustive:-<br>• A Member of the Council<br>• Employee of council reporting direct to police as a 'whistleblower'.<br>• From the Monitoring Officer or Independent Person within the Council, as nominated under the Localism Act with designated responsibility to report such offences. The Monitoring Officer will have first applied the Legal Jurisdiction Test before referral to Police.<br>• From a member of the public reporting as an offence of 'corruption' or misconduct in public office.<br>• From members of the press by enquiry to the Police Media office.<br>• Person who feels aggrieved at a recent decision of the council or councillor concerned.<br><br>Such reports be received in writing, via email, via telephone or as verbal reports. They may also be made by persons approaching officers on patrol or by way of attendance at the front counter. They may also be made anonymously via any of these routes. |

| No. | Step | Notes |
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| | | Not all members of the public or members of councils will recognise a Localism Act offence and so they may report the crime as one of the following types:-<br>• Corruption.<br>• Fraud by abuse of position of Trust.<br>• Bribery.<br>• Misconduct in Public Office.<br>• Breach of codes of conduct (in public office).<br><br>The Monitoring Officer at the Council should be notified as soon as any complaint is received (except where notification of the complaint has been received from the Monitoring Officer) |
| **2** | **Legal jurisdiction criteria test** | The application of these criteria represents a test of relevance.<br><br>If the report has been made directly to the Council the Monitoring Officer should have ensured that these criteria are met prior to any reporting to Police.<br><br>Conversely, if the report has been made directly to Police, the Local Neighbourhood Manager will request that the Monitoring Officer undertakes this test prior to further police involvement.<br><br>The criteria are:<br><br>(a) Did the alleged conduct occur before the adoption of the Code of Conduct?<br>(b) Was the person who is the subject of the complaint a Member of the District or Parish Council at the time of the alleged conduct? |

| No. | Step | Notes |
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| | | (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?<br>(d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?<br>(e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?<br>(f) The complaint is about dissatisfaction with the District or Parish Council's decisions, policies and priorities<br><br>Prior to acceptance of the criminal investigation by police, the Neighbourhood Manager will make contact with the Council Monitoring Officer and request that they assess the complaint against the above criteria and confirm that the criteria are satisfied.<br>Provided the criteria are all met, the allegation will be recorded as a crime and a police investigator will be appointed. |
| **3** | **Creation of Storm Record** | In all cases a storm record should be created that records the details of the allegations as follows:-<br>• Name and address and contact details of complainant / informant.<br>• Name and address of suspect – if known.<br>• Grounds for complaint – i.e. what interest has the suspect not declared and at which council meeting? |
| **4** | **Assessment and Allocation** | Following the recording of a complaint as a crime it will be assessed by the Incident Assessment Unit and allocated accordingly. |

| No. | Step | Notes |
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| | | The officer to whom the case is allocated should be the Local Beat Manager unless the matter is serious or complex in which case advice from Investigations should be sought.<br><br>If the suspect is a member of police staff the investigation will be referred to the Force Professional Standards Department. |
| **5** | **Investigating Officer contacts Monitoring Officer**<br><br>**Initial investigative review by Crime Supervisor/ Investigative Officer** | The Investigating Officer must make early contact with the relevant Council's Monitoring Officer outlining the nature of the allegation.<br><br>The Council's Monitoring Officer will provide advice and assistance with regard to evidential capture. S/he will also determine who within their Council to notify, this may include the Chief Executive, Leader or Press Officer for example but will be at their discretion.<br><br>(The Council's Monitoring Officer will already have undertaken the Legal Jurisdiction Test).<br><br>On allocation the Investigating Officer should consider performing the following investigative actions. These actions should be reviewed on a case by case basis and made proportionately to the circumstances of the offence being investigated. |

| No. | Step | Notes |
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| | | <u>In liaising with the Monitoring Officer, the Investigating Officer should:</u><br><br>• Request that register of interests is checked and minutes of relevant meeting are made available or be sign posted to their whereabouts.<br>• Inquire whether the named suspect been the subject of similar complaints in the past?<br>• Inquire whether the named informant been the subject of similar complaints in the past?<br>• Ask for any other relevant material or intelligence on the offence, the suspects and witnesses involved or the circumstances surrounding it.<br>• Ask for any other information relating to the 'personal interest' complained of that is held by the council.<br>• Ascertain whether it is possible through the circumstances complained of, that the suspect or another party has substantially benefited by the failure to disclose the personal interest.<br>• Ascertain if a substantial crime has been committed within the Localism Act definition OR another substantive crime e.g. Bribery Act, Misconduct in public office at common law, Fraud by abuse of position of trust. If the circumstances of the complaint indicate a wider, more substantive criminal act, this will be referred to the Investigations department.<br><br><u>Material to be requested from the Monitoring Officer</u><br><br>The Investigating Officer will seek the views expressed by the Monitoring Officer and if appropriate by the Independent person as nominated by the Council under the Localism Act. |

| No. | Step | Notes |
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| | | These views should be in writing and contain answers to the following questions and are disclosable under Criminal Procedures and Investigations Act 1996 (CPIA).<br><br>The Independent Person or Monitoring Officer is a potential witness in the case and he or she should be aware that subsequent to providing this information they may be required to provide a witness statement and attend court as a witness, in order to provide evidence on the following:<br><br>• What circumstances were reported to the Monitoring Officer/Independent Person regarding this offence?<br>• What complaints have been received against the named suspect to this offence historically and from whom?<br>• If not reported to the police, what was the basis of this decision? Where is this decision and rationale recorded?<br>• What explanation was given in any previous complaint against the suspect by either the suspect themselves or any other person?<br>• What other complaints have been received from or against the complainant in this case and how were these dealt with?<br>• What has the suspect said either in explanation or mitigation or remorse about the offence to any other person and where is this recorded and who witnessed this relevant comment<br><br>Where not available via other means e.g. on District/Parish Council website request that |

| No. | Step | Notes |
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| | | police are provided with copies of the following:-<br><br>• Register of interests that relate to the matter under investigation.<br>• The suspect's entries on that register both current and historic.<br>• Copies of any letters notices or restrictions that were sent to the suspect that require or request them to notify the council of their interests and copies of the response of the suspect to any such notices or requests.<br><br>• Where relevant, the minutes of the meetings where the interest was not declared.<br>• Names and contact details and role of persons present at the meeting (s) concerned<br>• Specific records made at the meeting by the secretary or clerk to the meeting<br>• (Some meetings in some councils are video recorded and copies of these should be requested and preserved).<br>• Any publicised minutes or sanctioned record of the meetings concerned.<br><br>The Investigating Officer should request that a search is made of the following communications or records and formally request that steps are taken to preserve them for possible review by police:-<br><br>o Any emails, messages, letters or other correspondence received by the council in relation to the matter under investigation. Both prior to, during and after the relevant period of the offence.<br>o Any emails, messages or communications or other correspondence received or sent by |

| No. | Step | Notes |
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| | | the suspect during the relevant period of the offence.<br>○ Any emails, messages or communications or other correspondence received or sent by the complainant during the relevant period of the offence.<br><br>It should be noted that the Localism Act 2011 requires that a 'sensitive register' of personal interests is recorded and maintained by the Council. The interpretation of "sensitive" in this regard is similar in definition to the sensitivity of police information and includes the risk of subjection to personal violence or threat of life. Initial investigators should be mindful of the existence of such sensitive information and, in accordance with established principles. They should not record such interests on any crime report log.<br><br>**Other material to be sought with respect to the disclosable interest**<br><br>The investigating officer should ensure that suitable checks are made to establish that the alleged 'interest' of the suspect has been in existence and known by the suspect.<br><br>The actual checks made are different in each circumstance and the following is a guide only.<br><br>1. Companies House including filed reports, current and historic directors and shareholders, previous company names, |

