

# **CHAPTER 4 – ACCESS TO INFORMATION PROCEDURE RULES**



## ACCESS TO INFORMATION PROCEDURE RULES

### Introduction to the Access to Information Procedure Rules

Openness and transparency are important for building trust and accountability between the Council and members of the public and between Councillors. These Access to Information Procedure Rules explain how members of the public can attend meetings of the Council and to see and to have copies of documents being considered at those meetings. They also explain additional rights of Councillors to information supporting decisions being taken by the Executive, an individual member of the Executive or an officer in respect of the Council's executive decisions.

## ACCESS TO INFORMATION PROCEDURE RULES

### 1. **Application of the Rules**

These Access to Information Procedure Rules apply to all formal meetings of the Council, its Committees and Sub-Committees, public meetings of the Executive and where appropriate individual executive decisions.

### 2. **Summary of the Public's rights**

A copy of these Access to Information Procedure Rules, which are 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 offices and published on the Council's website.

### 3. **Additional rights to information**

These Access to Information Procedure Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### 4. **Rights to attend meetings**

Members of the public may attend all public meetings subject only to the exceptions in these Access to Information Procedure Rules.

## 5. Notices of meeting

The Council will normally give at least five clear days' notice of any meeting by posting details of the meeting at the Council's offices and publishing on its website.

## 6. Access to agenda and reports before the meeting

- 6.1. The Council will normally make copies of the agenda and reports open to the public available for inspection at the Council's offices at least five clear days before the meeting.
- 6.2. If an item is added to the agenda later, the revised agenda (or where reports are prepared after the agenda has been sent out), the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors.
- 6.3. Nothing in this requires a copy of the agenda, item or report to be available for inspection by the public until a copy is available to Councillors.

## 7. Supply of copies

- 7.1 The Council will supply copies of:
  - (a) any agenda and reports which are open to public inspection; and
  - (b) any further statements or particulars necessary to indicate the nature of the items in the agenda
- 7.2 If the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item may be supplied to any person on payment of a charge for postage and any other costs.

## 8. Access to decision-making papers

- 8.1. The Council will make available for inspection by members of the public copies of the following for six years after a meeting:
  - (a) the minutes of the meeting, or records of decisions taken for all formal meetings of the Council and the Executive excluding any documents which disclose exempt or confidential information;
  - (b) the agenda for the meeting; and
  - (c) reports relating to items when the meeting was open to the public.
- 8.2 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 excluding any documents which disclose exempt or confidential information.
- 8.3 Unless a delegated decision is already required to be produced in accordance with another statutory requirement, the Council will publish on the Council's

website a record of decisions showing decisions delegated to officers and/or individual members of the Executive where the effect of the decision is to:

- (a) grant a permission or licence;
- (b) affect the rights of an individual; or
- (c) award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

## 9. Background papers

### 9.1. List of background papers

The officer with responsibility for the report (usually the report author) will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their 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, but do not include published works or those which disclose exempt or confidential information (as defined in Access to Information Procedure Rule 10).

## 10. Exclusion of the public from meetings

### 10.1. Confidential information – requirement to exclude public

The public must be excluded from meetings if it is likely in view of the nature of the business to be considered or the nature of the proceedings that confidential information would be disclosed.

### 10.2. Exempt information – discretion to exclude public

The public may be excluded from meetings if it is likely in view of the nature of the business to be considered or the nature of the proceedings that exempt information would be disclosed. Where the meeting will decide 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.

### 10.3. Meaning of confidential information.

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### 10.4. Meaning of exempt information.

Exempt information means information falling within the following seven categories (subject to any qualification):

<b>Category</b>	<b>Condition</b>
1. Information relating to any individual.	See General Note above.
2. Information which is likely to reveal the identity of an individual.	See General Note above
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information in Category 3 is not exempt if it is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986, or the Charities Act 1993.</p> <p>Also see General Note above.</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	<p>"Labour relations matters" are as specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute.</p> <p>Also see General Note above</p>
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	See General Note above
6. Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	See General Note above
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	See General Note above

General Note: In all categories, information is not exempt if it relates to development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Subject to this, and the qualification in Category 3, Information in Categories 1 to 7 is exempt 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 it.

## 11. **Exclusion of access by the public to reports**

If the [Proper Officer](#) thinks fit, the Council may exclude access by the public to reports that in their opinion relate to items during which, in accordance with Access to Information Procedure Rule 10, 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.

## 12. **Procedure before taking key decisions**

12.1. A Key Decision is an executive decision, which is likely:

- (a) to result in the Council incurring expenditure which is, or the making savings which are, significant having regard to the council's budget for the service or function to which the decision relates, or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Council's area..

For the purpose of this definition, savings or expenditure will not normally be considered to be significant if less than £500,000

12.2 Subject to Access to Information Procedure Rules 14 and 15, a Key Decision may not normally be taken unless:

- (a) notice of the Key Decision has been included in the [Forward Plan](#);
- (b) at least 28 clear days have elapsed since the publication of the [Forward Plan](#) in which the Key Decision was first included; and
- (c) where the Key Decision is to be taken at a meeting of the Executive or an Executive Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rule 5.

## 13. **Forward Plan**

### 13.1. **Advance notice of Key Decisions**

Where the Executive, an Executive Committee, individual members of the Executive, Officers, or under joint arrangements intend to take a Key Decision, a Forward Plan or other document will be published at least 28 days before the Key Decisions referred to in it are to be made.

### 13.2. **Contents of Forward Plan.**

The Forward Plan or other document will normally contain matters which the Leader of the Council and/ or Head of Paid Service believes will be subject of a Key Decision to be taken by the Executive, an Executive Committee, individual members of the Executive, Officers, or under joint arrangements during the period covered by the plan. It will usually include the following particulars insofar as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken; the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (f) a list of the documents submitted to the decision taker for consideration in relation to the matter.

#### 14. **General exception**

14.1. If it is impracticable to comply with the Forward Plan requirements of Access to Information Procedure Rule 13 above then, subject to Access to Information Procedure Rule 15, the decision may still be taken if the Proper Officer:

- (a) is satisfied that it is appropriate for the decision to be taken in any event;
- (b) has informed the Chairman of the Overview and Scrutiny Committee or if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
- (c) has made copies of that notice available to the public at the Council's offices and on the Council's website; and
- (d) at least 5 clear days have elapsed since the Proper Officer complied with (b) and (c).

14.2. As soon as reasonably practicable after the Proper Officer has complied with Access to Information Procedure Rule 14.1, they must make available at the Council's offices a notice setting out the reasons why compliance with Access

to Information Procedure Rule 13 is impracticable; and publish that notice on the Council's website.

- 14.3. Where this Rule applies, Access to Information Procedure Rule 13 need not be complied with.

## 15. **Special urgency**

- 15.1. Where the date by which a Key Decision must be made, makes compliance with Access to Information Procedure Rule 14 impracticable, the Key Decision may only be made where the decision-maker has obtained agreement from:

- (a) the Chairman of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the Chairman of the Overview and Scrutiny Committee is unable to act, the Chairman of Council, or where Chairman of the Council is unable to act, the Vice-Chairman of Council,

that the making of the decision is urgent and cannot reasonably be deferred.

- 15.2. As soon as reasonably practicable after the decision-maker has obtained agreement under Access to Information Procedure Rule 15.1, the decision-maker must make available at the Council's offices a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred; and publish that notice on the Council's website.

## 16. **Report to Council**

### 16.1 **When the Overview and Scrutiny Committee can require a report**

If the Overview and Scrutiny Committee thinks that a decision has been taken which:

- (a) was not treated as being a Key Decision; and
- (b) the Overview and Scrutiny Committee are of the opinion that the decision was a Key Decision,

the Overview and Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable time the Committee specifies.