| No. | Step | Notes |
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| | | names and addresses of company office holders, accountants and tax advisers (if so recorded).<br>2. HMRC checks for declared earnings under PAYE VAT return for the relevant period.<br>3. Public, open source (E.g. Google) checks and local media websites and 'blogs'.<br>4. Police data and intelligence sources Including PNC, PND etc.<br>5. Council voters checks on appropriate addresses and persons.<br>6. Council tax records for occupancy held on appropriate addresses and persons.<br>7. Checks via area Financial Investigator on the subject and the disclosable interest under investigation<br>8. Any other check that the investigating officer believes is relevant to the investigation. |
| **6.** | **Response to potential evidence of wider criminal activity** | Where the reviewing officer believes that the following factors may be present then the matter should be reported to the Investigations department as appropriate:-<br><br>(a) The suspect has potentially made substantive gains from the failure to disclose the interest. E.g. suspect has voted on building works to be instigated when their family member runs a local building firm and that firm has gained from the award of the contract.<br>(b) The suspect has been the subject of similar complaints to either police or council in the past from different complainants.<br>(c) There are substantial complicating factors in the investigation that require detailed investigation. |

| No. | Step | Notes |
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| | | Possible examples are as follows:-<br>The whistle-blower in the council who has reported the complaint is now being subject to pressure from the suspect in terms of employment or capability to continue in their role.<br><br>(a) There are corporations or limited companies involved with commercial interests AND the suspect or their family members or their associates are involved in these companies.<br><br>(b) Investigation of the offences requires production orders or search warrants to review special procedure material as defined under Schedule 1 PACE (this includes business records held in confidence)<br><br>(c) There is a political element to either the nature, the substance of the complaint, the suspect or the informant that relates to an important public interest or local issue being promoted by one or more registered political parties.<br><br>(d) The circumstances of the allegation constitute a substantial crime of:-<br>(a) Bribery as defined in the Bribery Act 2010,<br>(b) Misconduct in public office at common law<br>(c) Fraud by abuse of position of trust contrary to the Fraud Act 2006.<br><br>(e) The reviewing officer believes that the surrounding circumstances require that the matter be dealt with by the Investigations |

| No. | Step | Notes |
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| | | department. Examples include, but are not limited to:-<br><br>(d) Risk of a 'Critical Incident'<br>(e) Cross border criminality with a National or international context.<br>(f) The complainant or the suspect are serving police officers or civilian staff or are family members, or otherwise related to, serving police officers or civilian staff.<br><br>(g) There exists substantial and relevant sensitive information relating to the offence.<br>(h) There is a serious risk of prejudice to an important public interest.<br>(i) The reviewing officer believes that the offence and the circumstances surrounding it are not suitable for investigation by Officers in a different district or area.<br><br>It should be noted that referral of the report to Serious Crime Directorate should only be made where there are substantial grounds for doing so. The essence of the Localism Act is to ensure greater transparency and public accountability and these principles should be mirrored in the police investigation.<br><br>Where an investigating officer identifies a more serious notifiable offence (e.g. pecuniary advantage) a crime report for this crime will be created in consultation with the Investigations Department. [note: fraud offences will be recorded by Action Fraud]<br><br>Where a more substantive crime is alleged/recognised. (e.g. Fraud by abuse of |

| No. | Step | Notes |
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| | | position of trust) then a crime report for this crime will be generated, and Investigations notified prior to allocation.<br>Where an alleged offence is deemed sensitive then an Investigations Detective Inspector must be notified. |
| **7** | **Internal notifications** | The investigating officer will expeditiously notify the relevant LPA Commander or in their absence the District Superintendent.<br>If the matter is out of hours then the Duty Superintendent will be notified if appropriate to the circumstances.<br>Any of these individuals will then consider whether the matter should be brought to the attention of the Force Gold Commander.<br>The investigating officer will also notify the Council/Force media officer. |
| **8** | **Disposal** | Once the outcome of an investigation is known, early notification must be made to the Incident Assessment Unit and also to the relevant Monitoring Officer who will then consider what if any action will be taken by the Council in accordance with their code and arrangements.<br>It must be borne in mind by supervisors that the disposal of a Localism Act crime may attract adverse publicity and potentially call into question the reputation of the Force or |

| No. | Step | Notes |
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| | | wider police service in particular were a more substantive crime to be overlooked.<br><br>Closure of the investigation should be reviewed by an officer of at least the rank of Inspector.<br><br>Upon closure of the investigation, the reviewing officer must ensure that the decisions made during the course of the investigation are recorded and justified in accordance with the National Decision Making Model.<br><br>Any internal notifications carried out as set out above will also be replicated upon closure of the investigation. |

**LOCAL ASSESSMENT CRITERIA TEST**

1. Local Assessment Criteria Test:

If the complaint satisfies the jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

(a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;

(b) The complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;

(c) No, or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;

(d) The Complainant is unreasonably persistent, malicious and/or vexatious;

(e) The complaint is malicious, trivial, politically motivated or 'tit-for-tat';

(f) The alleged misconduct happened more than 3 months ago;

(g) The complaint is relatively minor and/or dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;

(h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;

(i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;

(j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;

(k) The complaint is about a deceased person;

(l) The complaint is about a person who is no longer a District Councillor or Parish Councillor or Co-opted Member.

2. The Monitoring Officer can seek additional information from the Complainant and the Subject Member (and/or, if applicable, the Parish Clerk) before deciding how to deal with the complaint.

(a) If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 30 working days of receipt of the complaint by the Monitoring Officer.

**LOCAL/INFORMAL RESOLUTION PROCESS**

1. The Monitoring Officer may, after consultation with the Independent Person, seek to resolve a complaint informally at any stage in the process, whether without the need for an investigation or before or after an investigation has been commenced or concluded. In so doing, the Monitoring Officer will consult with the Complainant and the Subject Member to seek to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.

2. Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where:

(a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related District or Parish Council procedures; or

(b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or

(c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct; or

(d) The conduct complained of appears common to a number of members of the District or Parish Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other District or Parish Council procedures, etc; or

(e) The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or

(f) The complaint appears to reveal a lack of guidance, protocols and procedures within the District or Parish Council; or

(g) The Complainant and the Subject Member are amenable to engaging in an informal resolution; or

(h) The complaint consists of allegations and retaliatory allegations between Councillors; or

(i) The complaint consists of allegations about how formal meetings are conducted; or

(j) The conduct complained of may be due to misleading, unclear or misunderstood advice from Officers.

3. Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other Councillors including the whole District or Parish Council where it may be useful to address systemic behaviour:

(a) training;

(b) conciliation/mediation;

(c) mentoring;

(d) apology;

(e) instituting changes to the District (or Parish) Council's procedures;

(f) conflict management;

(g) development of the District (or Parish) Council's protocols;

(h) other remedial action by the District (or Parish) Council;

(j) other steps (other than investigation) if it appears appropriate to the Monitoring Officer in consultation with the Independent Person

(k) If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer will report the matter to the Standards Committee [and, if applicable, the Parish Council] for information, but will take no further action against the Subject Member.

(l) Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Standards Committee.

(m) If the Complainant or Subject Councillor do not agree the precise details of the Informal Resolution e.g. the actual wording of an apology, the Monitoring Officer shall still be entitled to resolve the Complaint by Informal Resolution.

**INDEPENDENT PERSON PROTOCOL**

This Protocol sets out the expected conduct of Mid Devon District Council's Independent Persons (IP) when carrying out their consultation functions in relation to an allegation that a Member, or co-opted Member, of the District Council, or a Member, or co-opted Member, of a Town or Parish Council within the District, has failed to comply with the relevant Council's Code of Conduct.

**Principles**

1. The role of the IP is set down in legislation (section 28 of the Localism Act 2011). *Arrangements put in place by the Council must include provision for the appointment by the authority of at least one independent person, whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and in any other such circumstances it considers appropriate.*

2. The purpose of the IP role is to enable the public to have confidence in how the District Council deals with allegations of misconduct and to promote and maintain high ethical standards of conduct for members, ensuring they are adequately trained and understand the Code of Conduct.

3. This Protocol applies to all IPs equally and complements the Monitoring Officer Protocol. If the Council is in a position where less than three IPs are appointed due to vacancies, this Protocol still applies in its entirety, so long as one IP is in place (as required by the legislation).

4. The Protocol has been prepared in light of the provisions of the Localism Act 2011 and associated regulations and will be kept under review and amended where necessary.

5. In carrying out the role, the IP will ensure that he/she –

    Acts in accordance with –

    - any relevant legislation or guidance and the respective Council's Code of Conduct in force at the time; and
    - the agreed processes/ procedures approved by the District Council's Standards Committee and the Council's Constitution; and

Acts impartially at all times, without political bias or prejudice and in accordance with the rules of natural justice; and

Maintains confidentiality at all times.

6. The IP role is consultative at various stages of the process, in accordance with the Complaints procedure and Monitoring Officer's (MO) role is to give advice to the Standards Committee or Sub-Committee.

7. The IP is not a member of the Council's Standards Committee or Sub-Committee but is able to attend meetings of the Committee, as a member of the public.

8. The outcome of any prior consultation with the IP undertaken by the MO will be included within any written report presented to the Standards Committee or Sub-Committee for their consideration. The IP views must be sought before a decision is made after a complaint has been investigated. This will be undertaken by the MO in the first instance, but it may be appropriate for the Committee or Sub-Committee to do this directly in exceptional circumstances.

9. If the Standards Committee or Sub-Committee invites the IP to attend any meeting, the IP does not have any voting rights when doing so.

10. The MO will consult the IP on complaints received in accordance with the Council's procedure and requests for dispensations received in accordance with the Localism Act 2011.

11. While the MO will have regard to the views expressed by the IP, he/she is not bound to accept his/her views on the matter.

12. When deciding on how to progress with a complaint, the MO/IP should consider the conduct complaints assessment criteria.

13. The IP should inform the MO if they feel there are circumstances which would suggest that they had a conflict of interest e.g. being a friend of either the complainant or Member concerned; or have previously been involved in the matter.

14. If all of the IPs are conflicted out from dealing with the issue, the MO will consider making a request to use the services of an IP from another principal authority.

15. All contact with the IP should be made through the MO and should the IP be contacted directly by a complainant or Member, he/she should inform the MO immediately.

16. In terms of confidentiality, the IP must not discuss any matters about a complaint, either past or present, with the media or any other third party without appropriate

advice having been taken.

17. The IP must provide the MO with appropriate methods of contact e.g. email and telephone numbers, and must make themselves available at all reasonable times.

18. On those occasions when the IP knows that they will not be contactable, he/she must inform the MO with as much reasonable notice as possible so that the reserve IP can be advised that he/she would be required to stand-in as necessary during this period.

19. The IP should be prepared to give the Standards Committee or Sub-Committee, through the written report, an independent view on the complaint and the merit of the evidence put forward as required to assist the Committee in coming to a decision on the matter.

20. When discussing the complaint with the complainant or the Member subject of the complaint, the IPs role is not to give views on the merit of the complaint or the evidence in support but to give advice and reassurance on the process.

21. In each complaint, one IP will be allocated a role by the MO, which will be one of the following:

    - Available to the Complainant – see paragraph 20 above; or

    - Available to the Member subject of the Complaint - see paragraph 20 above; or

    - Available to the Standards Committee or Sub-Committee for consultation as part of the complaints procedure and in accordance with the Localism Act 2011.

22. The MO will rotate the roles between the IPs on a case by case basis. Should less than 3 IPs be appointed at any time, so long as 1 IP is in place the IP will be expected to be available for the respective parties set out in 21 (a-c).

23. The MO will ensure that the IPs are kept up to date with changes in legislation, national guidance or good practice.

## PROCEDURE FOR INVESTIGATING THE COMPLAINT

**Preliminaries**

(a) The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 2018, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.

(b) The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.

(c) The Subject Member and the Complainant will be advised that the investigation is for fact finding purposes only.

(d) Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.

(e) The Investigating Officer will not make recommendations on sanctions.

(f) Within 20 working days of being appointed, the Investigating Officer will notify the Subject Member and the Complainant of their appointment and:

(i) provide full details of the complaint to the Subject Member;
(ii) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
(iii) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
(iv) request contact details of any potential witnesses;
(v) require that confidentiality is maintained and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or other close associates or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.

(g) It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.

(h) The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer or Hearing Panel.

**The Draft Report**

(a) On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT') to the Monitoring Officer for review.

(b) Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'CONFIDENTIAL' and will detail:

(i) the relevant provisions of the law and the relevant paragraphs of the Code of Conduct;

(ii) a summary of the complaint;

(iii) the Subject Member's response to the complaint;

(iv) relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;

(v) a list of any documents relevant to the matter;

(vi) a list of those persons/organisations who have been interviewed;

(vii) a statement of the Investigating Officer's draft findings of fact and reasons;

(viii) the Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;

(ix) that the Investigating Officer will present a final report once they have considered any comments received on the draft.

(c) Once the Investigating Officer has received any responses from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL'.