### 16.2 **The Executive's report to Council**

- (a) For the purposes of Access to Information Procedure Rule 16.1, the Executive will prepare a report for submission to the next available meeting of the Council.
- (b) If the next meeting of the Council is within 7 days of receipt of the written notice, then the report may be submitted to the meeting after that.
- (c) The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader of the Council



is of the opinion that it was not a Key Decision the reasons for that opinion.

### 16.3 **Quarterly reports on special urgency decisions**

In any event the Leader of the Council will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Access to Information Procedure Rule 15 in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 17. **Record of decisions**

17.1 As soon as reasonably practicable after any meeting of the Executive or an Executive Committee, the Head of Democratic Services or if the Head of Democratic Services was not present, the person presiding at the meeting, will produce a record of every decision taken at that meeting, which may be in the form of minutes. The record will include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons 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 any dispensation granted by the Monitoring Officer.

17.2 As soon as reasonably practicable after a [Key Decision](#) has been taken by an Officer, they will prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. This does not require the disclosure of exempt or confidential information.

17.3 The Head of Democratic Services will maintain and publish a record of all [Key Decisions](#) on the Council's website as soon as reasonably practicable after the decision was taken. The Head of Democratic Services will also ensure that the record of Key Decisions is available for public inspection during all normal office hours and that the public has the right to copy or to be provided with a copy of any part of that record upon payment of a reasonable copying and administrative charge

## 18. **Procedures before an Executive Meeting at which the public are to be excluded**

18.1. This Access to Information Procedure Rule applies to any meeting or part of a formal meeting of the Executive or an Executive Committee at which members of the public are to be excluded in accordance with [Access to](#)

**Information Procedure Rule 10.** It does not apply to meetings where members of the Executive meet in an informal private session for political discussion about forthcoming issues and for Executive Members to be briefed collectively and to give an appropriate steer. Such informal meetings are not formal decision-making meetings of the Executive.

18.2. Where Access to Information Procedure Rule 18.1 applies, the formalities for the setting up of such a meeting required by Regulation 5 of Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 will be complied with.

## 19. **Decisions by individual members of the Executive**

### 19.1. **Reports intended to be taken into account.**

Where an individual member of the Executive receives a report which s/he intends to take into account in making any Key Decision, then they will not normally make the decision until at least five clear days after receipt of that report.

### 19.2. **Record of individual decision.**

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive they will prepare, or instruct the **Proper Officer** to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.

## 20. **The Overview and Scrutiny Committee's access to documents**

### 20.1. **Right to copies**

Subject to Access to Information Procedure Rule 22.3 below, the Overview and Scrutiny Committee (and its sub-committees) is entitled to copies of any document which is in the possession or control of the Executive (or its committees) and which contains material relating to:

- (a) any business transacted at a public or Executive Briefing or its committees; or
- (b) any decision taken by an individual member of the Executive; or
- (c) any decision taken by an officer of the authority exercising an Executive function.

### 20.2. **Provision of copies**

Copies of documents requested under this Rule must be supplied within 10 clear days of receipt of the request.

### 20.3. **Limit on rights**

The Overview and Scrutiny Committee is not entitled to:

- (a) any document that is in draft form;

- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision it is reviewing or scrutinising or intends to scrutinise; or
- (c) the advice of any political adviser or assistant.

## 21. **Additional rights of access for Councillors**

### 21.1. **Material relating to previous business**

All Councillors will be entitled to inspect any document that is in the possession or under the control of the Executive; and: contains material relating to any business to be transacted at a public meeting or; contains material relating to any business considered at an Executive Briefing, any decision made by an individual Councillor in accordance with executive arrangements, or a decision made by an officer in accordance with executive arrangements, at the times and in accordance with the timescales set out in Regulation 16 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 except where it appears to the Proper Officer the document or part contains exempt information or advice provided by a political advisor or assistant.

### 21.2. **Nature of rights**

These rights of a Councillor are additional to any other right a Councillor may have.

## **CHAPTER 5 – OTHER PROCEDURE RULES**



# BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

## Introduction

These Budget and Policy Framework Procedure Rules apply to the development and amendment of the plans or strategies comprising the Policy Framework and of the Budget.

## BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

### 1. The structure for Executive decisions

The Council will be responsible for the adoption of its [Budget and Policy Framework](#). Once a budget or policy framework is in place, it will be the responsibility of the Executive to implement it. The adoption of most other policies will be dealt with in accordance with relevant executive arrangements.

### 2. The process for developing the framework

- 2.1. Before a plan/strategy/budget that is part of the Budget and Policy Framework can be adopted, initial proposals will be published in accordance with relevant executive arrangements. Details of any consultation process shall be included in relation to each of these matters in the forward plan. Any representations made to any consultation shall be taken into account in formulating the initial proposals. The Overview and Scrutiny Committee and in the case of the Medium Term Financial Strategy, the Audit and Governance Committee, shall be notified of initial proposals and may suggest additional or alternative arrangements for consultation.
- 2.2. At the end of the consultation period, the Executive will draw up firm proposals having regard to the responses to any consultation (including any from the Overview and Scrutiny Committee and/or the Audit and Governance Committee). The Executive's report to the Council will reflect the comments made by consultees and the Executive's response. The Proper Officer will refer them at the earliest opportunity to the Council for decision.

- 2.3. The Council will consider the Executive's proposals and may adopt them, amend them, refer them back to the Executive for further consideration, or subject to Council Procedure Rule \*, substitute its own proposals in their place. In considering the matter, the Council shall have before it the Executive's proposals and any report from the Overview and Scrutiny committee.
- 2.4. A copy of the Council's decision will be given to the Leader of the Council. The Notice of Decision shall be dated and:
  - (a) if the Council accepts the Executive's proposals without amendment shall state that the Council's decision shall be effective immediately.
  - (b) if the Executive's proposals are accepted but with amendments or are substituted by the Council's own proposals, shall state that unless the Leader of the Council objects to the Council's decision or submits revised proposals within five clear working days of the publication of the notice, the decision will take effect on the expiry of that period. The Leader may waive their right to object in writing, and if so the decision will take effect immediately.
  - (c) if the Council decides to refer the matter back to the Executive for the further consideration, that decision shall take effect immediately.
- 2.5. If the Leader of the Council objects to the decision of the Council, or the Leader of the Council intends to submit revised proposals the Leader of the Council shall give written notice to the Proper Officer to that effect before the date upon which the decision is to be effective.
- 2.6. Where the Leader of the Council objects the notice must state the reasons why the Leader objects. Where a notice is received, the Proper Officer shall call a further Council meeting to reconsider its decision and the decision shall not be effective pending that meeting. The Council meeting must take place as soon as reasonably practicable following the receipt of the Leader of the Council's written objection.
- 2.6. Where the Council has referred the matter back to the Executive for further consideration, the Proper Officer shall convene a further Council meeting to reconsider the matter following the Executive's further consideration. The Council meeting must take place as soon as reasonably practicable following the receipt of the Leader of the Council's revised proposals.
- 2.7. At the further meeting, the Council shall make its final decision on the proposed plan and the decision shall be implemented immediately.
- 2.8. In approving the plan/strategy/budget, the Council will specify the extent of virement (to the extent this is relevant) and the degree of in-year changes which may be undertaken by the Executive, in accordance with Budget and Policy Framework Procedure Rules 4 and 5. Any other changes to the Budget and Policy Framework are reserved to the Council.

### **3. Decisions outside of the Budget and Policy Framework**

- 3.1. Subject to the provisions of Budget and Policy Framework Procedure Rules 4 and 5, the Executive, individual members of the Executive and any officers, area committees (if any) or joint arrangements (if any) discharging executive functions shall only take decisions which accord 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.
- 3.2. If the Executive, individual members of the Executive and any officers, area committees (if any) or joint arrangements (if any) discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and 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. If the advice of either of those officers is that the decision would not accord with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision.