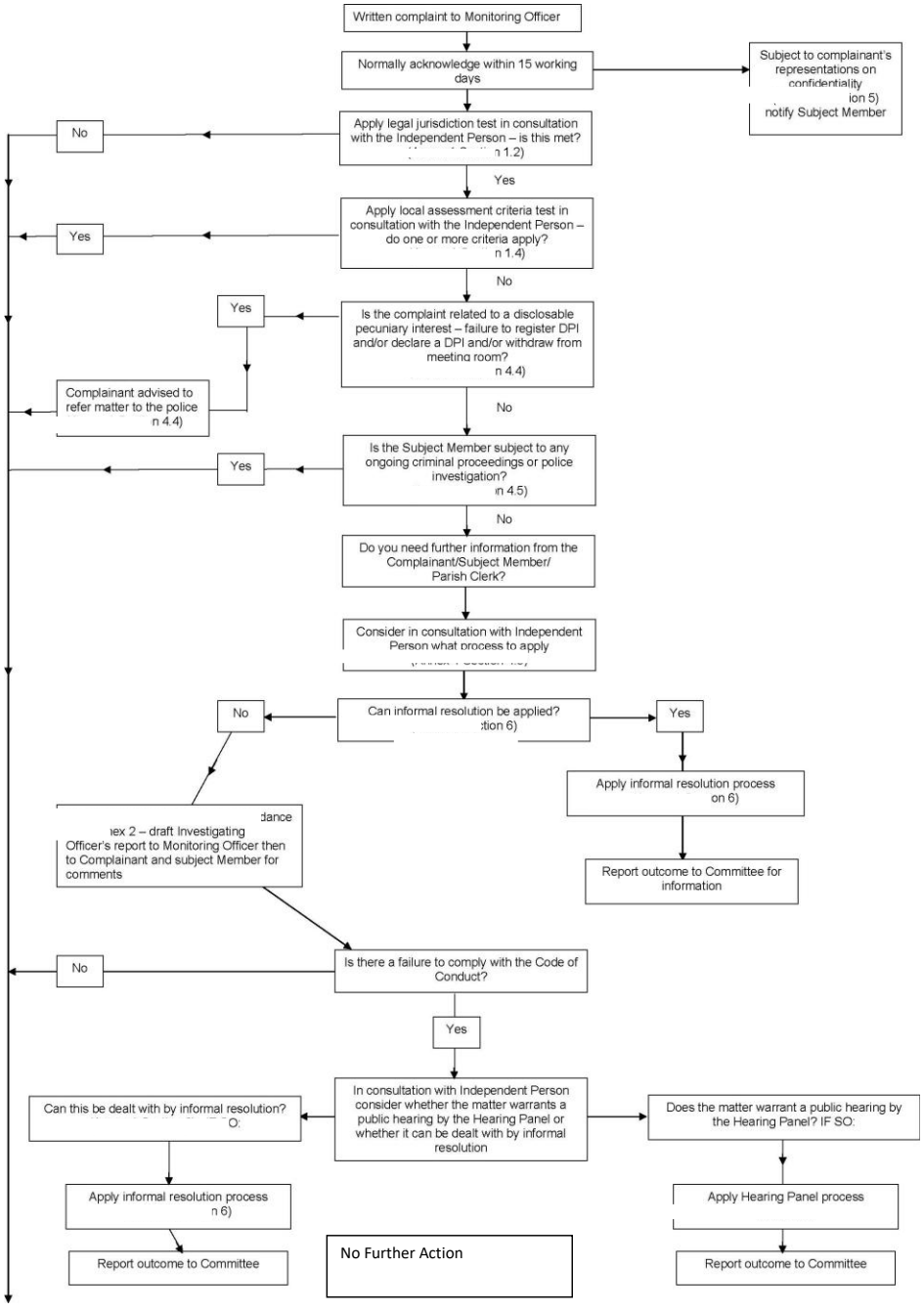
**Consideration of Investigating Officer's Final Report**

(a) The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

(b) Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary.

(c) Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

(i) take no action or
(ii) seek informal resolution or
(iii) refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in the Hearing Panel Procedure to these Arrangements.


Written complaint to Monitoring Officer
Normally acknowledge within 15 working days
Subject to complainant's representations on confidentiality ion 5) notify Subject Member
Apply legal jurisdiction test in consultation with the Independent Person – is this met? n 1.2)
No
Yes
Apply local assessment criteria test in consultation with the Independent Person – do one or more criteria apply? n 1.4)
Yes
No
Is the complaint related to a disclosable pecuniary interest – failure to register DPI and/or declare a DPI and/or withdraw from meeting room? n 4.4)
Yes
Complainant advised to refer matter to the police n 4.4)
No
Is the Subject Member subject to any ongoing criminal proceedings or police investigation? n 4.5)
Yes
No
Do you need further information from the Complainant/Subject Member/ Parish Clerk?
Consider in consultation with Independent Person what process to apply
Can informal resolution be applied? tion 6)
No
Yes
Apply informal resolution process on 6)
Report outcome to Committee for information
dance
ex 2 – draft Investigating Officer's report to Monitoring Officer then to Complainant and subject Member for comments
Is there a failure to comply with the Code of Conduct?
No
Yes
In consultation with Independent Person consider whether the matter warrants a public hearing by the Hearing Panel or whether it can be dealt with by informal resolution
Can this be dealt with by informal resolution? O:
Does the matter warrant a public hearing by the Hearing Panel? IF SO:
Apply informal resolution process n 6)
Report outcome to Committee
No Further Action
Apply Hearing Panel process
Report outcome to Committee

**HEARING PANEL PROCEDURE**

**1. Rules of Procedure**

- The Hearing Panel consists of 3 voting elected Members drawn from the Standards Committee, one of whom shall be elected as Chairman.

- The quorum for a meeting of the Hearing Panel is 3 comprising 3 elected Members.

- The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.

- The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The hearing will be held in public no earlier than 20 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied to exclude the public and press from meetings of the Hearing Panel where it is likely that confidential or exempt information will be disclosed.

- Once a hearing has started, the District Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.

- All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.

1.7 Where the Subject Member fails to attend the Hearing Panel and where the [Hearing Panel] is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member 's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations

expeditiously. [Janik v Standards Board for England and Adjudication Panel for England (2007)]

**2. Right to be accompanied by a Representative**

2.1 The Subject Member may choose to be accompanied and/or represented at the Hearing Panel by a fellow Councillor, friend or colleague, or a legal representative.

**3. The Conduct of the Hearing**

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

(a) elect a Chair;

(b) apologies for absence;

(c) declarations of interests;

(d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.7 above);

(e) introduction by the Chair, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;

(f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;

(g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chair may exercise his/her discretion and amend the order of business, where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

(a) The Hearing Panel may adjourn the hearing at any time.

3.4 **<u>Presentation of the complaint</u>**

(a) The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted;

(b) The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;

(c) The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

3.5 **Presentation of the Subject Member's case**

(a) The Subject Member or their representative presents their case and calls their witnesses;
(b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member;
(c) The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

3.6 **Summing up**

(a) The Investigating Officer sums up the complaint;

(b) The Subject Member or their representative sums up their case.

3.7 **Views/Submissions of the Independent Person**

The Chair will invite the Independent Person to express their view on whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

3.8 **Deliberations of the Hearing Panel**

**Deliberation in private**

(a) The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct. No new evidence may be introduced at this stage.

(b) The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating

Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and from whom.

3.9 **Announcing decision on facts found**

1. The Hearing Panel will reconvene the hearing in public and the Chair will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct.

2. Where the Hearing Panel finds that there has been a breach of the Code of Conduct, the Chair will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.

3. When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

    a. What was the Subject Member's intention and did they know that they were failing to follow the District (or Parish) Council's Code of Conduct?

    b. Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?

    c. Has there been a breach of trust?

    d. Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?

    e. What was the result/impact of failing to follow the District (or Parish) Council's Code of Conduct?

    f. How serious was the incident?

    g. Does the Subject Member accept that they were at fault?

    h. Did the Subject Member apologise to the relevant persons?

i. Has the Subject Member previously been reprimanded or warned for similar misconduct?

j. Has the Subject Member previously breached the District (or Parish) Council's Code of Conduct?

k. Is there likely to be a repetition of the incident?

(i) Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.

(ii) If evidence presented to the Hearing Panel highlights other potential breaches of the District (or Parish) Council's Code of Conduct, then the Chair will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.

3.10 **Formal Announcement of Decision**

1. Where the complaint has a number of aspects, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.

2. The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing.

3. Having taken into account the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chair will announce:

(a) the Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision;

(b) the sanctions (if any) to be applied;

(c) the recommendations (if any) to be made to the District (Parish) Council or Monitoring Officer;

(d) that there is no right of appeal against the Panel's decision and/or recommendations.

**4. Range of Possible Sanctions**

4.1 Subject to paragraph 4.3 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:

1. reporting its findings to a meeting of the full Council *[or to the relevant Parish Council]* for information and/or censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
2. issuing a press release/or other appropriate publicity;

(a) recommending to the Councillor's political Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council for a specified period;

(b) recommending to the Leader of the Council that an Executive Councillor be removed from the Executive, or removed from particular portfolio responsibilities;

(c) recommending appropriate training for the Councillor;

(d) recommending to the Council the removal of the Councillor *[or recommending to the relevant Parish Council that the Councillor be removed]* from all outside appointments to which they have been appointed or nominated by the Council *[or by the relevant Parish Council]* for a specified period;

(e) withdrawing [*or recommending to the relevant Parish Council that it withdraws]* facilities provided to the Councillor by the Council for a specified period, for example electronic access to the Council's systems; or

(f) excluding *[or recommending that the relevant parish council excludes]* the Councillor from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings; or,

(g) instructing the Monitoring Officer to apply the local/informal resolution process; or,

(h) sending a formal letter to the Councillor.

4.2 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

4.3 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

**5. Publication and Notification of the Hearing Panel's Decision and Recommendations**

5.1 Within 20 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the District Council's website.

5.2 Within 20 working days of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:

(a) the Subject Member;

(b) the Complainant;

(c) (the Clerk to the Parish Council)

(d) Mid Devon District Council's Standards Committee (applicable only where the Subject Member is serving at both District and County level);

5.3 The Monitoring Officer will report the Hearing Panel's decision and recommendations to a meeting of the Standards Committee for information.

**CODE OF CONDUCT COMPLAINTS APPEAL PROCEDURE**

After a decision has been made regarding a complaint any decision is open to judicial review by the High Court if the decision is alleged to be unreasonable, or taken improperly, or if it sought to impose a sanction which the Authority had no power to impose.

Also, a complaint of maladministration in dealing with a complaint falls within the jurisdiction of the Local Government Ombudsman.

However, a limited appeal mechanism in relation to these decisions allows for a sub-committee appeals panel of 3 members of the Standards Committee, who must not have heard the original matter to review the appeal. This is subject to specific and limited criteria, thus providing confidence for members.

***It is important that the appeal does not become another hearing, but focuses on reviewing the decision that was taken and re-hears the relevant evidence to test this decision.***

The appeal panel would not reinvestigate the complaint itself and would only review the decision of the standards committee/subcommittee and ensure there were no errors procedurally.

The appeal must be made within 5 working days of the Standards Sub Committee decision being given. The appeal should be in writing and sent to the Monitoring Officer.

Under this appeal the parties will not be able to introduce new evidence, as this should have been provided within the investigation process/hearing stage, unless the evidence was not available at the time of the original hearing (this would need to be supported by evidence that it was not available at the time of the original hearing). **The subcommittee is the decision maker** and the appeal panel's decision is not to be taken to the Standards Committee for further approval. The Standards Committee are to be notified of the decision of the appeals panel.

As per the Hearing Procedure each party are able to present their case and refer to their original supporting witness evidence (and new evidence if agreed by MDDC prior to the hearing), and both parties and the panel are able to question each witness. MDDC would present their case first, and then the Member would present their case afterwards.

Nothing in this procedure will prevent the panel from inviting either party or representative to describe or clarify any statement they have made.

Should the panel believe that further investigation or evidence is required, then an adjournment may be called to enable this to take place. The hearing will be reconvened as soon as practicably possible.

Following the 'summing up' both parties will withdraw from the hearing. The panel will deliberate in private only recalling both parties to clarify points of uncertainty on evidence already given. If recall is necessary, both parties will be requested to return notwithstanding that only one is concerned with the point giving rise to doubt.

The panel will reconvene to announce their decision to both parties verbally where possible. In any event the parties will be notified of the decision in writing within 7 working days of the appeal panel hearing.

**GUIDANCE NOTE ON**

**BIAS AND PREDETERMINATION PROCESS**

***What is Bias and Predetermination?***

The law on bias and predetermination (which is a particular form of bias) is part of the general legal obligation on public authorities to act fairly.

Decision makers are entitled to be **predisposed** to particular views. However, **predetermination** occurs where someone closes their mind to any other possibility beyond that predisposition, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision.

The leading case on local authority bias and predetermination[5] acknowledges the difference between judges sitting judicially and councillors making decisions in a democratic environment. Given the role of councillors, there must be 'clear pointers' before predetermination is established.

***Section 25 Localism Act 2011***

Section 25(2) of the Localism Act 2011 provides that a decision maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because:–

(a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take in relation to a matter, and

(b) the matter was relevant to the decision.

The section makes it clear that if a councillor has given a view on an issue, this, considered in isolation, does not show that the councillor has a closed mind on that issue. So, the mere fact that a Councillor has campaigned on an issue or made public statements about their approach to an item of council business does not prevent that councillor from being able to participate in discussion of that issue and to vote on it.

Having said this, the use of the words 'just because' in section 25 suggest that other factors when combined with statements made etc. can still give rise to accusations of

[5] (R(Lewis)v Persimmon Homes Teeside Ltd [2008] EWCA Civ 746

predetermination. This has also been the approach that the courts have taken to this issue. When considering whether predetermination has taken place they will consider all events leading to the decision, (and also, where appropriate, those following the decision) rather than looking at individual events in isolation.

The case law has also made it clear that the words used by particular Members and the interpretation put on those words is of particular importance. So care still needs to be taken when making statements in advance of the determination of planning applications as there is a risk that they can be misinterpreted or taken out of context.

**Guidance**

With this in mind:-

- It is always advisable to avoid giving the impression that you have made up your mind prior to the decision making meeting and hearing the officer's presentation and any representations made on behalf of the applicant and any objectors.

- With this in mind, if you do comment on a development proposal in advance of the decision, consider using a form of words that makes it clear that you have yet to make up your mind and will only do so at the appropriate time and in the light of the advice and material put before you and having regard to the discussion and debate in the Panel meeting.

- Particular care should be taken where there are chance encounters with objectors and developers to development proposals or in the context of meetings which are not formally minuted. These are situations where the risk of what you say being misrepresented or taken out of context is particularly high.

**Concluding Comments**

As a Councillor operating within a political environment you should not be afraid to express views on issues. However, in doing so it is important that you avoid giving the impression that you have already made up your mind and that your part in the decision is a foregone conclusion.

## APPENDIX L – Councillors - Leave of Absence from Council Meetings

**Introduction**

- Councillors are elected to represent the interests of the whole District and those of their ward in particular. In order to fulfill this role it is expected that all councillors will make a full contribution to the work of the Council throughout their term of office. This will include:

- attendance at meetings of the Council

- attendance at meetings of committees and working groups to which they may be appointed

- being available to deal with queries, complaints and requests for assistance from residents and businesses in their ward in person, by telephone, correspondence and email as appropriate

- responding to consultations from officers on matters such as planning applications

- All councillors will hopefully have satisfied themselves before standing for election that they are able to commit the necessary time to fulfilling this important and rewarding role within the community. Any councillor who, whether through change of circumstances or otherwise, finds that they are no longer able to give sufficient time to the role, they should in the first instance consult their group leader and/or the Monitoring Officer to discuss what further support may be available but may ultimately have to consider whether, in the interests of their electorate, it is appropriate for them to continue as a councillor.

**Non-attendance at meetings**

- Being a councillor is about much more than just attending meetings; the role as a community leader is equally important but it is at meetings of the Council and its committees where issues are debated and formal decisions are made.

- Councillors should make every effort to attend all meetings of which they are a member but where this is not possible they should submit their apologies to the Democratic Services Team in advance, inform their group leader and in the case of

committees to which the procedure for substitute members apply, arrange for another member to attend as substitute wherever possible.