### **4. Virement**

Above the limits set out in the Council's Financial Procedure Rules, any virement across budget heads shall require the approval of Full Council.

### **5. In-year-changes to the Budget and Policy Framework**

No changes to any policy and strategy that makes up the Policy Framework may be made other than by the Council.

### **6. Call-in of decisions contrary to or not wholly in accordance with the Budget and Policy Framework**

Without prejudice to Overview and Scrutiny Procedure Rule \* (call-in) if the Overview and 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 having sought advice from the Monitoring Officer and Section 151 Officer, it may call-in the decision under the Overview and Scrutiny Procedure Rules



## CONTRACT PROCEDURE RULES

### Introduction to the Contract Procedure Rules

Procurement is ‘the process of acquiring works, supplies or services from third parties. The process spans the whole cycle from identification of needs, through to the end of a service contract or the end of the useful life of an asset. It involves options appraisal and the critical “make or buy” decision, which may result in the provision of services in-house in appropriate circumstances.”

Good procurement depends on ensuring that requirements are reliably determined, appropriate sourcing strategies are developed, and contracts are well-managed. Failure to procure in this way can result in additional costs and put the achievement of the Council’s strategic priorities at risk.

These Contract Procedure Rules explain the processes that the Council will apply when purchasing, licensing, leasing, contracting, commercial partnering or commissioning of works, supplies or services from third parties. They are intended to:

- (a) ensure that the Council secures the best value;
- (b) provide those involved in spending public money, with clear and transparent procedural requirements to complement existing professional skills, integrity and commitment and to protect officers (and the Council) from legal challenge;
- (c) ensure fairness to those seeking to contract with the Council;
- (d) prevent fraud and corruption or the suspicion of it; and
- (e) ensure the Council operates within the law.

The following are the Council’s rules for the letting of contracts for the supply of goods or materials or for the carrying out of works or services. They do not affect the validity of anything done under any earlier version of these rules.



## **CONTRACT PROCEDURE RULES**

**PART A – applies to all contracts**

**PART B – applies to below Procurement Regulations contracts**

**PART C – applies to above Procurement Regulations contracts**

**PART D – applies to all contracts, where appropriate**

### **PART A – applies to all contracts**

#### **1. Interpretation**

In these Contract Procedure Rules, references to:

- (a) “the eTS” means the Council’s electronic tendering system;
- (b) “Procurement Regulations” means the Public Contracts Regulations 2015 or the Public Concessions Regulations 2016 or similar, subsequently amended by The Public Procurement (Amendment etc.)(EU Exit) Regulations 2020; and
- (c) the “Section 151 Officer” and the “Monitoring Officer” include any other Officer duly authorised by either of them to act under these Rules.

#### **2. General**

##### **2.1 Requirement for compliance**

- (a) Unless Contract Procedure Rule 2.2 applies every contract made by or on behalf of the Council, (including those where there is no cost to the Council, but which result in income being generated for the supplier or contractor) must comply with these Contract Procedure Rules.
- (b) Every contract should also comply with the Financial Regulations, all relevant statutory provisions and any direction of the Council.

##### **2.2 Exceptions**

These Rules shall not apply to:

- (a) contracts of employment;
- (b) contracts for individual temporary agency staff;
- (c) treasury management;
- (d) the use of counsel or any other external legal service where advice, assistance and/or representation is required, and:

- (i) the requirement for appointment is considered to be urgent by the Monitoring Officer or the Head of Legal Services or any other Officer authorised by either of them; or
- (ii) where the appointment is not urgent, the contract value is estimated at the time of the initial instruction to be less than £49,999;
- (e) contracts for works, or the purchase of goods or services under an existing framework agreement if Contract Procedure Rule 3 is followed;
- (f) contracts for the sale, letting or purchase of land or buildings;
- (g) contracts where the works, or the purchase of goods or services are on behalf of a partnership of public sector bodies including the Council and the award of the contract is under the lead body's own rules;
- (h) arrangements with Ofsted for the inspection of a school;
- (i) contracts for the execution of mandatory works by statutory undertakers;
- (j) trading arrangements under which the Council provides, goods, services or works to a third party; and
- (m) a contract that any Senior Officer considers is necessary for the purposes of an emergency.

### 2.3 Variation or exemption of Contract Procedure Rules

- (a) No variation of or exemption from these Rules is allowed unless:
  - (i) the Council or the Executive resolves;
  - (ii) the law requires otherwise; or
  - (iii) the officer seeking the variation or exemption has completed the relevant exception record and it has been approved in advance of a contract being awarded.
- (b) No variation or exemption may be made which will result in a breach of any relevant Procurement Regulations or threshold.
- (c) A variation or exemption may be granted on any one or more of the following grounds:
  - (i) the nature of the market has been investigated and is considered to be such that a departure is justified

because the Contract can only be performed by one supplier or best value as likely to be achieved by approaching one supplier; or

- (ii) the contract is required in circumstances of urgency that could not reasonably have been foreseen; or
- (iii) the Council has a contract with an organisation already engaged by the Council for similar and related works, goods or services and it is considered that there would be significant benefit to extend the existing contract to cover any additional requirement without exposing the Council to unacceptable risk; or
- (iv) where any Procurement Regulations or other legislation prevents a procurement process being followed; or
- (v) contracts for supplies, materials, services or works which are available only as proprietary or patented articles, services or works from one contractor or supplier and for which an Senior Officer decides that there is no reasonable alternative available including contracts for repairs, or the supply of, parts to such articles or works; or
- (vi) the Council would incur or suffer increased costs or loss of income that would be significant compared to the overall Contract Value;

and in all cases, in the opinion of the Officers approving the exemption, it is appropriate.

#### 2.4 **Authority to procure**

Any procurement carried out on behalf of the Council may only be undertaken with authority to carry out such task whether by way of a delegation in the Scheme of Delegation – Part 3 of the Constitution or otherwise.

#### 2.5 **Calculating the financial value of a Contract**

When calculating the value of a contract for the purposes of these Rules (other for concession contracts):

- (a) values are total lifetime contract values not annual values;
- (b) values including recoverable VAT;
- (c) values are to be aggregated – for example, if there is a recurring need on an annual basis for supplies, or where the procurement is a joint procurement with West Devon or any other authority;

- (d) if there are variables which result in the estimate being a range of figures rather than a single figure, then the highest figure in the range will be the value of the contract;
- (e) the valuation shall include the value of possible contract extensions and possible additional options including sub-contractors' costs; and
- (f) where a contract is of indeterminate length the value of the contract shall be assessed on the basis of the monthly estimated cost x 48.

## 2.6 **Contract Extensions**

- (a) Any contract below Procurement Regulations thresholds may be extended in accordance with its contract terms.
- (b) All contracts above Procurement Regulations threshold can only be extended if contract notice provided for the possibility of the contract being capable of being extended and the relevant statutory requirements prevailing at the time.

## 3. **Officer responsibilities**

### 3.1 Senior Officers must:

- (a) comply with these Contract Procedure Rules and must ensure that their officers comply with them too.
- (b) keep a written record of all approved exemption requests for his/her department. This record must be produced when required by the Monitoring Officer or audit.
- (c) arrange the safekeeping of original tender documents, exemptions and Contracts in accordance with the Council's retention policy and ensure all Contract details are provided to the Section 151 Officer to record in the Contracts Register.

### 3.2 The Officer is responsible for the procurement must:

- (a) comply with these Contract Procedure Rules and procurement law;
- (b) ensure that any Agents, Consultants and contractual partners, conducting procurement activities on their behalf also comply;
- (c) take account of all necessary legal, financial, procurement and any technical advice;
- (d) have regard to Guidance provided by the Procurement Officer;

- (e) keep the records required by Contract Procedure Rule 29;
- (f) ensure security and confidentiality of documentation at all stages of the procurement activity, including Tender Evaluation Reports, working papers and minutes of meetings. The officer must ensure that he or she records in writing all minutes of meetings and decisions/actions taken.