- **A Councillor who is absent from all meetings of the Council and any committees of which they are a member for a period of six months automatically ceases to be a member of the Council unless they have been given leave of absence by the Council before the expiry of that six month period** – s.85 Local Government Act 1972

- Whilst the Democratic Services Team will make every effort to monitor attendance and forewarn any councillors who may be nearing the expiry of the six month period, the responsibility for ensuring that they comply with the requirements of s.85 is that of the individual councillor.

- There are some specific points and exceptions to note:

(a) s.85 relates to meetings of Council, committees and sub-committees. It does not apply to working parties or task groups and so attendance at those meetings is not sufficient for the purposes of the s.85. Neither does attendance as an observer at a meeting of a committee of which the councillor is not a member count, even if invited to speak by the Chair.

(b) A councillor who is represented at a committee meeting by a substitute is regarded as being absent from that meeting.

(c) A councillor who attends a meeting as the appointed substitute for another councillor is a member of the committee for that particular meeting and this is therefore sufficient for the purposes of s.85.

(d) Where a councillor has been suspended from office (e.g. following a breach of the code of conduct) the period of suspension is disregarded for the purposes of calculating the six month period of absence.

(e) Absence due to service in HM Forces (including territorial or reserve duties) will normally be disregarded for the purposes of s.85.

**Requests for leave of absence**

- Any councillor whose absence from meetings is likely to extend to six months or more should request a leave of absence by writing to the Monitoring Officer stating:

- the reasons for the absence

- the anticipated period of absence
- whether the councillor will be available to continue performing any Council functions during this period e.g. continuing to deal with ward matters by telephone or email
- what arrangements (if any) have been made to cover for the councillor's absence e.g. a fellow or neighbouring ward councillor representing the interests of their ward

- Requests will normally be considered by full Council and should therefore be made in sufficient time, having regard to the programme of meetings, to allow this to happen before the period of six months expires. Only in the most exceptional circumstances will a request for a leave of absence be considered under the Council's 'urgent business procedure'.

**Granting leave of absence**

- Each request for a leave of absence will be considered on its own merits having regard to:

- the reasons for the proposed absence, from future meetings, and the extent to which this is unavoidable;

- the duration of the proposed absence;

- the extent to which the member will be able to continue carrying out any functions of a councillor notwithstanding their absence from meetings;

- the suitability of any alternative arrangements that are proposed for ensuring that the interests of the ward are adequately represented

- Requests for leave of absence will normally be granted in cases of:

- serious illness for periods up to 12 months in total

- pregnancy (for the equivalent period during which an employee of the Council would normally be entitled to maternity leave)

- A leave of absence may be granted for such period as the Council thinks is reasonable in all the circumstances. Once that leave of absence expires, the clock re-starts so far as s.85

is concerned and the councillor has a further six months in which to attend a meeting (or seek a further leave of absence)

- A councillor granted a leave of absence from meetings is still entitled to payment of the basic allowance. However, where it considers it appropriate the Council may request the councillor to voluntarily waive their entitlement to all or part of that allowance depending upon the degree to which the councillor will be unable to carry out their normal duties.

**LIST OF AMENDMENTS MADE TO THE CONSTITUTION (FOLLOWING APPROVAL OF THE NEW CONSTITUTION IN FEBRUARY 2016)**

***(Changes made November 2016 unless stated otherwise)***

| Page* | Ref | Reason for amendment | Comments |
|---|---|---|---|
| 22 | Article 8.2 | Add Economy PDG and update thematic area | Following approval by Council 27 April 2016 |
| 25 | Article 9.1 (f) | Include reference to Financial Regulations | Following approval by Council on 26 October 2016 |
| 26 | Article 9.4 | Remove reference to Scrutiny | Monitoring Officer, under delegated authority - error Scrutiny mentioned in Audit section |
| 27 | Article 10.4 | Standards Sub Committee | Formatting |
| 33 | Article 14.1 | Amend title of Chief Finance Officer to Deputy Chief Executive (S151) | Monitoring Officer, under delegated authority - consequential change following restructure. |
| 37 | Article 15.3 | General formatting | Monitoring Officer, under delegated authority |
| 40 | Article 16 | Amendment to 16.4 – in line with updated Financial Regulations | Following approval of Financial Regulations by Full Council 26 October 2016 |
| 47 | Part 3 | Councils Committee Structure | Add Economy PDG and amend numbers of Planning, Licensing and Regulatory Committees – Agreed by Full Council 27 April 2016 |
| 50 | Part 3 Section 1 - 4.2 | Update officer titles | Monitoring Officer, under delegated authority - consequential change following restructure. |
| 54 | Part 3 Section 2 | Amend make up (numbers) of Planning, Licensing and Regulatory Committees | Agreed by Full Council 27 April 2016 |
| 61 | Section 5 | Scheme of Delegations – updating officers and removing Head of Communities and Governance | Monitoring Officer, under delegated authority consequential change following restructure |
| 61 | Section 5 – 3.1 | Remove reference to Elections for Chief Executive and add to Director of Business Improvement and Operations. | Agreed by Full Council 26th October 2016 |
| 61 | Section 5 – 3.1 | Add Director of Growth with Economic Development, Community Development and Markets etc to the Chief Executive | Monitoring Officer, under delegated authority consequential change following restructure |

| Page* | Ref | Reason for amendment | Comments |
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| 62 | Section 5 – | Remove reference to Head of Communities and Governance and reallocate functions under that role to 2 Directors.<br><br>Add Director of Business Improvement and Operations as Monitoring Officer | Monitoring Officer, under delegated authority consequential change following restructure<br><br>As agree by Full Council 26 October 2016 |
| 63 | Section 5 | Amend title of Head of Finance | Monitoring Officer, under delegated authority consequential change following restructure |
| 63 | Section 5 | Amend title of Head of HR and Development | Monitoring Officer, under delegated authority consequential change following restructure |
| 75 | Appendix 3 | Amend delegation to Officers – Elections – remove CEO and replace with Director of Business Improvement and Operations<br><br>Remove reference to Head of HR and replace with Director of Business Improvement and Operations<br>Remove reference to HF and replace with Deputy Chief Executive (S151) | As agree by Full Council 26 October 2016<br><br>Monitoring Officer, under delegated authority consequential change following restructure. |
| 78 | Appendix 4 Proper Officers | Change of titles and delete reference of HCG.<br>Split services under HCG and amend Proper Officer requirements under legislation.<br><br>Insert Director of Business Improvement and Operations as MO | Monitoring Officer, under delegated authority consequential change following restructure Consequential change following restructure<br><br>As agreed by Council 26 October 2016 |
| 83 | Part 4 | Formatting of Procedure Rules | Monitoring Officer, under delegated authority consequential change consequential change |
| 122 | Scrutiny Audit and PDG Procedure Rules | Renumbering for formatting reasons | Monitoring Officer, under delegated authority consequential change -Error in numbering |

| Page* | Ref | Reason for amendment | Comments |
|---|---|---|---|
| 177 | Schedule for MO functions | Insert Localism Act with regard to investigation of complaints | Monitoring Officer, under delegated authority consequential change due to legislation – should have been amended in 2012 |
| 179 | Part 6 Members Allowances | Scheme up dated | Following approval by Council 31 August 2016 |
| 197 | Appendix C | Delegation of Cabinet Functions | Monitoring Officer, under delegated authority consequential change following restructure |
| 203 | Appendix D | Petition Scheme | Monitoring Officer, under delegated authority consequential change Amend Link to website |
| 212 | Appendix F | Financial Regulations | Provided Link to website – following approval by Council 26 October 2015 |
| 223 | Appendix J | Add Protocol of Good Practice for Councillors dealing with planning matters. | Updated and added from Old Constitution following consideration of Planning Procedures and approval – Full Council - 31 August 2016 |
| 191 | Part 7 | Management Structure updated with current Leadership Team | Monitoring Officer, under delegated authority consequential change following restructure Consequential change |
| 80 | Appendix 4 Schedule for Chief Executive functions | Anti-Social Behaviour, Crime and Policing Act 2014 as agreed by Cabinet 5 February 2015 | Monitoring Officer, under delegated authority consequential change due to legislation – should have been inserted in February 2015 |
| 65 | Scheme of Delegation to the Head of Planning, Economy and Regeneration | Updated scheme for the Head of Planning, Economy and Regeneration | Following consideration by the Planning Committee 6 July 2016 |
| 28 | Standards Sub Committee specific functions | Remove paragraph under (10) | Following approval by Council on 22 February 2017 |

***Changes made 5 April 2017 unless otherwise stated***

| Page* | Ref | Reason for amendment | Comments |
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| 51 | Section 1 Powers of the Council | Amend from Director of Business Improvement and Operations Director of Business Improvement | Monitoring Officer, under delegated authority consequential change following restructure |

| Page* | Ref | Reason for amendment | Comments |
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| | | and Operations to Director of Operations | |
| 61 | Section 5<br>Scheme of Delegation to Officers Only | Add Leadership Team | Monitoring Officer, under delegated authority consequential change following restructure |
| 62 | Section 5<br>Director of Business Improvement and Operations | Remove Leisure, Licensing, Environmental Health and Private Sector Housing add to delegations for Director of Operations | Monitoring Officer, under delegated authority consequential change following restructure |
| 67 | Section 5<br>Head of Housing and Property Services | Replace with Director of Operations | Monitoring Officer, under delegated authority consequential change following restructure |
| 64 | Section 5<br>Director of Finance Assets and Resources | Add Property delegation and remove Waste and Recycling Management and Environmental Enforcement and add to delegations for Director of Operations | Monitoring Officer, under delegated authority consequential change following restructure |
| 67 | Scheme of Delegation to the Head of Planning, Economy and Regeneration | Delegated authority with regard to the Building Control Partnership | Following approval by Council on 22 February 2017 |
| 68 | Section 5<br>Head of Customer Services | Delete and pass delegations to the Director of Business Improvement and Operations. | Monitoring Officer, under delegated authority consequential change following restructure |
| 75 | Appendix 3<br>Delegation to Officers | Remove Health and Community Services and replace with Operations<br><br>Move delegations to Director of Operations where appropriate | Monitoring Officer, under delegated authority consequential change following restructure |
| 76 | Appendix 3<br>Delegation to Officers - Housing | Remove Head of Housing and Property Services and replace with Director of Operations where appropriate except for | Monitoring Officer, under delegated authority consequential change following restructure |

| Page* | Ref | Reason for amendment | Comments |
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| | | Management of Council Shops and Commercial units and acquiring sites and affordable units for the continued provision of affordable housing which will move to the Deputy Chief Executive (S151). | |
| 80 | Proper Officers | (2) Remove notifiable diseases…..from the Director of Business Improvement and Operations and add to Director of Operations<br>(5) Remove Head of Housing and Property Services and replace with Director of Operations<br>(6) Remove reference to the Head of Customer Services, Data Protection function to be moved to the Director of Business Improvement and Operations | Monitoring Officer, under delegated authority consequential change following restructure |
| 179 | Members Allowances Scheme | Scheme – March 2017 | Following approval by Council on 22 February 2017 |
| 197 | Appendix C – Delegation of Cabinet Functions | Remove reference to Head of Housing and Property Services and replace with Head of Operations<br>Amend Lead Officers to correspond with functions services now under the Director of Operations. | Monitoring Officer, under delegated authority consequential change following restructure |
| ***Changes made 25 May 2017 unless otherwise stated*** | | | |
| 54/55 | Delegations to the Licensing and Regulatory Committee | Reference made to the Localism Act 2011 | Following approval by Council on 26 April 2017 |
| 63 | Delegation to Officers | Remove reference to the Monitoring Officer Role from DBIO | Monitoring Officer, under delegated authority consequential change following arrival of new District Solicitor (Monitoring Officer) and Monitoring Officer |

| Page* | Ref | Reason for amendment | Comments |
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| 68 | Delegation to Officers | Add District Solicitor (Monitoring Officer) and Monitoring Officer | Monitoring Officer, under delegated authority consequential change following arrival of new District Solicitor (Monitoring Officer) and Monitoring Officer |
| 79 | Proper Officers | Remove reference to DBIO and replace with District Solicitor (Monitoring Officer) | Monitoring Officer, under delegated authority consequential change following arrival of new District Solicitor (Monitoring Officer) and Monitoring Officer |
| 141 | Members Code of Conduct | Remove old Code and replace with that approved by Council | Following approval by Council on 26 April 2017 |
| 150 | Register of Interest Form | Remove old form and replace with that approved by Council | Following approval by Council on 26 April 2017 |
| 240 onwards | New Appendix K<br>Protocols and Procedures – Complaints and investigations into Members Conduct | New Protocols and Procedures | Following approval by Council on 26 April 2017 |
| ***Changes Made 1 August 2017*** | | | |
| 121 | The addition of 2.6 | Wording to allow non Cabinet members to speak at Cabinet meetings | Agreed by the Standards Committee 25 July 2017 – authority given to MO to make consequential amendment. |
| ***Changes made 26 April 2018*** | | | |
| 238 | Procedure for speaking at Planning Committee | Rewording of Paragraphs 9.1, 9.2, 9.3 | Following approval by Council on 25 April 2018 |
| 112 | Access to Information | Rewording of paragraph 27.5 | Following approval of Motion 546 by Council – 6 June 2018 |
| ***Changes made 19 December 2018*** | | | |
| 25 | Article 9 – Audit Committee | Additional wording to paragraph (a) and (q) | Following approval at Council 19 December 2018 |
| 305 | Appendix L | New appendix | Councillors - Leave of Absence from Council Meetings |
| ***Changes made 27 March 2019*** | | | |

| Page* | Ref | Reason for amendment | Comments |
|---|---|---|---|
| 182 | Members Allowances | 2019/20 Members Allowances Scheme | Following approval by Council 27 February 2019 |
| ***Changes made 9 August 2019*** | | | |
| 198 | Functions of the Regulatory Committee | Add Appendix AA | Following approval by Council – 24 July 2019 |
| ***Changes made September 2019*** | | | |
| 153<br><br><br><br>248<br><br><br>222/223 | Register of Interest Form<br><br><br><br>ROI guidance | Remove reference to gifts and hospitality as this is a duplication of the Gifts and Hospitality Form<br><br>Remove as explained above<br><br>Split member and officer Gifts and Hospitality Form in Appendix H | Monitoring Officer – minor and consequential changes |
| 67 | Delegations to the Head of Planning, Economy and Regeneration | Amendment to delegation with regard to planning enforcement | As approved by Council on 11 September 2019 |
| ***Changes made November 2019*** | | | |
| 143 | Code of Conduct | Amendment outlining the meaning of bullying and adding harassment | As approved by Council on 6 November 2019 |
| 137 | Officer Employment Rules | Clarifying disciplinary actions for senior officers | Approved by Council in 2015 and clarified via legislation |
| 24 | Article 8 | To clarify proceedings for the PDG's to include joint PDG's for specific purposes | Monitoring Officer – minor and consequential changes |
| **Changes – February 2020** | | | |
| 50 | Powers of the Council – Section 1 | Clarification of roles | Monitoring Officer – minor and consequential changes |
| 54 | Regulatory Powers of the Council | Clarification | Monitoring Officer – minor and consequential changes |
| 197 | Appendix AA | Functions of the Regulatory Committee | Monitoring Officer – minor and consequential changes following legal advice |
| 205 | Appendix C | Delegation of Cabinet Functions | Approved by the Leader |