#### 4. **Steps before starting a procurement**

Before starting to procure goods, services or works, the Senior Officer or the Officer responsible for the procurement must:

- (a) consider options for delivery of the required goods, services or works and may conduct market consultations to obtain information and advice for the purposes of planning the quotation or tender procedure and informing potential contractors of their plans and requirements;
- (b) identify the size, scope, term and specification of the goods, services or works required
- (c) check whether:
  - (i) the Council already has an available and appropriate contract in place in the Contracts Register, or an appropriate national, regional or other collaborative contract is available for use;
  - (ii) there is appropriate Council authority (permission) to procure and sufficient budgetary provision has been formally approved for the anticipated Contract expenditure;
  - (iii) any employee, either of the Council or of a service provider, may be affected by any transfer arrangement, then any Transfer of Undertaking (Protection of Employment) (“TUPE”) issues and costs are considered and appropriate advice is obtained.

#### 5. **Framework agreements**

##### 5.1 **To be used where appropriate**

Public sector-led frameworks agreements and contracts let by other public sector bodies for the purchase of goods and services may offer Best Value to the Council. Subject to Rule 5.2, Framework Agreements may be used where the Council’s requirements can be met, it is practicable to do so and there is no existing corporate contract for the

same or similar goods, works, and services which would be breached if a framework agreement was used.

## 5.2 Pre-conditions

Before entering into an existing framework agreement, the relevant Senior Officer should be satisfied that:

- (a) the Council is within the description of the contracting bodies who can use the framework agreement; and
- (b) the framework agreement has been advertised and meets the relevant statutory requirements prevailing at the time.

## 5.3 Subsequent purchases

Unless the terms of the framework agreement say differently and/or the framework agreement does not contain clear call-off contract criteria, once the framework agreement is operating, all subsequent purchases under the call-off contract shall, either:

- (a) not require further competition or,
- (b) if there are 2 or more suppliers of those goods or services, the competition shall be by inviting quotations from all of those suppliers on the price payable for the goods or services.

## **PART B – applies to contracts with a Contract Value of less than the Procurement Regulations Threshold**

### **6. No framework agreement – contracts with a value up to £25,000**

6.1 Where the relevant Senior Officer estimates at the beginning of the procurement the contract value up to £25,000, the relevant Senior Officer should seek to obtain best value, which for the purpose of this Contract Procedure Rule means using an existing corporate contract or seeking one or more quotes.

6.2 If the expenditure has been approved in estimates and any necessary financial or other approvals have been obtained, the relevant Senior Officer may proceed with the contract.

### **7. No framework agreement – contracts with a value between £25,000 and £100,000**

7.1 Where the relevant Senior Officer estimates at the beginning of the procurement that the contract value is between £25,000 and £100,000 three written quotations shall be sought wherever possible, which should include at least one from a local contractor based in the Council's area. This should be done through the [eTS](#), but may be by letter, e-mail or

some other mechanism by which the price can be evidenced before a purchase decision is taken.

7.2 When requesting quotations above £25,000 the relevant Senior Officer must also specify:

- (a) the goods, works or service required;
- (b) the award criteria; and
- (c) any relevant terms or conditions or special requirements.

**8. No framework agreement – contracts with a value of between £100,000 and Procurement Regulations thresholds – requirement for tenders**

**8.1 Financial thresholds**

Tenders shall be invited where the contract value is estimated at the beginning of the procurement to be £100,000 or more but below relevant Procurement Regulations thresholds.

**8.2 Requirement to advertise**

All contracts where the contract value is estimated at the beginning of the procurement to be £100,000 or more, but below relevant Procurement Regulations thresholds must be advertised through Contracts Finder. A Senior Officer may advertise contract opportunities below this threshold on Contracts Finder if they are satisfied that it is unlikely there will be sufficient local competition or considers this to be a preferred approach for any other reason.

**8.3 Methods to be used**

Tenders shall be sought by way of an Invitation to Tender using the [eTS](#).

**9. Pre-Qualification or Selection**

9.1 The Crown Commercial Services' Standard Selection Questionnaire must be provided to all contractors requesting to participate, which shall be used to determine the Contractor's eligibility, financial standing and technical capacity.

9.2 The Council shall treat as ineligible and shall not select any Contractor who has been convicted of any of the offences set out in Regulation 57 of the Procurement Regulations.

9.3 The Senior Officer shall only agree to the selection of a contractor once they are objectively satisfied as to the Contractor's:

- a) eligibility;
- b) suitability to pursue a professional activity;
- b) economic and financial standing; and
- c) technical or professional ability.

## 9. Form of invitation to tender and submission of tenders

### 9.1 Form

The Invitation to Tender shall be prepared by the relevant Senior Officer and shall:

- (a) describe the scope of the goods, works and/or services to be procured including any relevant outputs necessary for monitoring performance;
- (b) give reasons to justify any decision not to accept sub-division of the contract into lots;
- (c) require tenderers to answer questions about their suitability, capability, legal status and financial standing;
- (d) invite tenderers to identify information they consider to be confidential, commercially sensitive and/or exempt from disclosure in response to a relevant statutory request made to the Council;
- (e) include the criteria and the weightings that will be the basis for the evaluation of tenders;
- (f) state the form of contract and/or terms of the contract including any required by these Contract Procedure Rules and state that the Council will not accept any alteration or amendment of those terms and conditions of contract;
- (g) state that the Council does not accept any qualification or addition to the invitation to tender other than when requested;
- (h) set out an adequate timetable for the submission and consideration of tenders; and
- (i) require all tenders to be submitted on a form of tender prepared by the relevant Senior Officer which shall include where appropriate:
  - (i) a certificate against collusion:



- (ii) a statement that tenders should be kept open for a specified period after the date of tender opening;
- (iii) a statement that the Council will not be bound to accept any tender; and
- (iv) a statement that any tender or contract may be inspected by any regulator.

## 7.2 Receipt

- a) The relevant Senior Officer will arrange for the opening of tenders and release for evaluation as soon as possible after the date and time specified in the Invitation to Tender. Any tender received after the date and time specified for receipt will be recorded as being received late and will not be considered.
- (b) Tenders submitted by fax or e-mail will not be accepted.

## 7.3 Custody of tenders received

Tenders shall remain unopened in the [eTS](#) until the time set for their opening.

## 8. Opening and registration of tenders

- 8.1 All tenders received by the date and time set for receipt of tenders and which meet the requirements of Contract Procedure Rule 7.1(i) will be opened at the same time by the relevant Senior Officer or their nominee after the time set for their receipt.
- 8.2 The names of the tenderers and the amounts will be recorded in the [eTS](#).

## 9. Evaluation of tenders

- 9.1 Before evaluating tenders, the relevant Senior Officer must check that the tenders comply with any instructions to tenderers, pricing, schedule and any other explicit requirements (e.g. submission of method statements) and unless provided for in the invitation to tender that the tender is not a qualified tender.
- 9.2 The criteria and weightings described in the Invitation to Tender must be used in scoring any tenders.

## 10. Alterations to tenders

- 10.1 Errors identified before closing date If an error is identified in the specification or other tender documentation before the closing date for

the return of tenders, all tenderers are to be told about the error promptly and allowed to adjust their tenders.

- 10.2 Errors identified after closing date If an error is identified in the specification or other tender documentation after the closing date for the return of tenders, all tenderers are to be told about the error and given the chance to either withdraw or amended their tender.
- 10.3 Errors or discrepancies in successful tenders Where examination of tenders shows errors or discrepancies which would affect the tender figure in an otherwise successful tender the tenderer shall be told of the errors and discrepancies and given the chance of confirming or withdrawing his offer, or in the case of arithmetical errors, of correcting them. If the tenderer withdraws, the next tender in competitive order is to be examined and dealt with in the same way.

## 11. **Post-tender negotiation**

- 11.1 Post-tender negotiations for contracts below any relevant Procurement Regulations thresholds shall not be conducted where to do so might distort competition particularly with regard to price. In the event that post-tender negotiations are necessary following the submission of a tender, then such negotiations must only be undertaken with the tenderer who has previously submitted the most economically advantageous tender as assessed against the tender evaluation method. Full and proper records shall be kept of any post-tender negotiations.
- 11.2 Unless the Section 151 Officer and the Monitoring Officer otherwise agree, any post-tender negotiations must be conducted by at least two Officers.
- 11.3 If post-tender negotiations take place the relevant Senior Officer shall prepare a report to the Executive for approval before any tender is accepted
- 11.4 The Council may require a Contractor to provide information supplementing the information provided in their tender.
- 11.5 The Council may require a Contractor to clarify information relating to their eligibility, economic and financial standing or technical or professional ability or information included in their tender provided this does not discriminate either in favour or against the Contractor.
- 11.6 Where any further information or post-tender negotiation results in a fundamental change to the specification or contract terms the contract shall not be awarded but shall be re-tendered.

## 12. **Acceptance of tenders - Most favourable tender**

- 12.1 A tender may not be accepted without approval Executive unless it:

- (a) is within the approved budget;
- (b) meets all of the tender submission requirements in Contract Procedure Rule 7.1(i);
- (c) complies with the detailed specification;
- (d) is the most economically advantageous tender having regard to any award criteria and the weightings applied to them; and
- (e) it is not a tender qualified by reservations or statements made by the tenderer limiting any liability that the tenderer would be subject to if that tenderer is awarded the contract.

12.2 A tender which meets the criteria in Contract Procedure Rule 12.1(a)-(e) shall not be accepted if the Contract Value is more than £500,000 without approval of the Executive.

**PART C – applies to contracts with a Contract Value above the Procurement Regulations Threshold**

**13. No framework agreement - contracts with a value above Procurement Regulations thresholds - requirement for tenders**

- 13.1 Subject to the agreement of the Section 151 Officer any of the procedures permitted by the relevant statutory requirements prevailing at the time and which are appropriate may be used to obtain tenders.
- 13.2 The procedure adopted shall comply with the relevant statutory requirements prevailing at the time and these Contract Procedure Rules where relevant.
- 13.3 Where the Open or Restricted List procedures are used post-tender negotiations are not permitted.
- 13.4 No tender that is for a contract above any relevant Procurement Regulations threshold shall be accepted unless the Monitoring Officer is satisfied that the notices of the intention to award the contract have been given to unsuccessful tenderers (and if necessary, to contractors not invited to tender) and the period for them to challenge the award has ended.

**PART D – applies to all contracts, where appropriate**

**14. Promotion of equalities**

To comply with the Council's duty under the Equality Act 2010 to promote equality of treatment, tenderers for contracts above any relevant Procurement Regulations thresholds shall be required to explain

what measures they would take to actively promote equality of opportunity.

**15. Public Services (Social Value) Act 2012**

To comply with the Council's duties, in preparing tenders for any contract above any relevant Procurement Regulations thresholds the Senior Officer must consider how to incorporate relevant social value considerations into the procurement process.

**16. Local Government (Contracts) Act 1997**

No tender relating to a contract to which the Local Government (Contracts) Act 1997 Sections 2-9 apply shall be accepted without consideration by the Monitoring Officer.

**17. Letters of intent**

A letter of intent providing the basis for a future agreement should only be used by a Senior Officer following the taking of advice from the and Monitoring Officer.

**18. Contracts to be in writing**

**18.1 Form**

- (a) All contracts for goods, services and works shall be in writing or in approved electronic format.
- (b) Every contract having a Contract Value of less than £25,000 shall be by Purchase Order incorporating the Council's standard terms and conditions unless a formal agreement is entered into.
- (c) Every contract having a Contract Value of £25,000 or more shall be in form agreed with the Monitoring Officer.

**18.2 Content**

Every contract having a value of £25,000 or more shall, in addition to any other relevant matters, specify:

- (a) the goods, materials, works, services or other things to be furnished supplied had or done;
- (b) the price to be paid with a statement of discount or other deductions;
- (c) a condition that the contractor shall subscribe to the standards of ethical conduct expected by the public from those working in the public sector;

- (d) unless it is for the one off purchase of goods and/or materials, the date when the contract will terminate and the terms on which the contract may be terminated early; and
- (e) where applicable the time or times within which the contract is to be performed.

### 18.3 Signing of contracts

- (a) Other than contracts in the form of an official order every contract less than £25,000 in value not required or intended to be sealed, shall be signed on behalf of the Council by the relevant Head of Service (or other officer authorised by them in accordance with the Scheme of Delegation).
- (b) Other than contracts in the form of an official order every contract between £25,000 and £100,000 in value not required or intended to be sealed, shall be signed on behalf of the Council by the relevant Chief Officer (or other officer authorised by them in accordance with the Scheme of Delegation).
- (c) Every contract over £100,000 in value shall be signed or where required or intended to be made under seal shall be sealed on behalf of the Council by the Monitoring Officer (or other officer authorised by them in accordance with the Scheme of Delegation)

## 19. Safeguards for due performance

### 19.1 Failure to Deliver

- (a) Every contract for the supply of goods, services, works and/or materials to which these rules apply should, unless the relevant Senior Officer considers it inappropriate, include a clause protecting the Council against the Contractor's failure to deliver. The clause should include the right for the Council to:
  - (i) purchase other goods, services, works or materials to put right the effects of the Contractor's failure; and
  - (ii) recover from the Contractor any excess cost of purchasing other goods, services, works or materials.
- (b) In every contract for the supply of goods, services, works and/or materials, a clause will, unless the relevant Senior Officer considers it inappropriate, be included to the effect that the goods, services, works and/or materials will only be deemed to have been delivered to the Council if they have been delivered to the location specified by the Council and signed for.

## 19.2 **Liquidated Damages for contracts exceeding £100,000**

The Contract must, unless the relevant Senior Officer considers it inappropriate, require the payment of liquidated damages by the contractor in the event of delay by the contractor. The amount of the liquidated damages to be specified will be the Council's genuine pre-estimate of the losses to be paid by the contractor in the case the terms of the contract are not duly performed.

## 19.3 **Performance Bonds for contracts exceeding £500,000**

Where a contract exceeds £500,000 the contractor will be required to give a performance bond or other form of security acceptable to the relevant Senior Officer and the Section 151 Officer, unless both consider it is unnecessary.

## 20. **Assignment or sub-letting**

A clause will, where appropriate, be inserted in every contract for the execution of work, for supplies, and/or services to which these rules apply prohibiting the assigning or sub-letting of the contract without the previous consent of the relevant Senior Officer.

## 21. **Specifications and standards**

All contracts to which these rules apply where a specification issued by the British Standards Institution or a European Standard is current at the date of the tender and is relevant shall require as a minimum that goods and materials used in their execution shall be in accordance with the specification.

## 22. **Prevention of bribery clause**

Every contract to which these rules apply will, where practicable, include a clause allowing the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor or any person employed by him or acting on his behalf has committed any offence under the Bribery Act 2010 or under the Local Government Act 1972 Section 117.

## 23. **Nominated sub-contractors**

Where a sub-contractor or supplier is to be nominated by the Council to a main contractor, the relevant Senior Officer will, wherever practical, comply with these Rules as though the sub-contract were a contract with the Council.

## 24. **Publication of contract awards**

- 24.1 Details of every contract award over £25,000 including those covered by an exemption shall be published on the Council's Contracts Register.
- 24.2 In addition, unless there is a relevant exception in the Procurement Regulations, where the contract is:
- (a) £100,000 or more the award shall be published on Contract Finder.
  - (b) over any relevant Procurement Regulations threshold, the award shall be published Contract Finder and FTS and any report required by a third party shall be prepared in accordance with the relevant statutory requirements prevailing at the time.