| Page* | Ref | Reason for amendment | Comments |
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| 47 onwards | Scheme of Delegation | Amendments to Leadership Team and delegation to the Deputy Chief Executive | Monitoring Officer – minor and consequential changes |
| 102 | Access to Information | Amendments to paras 16.4 and 17.3 | Approved by Council on 26 February 2020 |
| 118 | Cabinet Procedure Rules | The addition of para 3 | Approved by Council on 26 February 2020 |
| | Change of title for Head of Legal (Monitoring Officer) | Throughout the document | Monitoring Officer – minor and consequential changes |
| | Change of title of the Director for Business Improvement and Operations | Throughout the document | Monitoring Officer – minor and consequential changes |
| 186 | Member Allowances Scheme | Updated scheme | Approved by Council 6.1.21 |
| 115 | Access to Information | Additional paragraph with regard to working groups | With regard to Motion 474 (2013) |
| 94 | Procedure Rule 14.4 | Amendment to wording of Procedure Rule 14.4 | Following approval of Motion 568 - Council February 2021 |
| | Remove Director of Operations from the Establishment | Throughout document and assign functions to other directors | Monitoring Officer – minor and consequential changes |
| **Changes September 2021** | | | |
| | Removal of the Head of Planning, Economy and Regeneration, replacing with the Development Management Manager and other officers | Throughout document and assign functions to other officers | Monitoring Officer – minor and consequential changes |
| **Changes - 1 October 2021** | | | |
| | Procedure Rule 14.4 | Amendment to wording of Procedure Rule 14.4 | Following approval of Motion 569 - Council August 2021 |

| Page* | Ref | Reason for amendment | Comments |
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| | Renaming of Head of Legal to District Solicitor | Throughout the document | Monitoring Officer – minor and consequential changes |
| **Changes – November 2021** | | | |
| | Addition of Director of Place | Throughout the document for specific functions once held by the Head of Planning, Economy and Regeneration and added to the Management Structure | Monitoring Officer – minor and consequential changes |
| | Revised Code of Conduct | Amended Code | Approved by Council on 27 October 2021 |
| | Gifts and Hospitality Form | Amended in line with revised Code of Conduct | Approved by Council on 27 October 2021 |
| Changes February 2022 | | | |
| | Local Jurisdiction Test | Amended | Approved by Council 23 February 2022 |
| | Local Assessment criteria test | Amended | Approved by Council February 2022 |
| Changes April 2022 | | | |
| 186 | Member Allowances Scheme | Updated scheme | Approved by Council 15.12.21 |
| 51/52 | Scheme of Delegation | Amended | Monitoring Officer – minor and consequential changes |
| Changes February 2023 | | | |
| 28/91/126<br><br><br><br>104 | Audit Committee 7>9 and quorum | Amendment<br><br><br><br>Amendment to wording of Council Procedure Rule 26 | Approved by Council on 27 April 2022<br><br><br>Following approval of Motion 580 – Council on 26 October 2022 |
| Changes September 2023 | | | |
| 190-197 | Member Allowances Scheme | Updated Scheme | Approved by Council 22 February 2023 |

| Page* | Ref | Reason for amendment | Comments |
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| 88- | Council Procedure Rules | Standards Committee – Task and Finish Group Recommendations | Approved by Full Council on 6 September 2023 |
| | | | Amended throughout Constitution title from 'Member Services' to 'Democratic Services' |
| 20 | Deputy Leader | Where 2 Deputy Leaders | Approved by Full Council 24 May 2023 |
| Changes May 2024 | | | |
| 105 | Motion 577 | Amendment to form of responses added (d) and (e) | Approved by Full Council 20th December 2023 |
| 55 | Changes to section 1 The Powers of the Council | Amendment to remove Director of Business improvement and operation post and replace with Director of Place and Economy | Monitoring Officer – minor and consequential changes<br><br>Approved at Full Council April 2024 |
| 66-83 | Changes to Section 5 Scheme of delegations to Officers only | Removed and replace job titles through this section<br><br>Page 69 under Development Management Manager added in under exception (8) | Monitoring Officer – minor and consequential changes<br><br>Approved at Full Council April 2024 |
| 101 | Changes to Questions and statements by the public | Section 9.1 added<br>Bullet point 1- and/or make a statement<br>Bullet point 2- to ensure that a response is received at the meeting to written questions<br>Bullet point 3- and/or make a statement<br>Unless challenging the accuracy of the minutes.<br>Bullet point 4- and/or statement<br>Bullet point 5- and/or statement<br>Bullet point 6- or | Approved at Full Council April 2024 |
| 102 | Changes to attendance | Added and/or statement | Approved at Full Council April 2024 |

| Page* | Ref | Reason for amendment | Comments |
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| 102 | Changes to recording of questions and statements by public | Added and/or statements and the minutes are not verbatim | Approved at Full Council April 2024 |
| 114 | Disturbance by the public | Re ordered to (a) and (b) | Approved at Full Council April 2024 |
| 116 | Access to information procedure rules | Notices of meetings added and on its website | Approved at Full Council April 2024 |
| 120 | Changes to publication of the notice of key decisions | added and on its website | Approved at Full Council April 2024 |
| 135 | Changes to Cabinet numbers | Eight to Nine and Quorum 4 to 5 | Delegated MO amendment May 2024 |
| **Changes from June 2024** | | | |
| Throughout the document | Changes to Chairman to Chair | Standards Committee recommendation | Delegated MO amendment November 2024 |
| Throughout the document | Proposed changes to the Policy Development groups | Standards Committee to Full Council recommendation | Approved at Full Council April 2024 |
| 137 | Bullet point 8 | Changes to the number of meetings as agreed following Corporate Plan | Approved at Full Council April 2024 |
| 257 | Appendix J | Reference to implication reports removed as this no longer happens. | Delegated MO amendment- November 2024 |
| 88 | 1998 change to 2018 | Legalisation Change | Delegated MO amendment- November 2024 |

| Changes from June 2025 | | | |
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| **Page** | **Reference** | **Reason for amendment** | **Comment** |
| 72 | Director of Place and Economy remove the word (H) | Formatting | Monitoring Officer – minor and consequential changes |
| 73 | Building control and Safety | To exercise all the Council's powers under the Building Act 1984 or regulations and any subsequent legislation made such as:-:- | Monitoring Officer – minor and consequential changes |
| 242 | Appendix F- financial Regulations | New link embedded https://www.middevon.gov.uk/media/357429/financial-regulations.pdf | Monitoring Officer – minor and consequential changes |
| Changes from July 2025 | | | |
| **202** | **Member Scheme of Allowance** | **Updated following approval from Full Council** | **Monitoring Officer – minor and consequential changes** |
| **212** | **Appendix A - Functions of the Licensing Committee** | **Changed to word 'complaint' to 'representation'** | **Monitoring Officer – minor and consequential changes** |