Note: These requirements are in addition to any requirement under the Transparency Code for Local Government to publish details of expenditure above a specified threshold.

## 25. **Retention of tenders and contracts**

Unsuccessful tenders, accepted tenders and contracts and tender evaluation results shall be kept in accordance with the Council's information asset register.

## 26. **Review of financial limits**

The financial limits set out in these Contract Procedure Rules shall be reviewed periodically by the Council.

Note to Officers: The principal requirements of these Contracts Procedure Rules are summarised in the Appendix. The Appendix is not part of the Contract Procedure Rules, but is guidance.

**APPENDIX - The table is not part of these Contract Procedure Rules.**

Note for officers: The following table summarises the type of procurement process; the minimum number of quotes or tender that should be sought or invited where practicable; any publicity and contractual requirements. Contract values are inclusive of VAT and for joint procurements means the total value of the contract, not just the Council's share.

Contract Value	Minimum requirements	Contract Notice		Contract Award Notice		Acceptance	Minimum order/contract requirements
		FTS	Contract Finder	FTS	Contract Finder		
Up to £25,000	Call-Off from an existing Framework Agreement let by the Council or other third party; or 1 or more quotes	No	No	No	No	Senior Officer	Official Order
£25,000 to £100,000	Call-Off from an existing Framework Agreement let by the Council or other third party; or 3 written quotes (where practicable) using eTS	No	No	No	No		Official Order unless a formal agreement is entered into
£100,000 to Procurement Regulations Threshold	Call-Off from an existing Framework Agreement let by the Council	No	No	No	Yes		Formal agreement under hand or seal



Contract Value	Minimum requirements	Contract Notice		Contract Award Notice		Acceptance	Minimum order/contract requirements
		FTS	Contract Finder	FTS	Contract Finder		
	or other third party; or tenders sought using eTS						
Above Procurement Regulations Threshold	As for £100,000 but following Procurement Regulations	Yes (unless call-off)	Yes, within 24 hours of publishing on FTS(unless call off)	Yes within 30 days of award (unless call off)	Yes within reasonable time after published on FTS (including call off)	As for £100,000 but prior approval may be required from the Executive if the contract value is £500,000 or more	



## FINANCIAL PROCEDURE RULES

### Introduction

The Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Councillor and Officer of the Council and anyone acting on its behalf.

The Financial Procedure rules are part of a wider set of operational and managerial arrangements, which when followed protect the Council and the public, from poor decision making, theft, fraud and material error. They also offer significant protection to Councillors and Officers from undue criticism and accusations of impropriety.

All Councillors and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value

## FINANCIAL PROCEDURE RULES

### 1. Application

These Financial Procedure Rules apply to:

- (a) every Member and officer and anyone acting on the Council's behalf.
- (b) any partnership where the Council exercises management control. If in any doubt issues should be discussed with the relevant Director and/or the Section 151 Officer

### 2. Exceptions

The Section 151 Officer can allow exceptions to these rules where the Section 151 Officer believes that the interests of the Council would be best served subject to prior consultation with the Leader of the Council and any other Councillor as the Section 151 Officer considers appropriate.

### 3. **Guidance**

The Section 151 Officer will issue advice, guidance and detailed financial procedures to underpin these Financial Regulations that Members, officers and others acting on behalf of the Council are required to follow. The Section 151 Officer's [guidance and detailed procedures](#) are published separately and do not form a formal part of the Constitution.

### 4. **Reporting**

The Section 151 Officer is responsible for reporting, where appropriate, financial breaches of these Financial Regulations to the Audit and Governance Committee. Breaches that amount to unlawful actions will be reported by the Section 151 Officer in accordance with their duties under section 114 of the Local Government and Finance Act 1988.

### 5. **Review**

The Section 151 Officer will review these Financial Procedure Rules and make changes as they consider necessary for the efficient and effective financial management of the Council subject to any changes being reported to the next meeting of the Audit and Governance Committee.

## **A Financial Management**

### **Introduction**

- A.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the budgetary framework and budget.

### **Section 151 Officer**

- A.2 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council.

### **Senior Officers**

- A.3 Each Senior Officer is responsible in their own service areas for:

- (a) ensuring that all reports to Members contain sufficient financial information to allow them to understand the budgetary implications and financial risks associated with any proposals.

- (b) signing contracts on behalf of the Council as provided for in the [Scheme of Delegation](#).

A.4 A Senior Officer must take financial advice on any matter liable to result in any budget in their control being exceeded in any financial year (after any approved virements), before any further commitments are incurred.

### **Other Financial Accountabilities**

#### **Virement**

A.5 Virement between budget lines of the annual revenue estimates need not be approved by Council provided it does not:

- (a) compromise policy objectives for the cost centre relinquishing the budget;
- (b) result in any additional costs or commitments in future years;
- (c) utilise fortuitous savings in expenditure or increases in income; or
- (d) involve virement from recharge budgets.

A.6 A Senior Officer is responsible for agreeing virements within delegated limits on budgets within their responsibility and/or control, in consultation with the Section 151 Officer where required. The Senior Officer must notify the Section 151 Officer of all virements and as necessary these will be reported by the Section 151 Officer to Councillors.

A.7 The Section 151 Officer may vire between budgets within the control of any one or more Senior Officers.

#### **Treatment of year-end balances**

A.8 Members are responsible for agreeing procedures for carrying forward under and overspend budgets.

#### **Accounting policies**

A.9 The Section 151 Officer shall determine appropriate technical accounting policies and standards.

#### **Accounting records and returns**

A.10 The Section 151 Officer shall determine the accounting records and returns for the Council.

#### **The Annual Statement of Accounts**

- A.11 The Section 151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with relevant accounting Codes of Practice and the Accounts and Audit Regulations 2015. The Audit and Governance Committee is responsible for approving the annual statement of accounts.

### **Government Grants**

- A.12 All bids and claims for Government grant, including lottery funding, and all related estimates or forecasts, must be submitted to the Section 151 Officer and the relevant Senior Officer before submission or as otherwise provided for in the Scheme of Delegation.

### **Bank Arrangements**

- A.13 The Section 151 Officer is responsible for putting in place appropriate banking arrangements with the Council's bankers, including setting up subsidiary accounts.

### **Procurement**

- A.14 The Section 151 Officer is responsible for advising the Executive on the Council's procurement policies and arrangements

## **B Financial Planning**

- B.1 The Full Council is responsible for approving the Council's Budget and Policy Framework and the council tax which will be proposed by the Executive. The key elements of financial planning are the:

- (a) Corporate Plan;
- (b) Capital Strategy;
- (c) Asset Management Plan;
- (d) Risk Management Policy Statement and Strategy;
- (e) Treasury Management Strategy;
- (f) Medium Term Financial Plan;
- (g) Revenue Budget; and
- (g) Capital Programme.

### **Policy Framework**

- B.2 Unless it determines otherwise, the Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision is deemed to be contrary to the Budget and Policy Framework. Decisions will be referred to the Full Council by the Monitoring Officer and/or the Section 151 Officer.
- B.3 The Full Council is responsible for setting the level at which the Executive may reallocate budgets from one service to another. The Executive is responsible for taking in-year decisions on resources and priorities to deliver the Budget and Policy Framework within the financial limits set by the Council.

## **Budgeting**

### **Budget format**

- B.4 The Section 151 Officer is responsible for determining the general format of the budget. The draft budget will include allocation to different services and projects, proposed taxation levels and contingency funds.

### **Budget preparation**

- B.5 The Section 151 Officer is responsible for ensuring that a budget is prepared on an annual basis and a longer-term budget plan is prepared for consideration by the Executive, before submission to the Full Council. The Full Council may amend the budget or ask the Executive to reconsider it before approving it. Further details on this procedure can be found in the [Policy and Budgetary Framework Procedure Rules](#).
- B.6 Guidelines on budget preparation will be issued to Senior Officers by the Executive following agreement with the Section 151 Officer. The guidelines will take account of:
- (a) legal requirements;
  - (b) medium-term planning prospects;
  - (c) the Corporate Plan;
  - (d) available resources;
  - (e) spending pressures;
  - (f) best value and other relevant Government guidelines;
  - (g) other internal policy documents; and
  - (h) cross-cutting issues (where relevant).

- B.7 A Senior Officer is responsible for submitting budget estimates to the Section 151 Officer that reflect agreed service plans and that are prepared according to the guidance issued by the Executive.

### **Resource Allocation**

- B.8 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's Policy Framework.

### **Preparation of the Capital Programme**

- B.9 The Section 151 Officer is responsible for ensuring that a capital programme is prepared annually for consideration by the Executive before submission to the Full Council.

### **Maintenance of Reserves and Balances**

- B.10 The Section 151 Officer is responsible for advising the Executive and/or the Full Council on prudent levels of reserves and balances.

### **Budget Monitoring and Control**

- B.11 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively.
- B.12 The Section 151 Officer must monitor and control expenditure against budget allocations. Any variation (after approved virements) that the Section 151 Officer considers material will be reported to the Executive.
- B.13 A Senior Officer is responsible for controlling income and expenditure in their own service area and for monitoring performance, taking account of financial information provided by the Section 151 Officer. The Senior Officer will alert the Section 151 Officer and report to Members on variances in their own service areas and take any action necessary to avoid exceeding their budget allocation (after any approved virements).
- B.14 No expenditure will be incurred on a purpose for which there is no provision in the approved estimates except:
- (a) where a supplementary estimate has been approved by the Executive/Full Council (as relevant) ; or
  - (b) in the case of an emergency as provided for in the Scheme of Delegation.

## **C Risk Management and Control of Resources**

### **Introduction**

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

### **Risk Management**

- C.2 The Section 151 Officer and/or Monitoring Officer is responsible for:
- (a) preparing the Council's risk management policy statement and strategy for approval by the Executive;
  - (b) ensuring that appropriate insurances are in place;
  - (c) promoting risk management throughout the council; and
  - (d) reviewing the effectiveness of the risk management policy statement and strategy.
- C.3 The Audit and Governance Committee is responsible for recommending approval of the Council's Risk Management policy statement and for reviewing the effectiveness of risk management.

### **Internal control**

- C.4 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.5 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other requirements that govern their use.
- C.6 It is the responsibility of all Senior Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **Audit Requirements**

- C.7 The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit. The Section 151 Officer is responsible for internal audit and for this purpose the Section 151 Officer or



their representative may inspect and audit all books of account, financial documents and all other records of the Council, visit any of the Council's premises and obtain such explanations and take away such records for examination as they consider necessary.

- C.8 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

### **Preventing fraud and corruption**

- C.9 The Council has a zero tolerance to fraud, bribery and corruption.
- C.10 The Section 151 Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- C.11 Where it is suspected that money or property has been stolen or otherwise misappropriated, or that a financial irregularity has occurred, the relevant Senior Officer must immediately report the matter to the Section 151 Officer. The Section 151 Officer will report such matters as appropriate to Members.

### **Assets**

- C.12 A Senior Officer will ensure that records and assets in their own service area are properly maintained and securely held. The Senior Officer will also ensure that contingency plans are in place for the security of assets and continuity of service in the event of disaster or system failure.
- C.13 An Senior Officer is responsible for reporting any deficiencies of equipment or stores in their own service areas to the to the Section 151 Officer, who may authorise the items to be written off or instigate an investigation into the circumstances.

### **Leasing, Finance and Hire Agreements**

- C.14 An Senior Officer is responsible for ensuring that any proposal to enter into a leasing, finance or hire agreement in their own service areas is agreed in advance with the Section 151 Officer.

### **Property**

- C.15 The agreement of any terms for leasing of any property or the taking or granting of any interest in property must be undertaken by an Senior Officer (or any other Officer delegated/nominated power for such purposes in accordance with the [Scheme of Delegation](#)).
- C.16 Legal interests in property will be recorded in a Property Terrier or other record.

- C.17 Where exclusive possession of a building, parts of a building or any land is involved on other than a sessional basis or occasional hiring, a Senior Officer or any other Officer delegated/nominated power for such purposes in accordance with the [Scheme of Delegation](#) will be responsible for making the necessary arrangements including the assessment of rent
- C.18 The Council has adopted policies on whistleblowing, fraud, bribery and anti-corruption all of which support the Council's zero tolerance to fraud, bribery and corruption.

### **Treasury Management**

- C.19 The Council has adopted CIPFA's Treasury Management Code of Practice 2017.
- C.20 The Full Council is responsible for approving a Treasury Management Strategy compliant with the Code of Practice.
- C.21 The Council has delegated responsibility for the implementation and monitoring of treasury management policies and practices to the Executive. The Executive has delegated the administration of treasury management decisions to the Section 151 Officer who will act in accordance with the Treasury Management Policy statement and CIPFA's standard of professional practice on treasury management.
- C.22 The Council has delegated to the Audit and Governance Committee responsibility for ensuring scrutiny of the Treasury Management Strategy and policies.

### **Staffing**

- C.23 The Head of Paid Service, is responsible for providing overall management to staff. The Head of Paid Service is also responsible for the evaluation or other agreed systems for determining the remuneration of a job.
- C.24 A Senior Officer is responsible for controlling total staff numbers in their own service areas by:
- (a) advising the Executive on the annual budget required to cover estimated staffing levels;
  - (b) adjusting staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint to meet changing operational needs; and
  - (c) proper use of appointment procedures.

## **D Financial Systems and Procedures**

- D.1 Sound systems and procedures are essential to an effective framework of accountability and control.

### **General**

- D.2 The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by the Senior Leadership Team to the existing financial systems or the establishment of new systems must be approved by the Section 151 Officer. However, Senior Officers are responsible for the proper operation of financial processes within their area of responsibility.
- D.3 A Senior Officer must agree any changes to agreed procedures to meet their own specific service needs with the Section 151 Officer.
- D.4 Senior Officers should ensure that staff receive relevant financial training that has been approved by the Section 151 Officer.
- D.5 Senior Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Senior Officers must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **Income and expenditure**

- D.6 The Section 151 Officer will be responsible for paying all properly incurred liabilities.
- D.7 A Senior Officer is responsible for ensuring that a proper Scheme of Delegation has been established in their own service areas and is operating effectively. The Scheme of Delegation identifies staff authorised to act on the Senior Officer's behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together with the limits of their authority. Further details relating to officer delegations can be found in the [Scheme of Delegation](#).
- D.8 Once a charge has been raised no debtor will be excused a payment due to the Council other than with the approval of the relevant Senior Officer and the Section 151 Officer. The Section 151 Officer will maintain a record of write-offs.

### **Payment to Employees and Members**

- D.9 The Head of HR is responsible for payments of salaries, wages and allowances to staff, including payments for overtime. The Head of Democratic Services is responsible for payment of allowances to Members.

## **Taxation**

- D.10 The Section 151 Officer is responsible for advising Senior Officers, in the light of guidance issued by the appropriate bodies and relevant legislation, on all taxation issues that affect the Council.
- D.11 The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## **Trading Accounts/Business Units**

- D.12 It is the responsibility of the Section 151 Officer to advise Senior Officers on the establishment and operation of trading accounts and business units, and to determine the arrangements under which these are operated.

## **E External Arrangements**

### **Introduction**

- E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders.

### **Partnerships**

- E.2 The Executive will normally take the lead in forming partnerships with public, private voluntary and community sector organisations.
- E.3 The Section 151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. Also, the Section 151 Officer must ensure that the financial risks have been fully appraised before agreements are entered into with external bodies.
- E.4 A Senior Officer is responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

### **External Income**

- E.5 The Section 151 Officer is responsible for the Council's arrangements for the pursuit, receipt and recording of external income.

### **Work for Third Parties**

- E.6 The Head of Paid Service is responsible for the arrangements for any work for third parties.



West Devon  
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## **Section 151 Officer's guidance and advice on financial procedures**

Section	Contents	Financial Procedure Rule category
<b>1. Accounting</b>	<ul style="list-style-type: none"> <li>• Financial Management Standards</li> <li>• Separation of Duties</li> <li>• Other Information - Costing</li> <li>• Reports to Member Bodies</li> <li>• Accounting Records</li> <li>• Trading Accounts</li> <li>• Annual Accounts and Treatment of Year End Balances</li> </ul>	Financial Management
<b>2. Assets</b>	<ul style="list-style-type: none"> <li>• Asset Management</li> <li>• Land and Buildings</li> <li>• Vehicles, Plant and Equipment</li> <li>• Acquisition</li> <li>• Capital Programme</li> </ul>	Risk Management and Control of Resources
<b>3. Assets - Disposal</b>	<ul style="list-style-type: none"> <li>• Land and Buildings</li> <li>• Vehicles</li> <li>• Plant and Equipment</li> <li>• Computer and Computer Related Equipment</li> <li>• General - Recycling</li> </ul>	Risk Management and Control of Resources
<b>4. Audit</b>	<ul style="list-style-type: none"> <li>• Internal audit</li> <li>• External audit</li> </ul>	Risk Management and Control of Resources
<b>5. Banking Arrangements</b>	<ul style="list-style-type: none"> <li>• Bank Accounts</li> <li>• Separation of Duties</li> <li>• Bank Reconciliations</li> <li>• General - Cheques</li> </ul>	Financial Systems and Procedures
<b>6. Budgets and Budgetary Control</b>	<ul style="list-style-type: none"> <li>• Format of the Budget</li> <li>• Budget Preparation</li> <li>• Resource Allocation</li> <li>• Budget Management</li> <li>• Virement (Budget Changes)</li> <li>• Supplementary Estimate Request</li> <li>• Reserves and Funds for Section 106 Agreements</li> <li>• Shared Services</li> <li>• Capital Programme</li> </ul>	Financial Planning
<b>7. Car Loans</b>	<ul style="list-style-type: none"> <li>• No longer provided by the Council</li> </ul>	

Section	Contents	Financial Procedure Rule category
<b>8. Expenditure - Ordering of Goods and Services</b>	<ul style="list-style-type: none"> <li>• Orders</li> <li>• Ordering</li> <li>• Quotations</li> <li>• Open/Regular Supply Order</li> <li>• ICT Equipment and Software</li> <li>• Orders, Delivery Notes and Invoices</li> <li>• Orders to Individuals (Self Employed)</li> </ul>	Financial Systems and Procedures
<b>9. Expenditure - Payment of Accounts</b>	<ul style="list-style-type: none"> <li>• Invoices</li> <li>• Invoices - Self Employed Status</li> <li>• Payment Request Forms</li> <li>• Receiving/Certification</li> <li>• Authorisation</li> <li>• Separation of Duties</li> <li>• Payment</li> <li>• Returned Cheques</li> <li>• VAT</li> <li>• Credit/Purchase Cards</li> <li>• Financial Year End</li> <li>• Loans Leases and Rental Agreements</li> </ul>	Financial Systems and Procedures
<b>10. External Funding</b>	Responsibilities for: <ul style="list-style-type: none"> <li>• Senior Officers</li> <li>• Section 151 Officer</li> </ul>	External Arrangements
<b>11. Fraud, Corruption and Bribery - Prevention</b>	Responsibilities for: <ul style="list-style-type: none"> <li>• Section 151 Officer, Monitoring Officer,</li> <li>• (Internal) Audit Manager</li> <li>• Senior Officers</li> </ul>	Risk Management and Control of Resources
<b>12. Grants, Subsidies, Claim Forms and Statistical Returns</b>	<ul style="list-style-type: none"> <li>• Grant Conditions</li> <li>• Receipts and Payments</li> <li>• Audit Requirements of the Grant Paying Body</li> </ul>	Financial Systems and Procedures
<b>13. Income</b>	<ul style="list-style-type: none"> <li>• Charges for Services</li> <li>• Cash Collection and Banking</li> <li>• Personal Cheques</li> <li>• Change Floats</li> <li>• Security</li> </ul>	Financial Systems and Procedures

Section	Contents	Financial Procedure Rule category
	<ul style="list-style-type: none"> <li>• Raising Invoices (Sundry Debtors)</li> <li>• Recovery</li> <li>• Bad and Doubtful Debtors</li> <li>• Cancellations</li> <li>• Financial Year End</li> </ul>	
<b>14. Insurance</b>	<ul style="list-style-type: none"> <li>• Cover</li> <li>• Inspections</li> <li>• Claims</li> </ul>	Risk Management and Control of Resources
<b>15. Intellectual Property</b>	Responsibilities for: <ul style="list-style-type: none"> <li>• Senior Officers</li> <li>• Section 151 Officer</li> </ul>	Risk Management and Control of Resources
<b>16. Inventories</b>	<ul style="list-style-type: none"> <li>• Inventories</li> <li>• Council Property</li> </ul>	Risk Management and Control of Resources
<b>17. Partnerships including Shared Services</b>	Responsibilities for: <ul style="list-style-type: none"> <li>• Members</li> <li>• Senior Officers</li> <li>• Section 151 Officer Partners</li> <li>• Shared Services</li> </ul>	Risk Management and Control of Resources
<b>18. Payments to Employees and Members (Payroll)</b>	<ul style="list-style-type: none"> <li>• Appointment</li> <li>• Appointment – Self Employed Status</li> <li>• Time and Other Amendment Records</li> <li>• Payment Absence</li> <li>• Leavers</li> <li>• Pay Awards</li> <li>• Verification</li> <li>• Staffing</li> </ul>	Financial Systems and Procedures
<b>19. Payment of Housing and Council Tax Benefits</b>	<ul style="list-style-type: none"> <li>• Personal Data/Declaration of Interest</li> <li>• Payment – BACs</li> <li>• Payment – Cheques</li> </ul>	Financial Systems and Procedures
<b>20. Petty Cash</b>	<ul style="list-style-type: none"> <li>• Expenditure</li> <li>• Reimbursement</li> <li>• General</li> <li>• Centralised Imprest – Petty Cash Advances</li> </ul>	Financial Systems and Procedures
<b>21. Retention of Documents</b>	Responsibilities for: <ul style="list-style-type: none"> <li>• Section 151 Officer,</li> <li>• Monitoring Officer,</li> </ul>	Risk Management and Control of Resources



Section	Contents	Financial Procedure Rule category
	<ul style="list-style-type: none"> <li>• Senior Officers</li> </ul>	
<b>22. Risk Management and Internal Control</b>	<ul style="list-style-type: none"> <li>• Risk Management</li> <li>• Internal Control (System of)</li> <li>• System Changes</li> <li>• Corporate Governance</li> <li>• Performance Management/Data Quality</li> <li>• Business Continuity</li> </ul>	Risk Management and Control of Resources
<b>23. Security</b>	<ul style="list-style-type: none"> <li>• Security;</li> <li>• Safes</li> <li>• Postal Franking Machines</li> <li>• ICT – Software and Hardware</li> <li>• Data – Electronic/Paper</li> </ul>	Risk Management and Control of Resources
<b>24. Stocks and Stores</b>	<ul style="list-style-type: none"> <li>• Stock Control and Issues</li> <li>• Stock Takes</li> <li>• Stock Certificates</li> <li>• Surpluses, Deficiencies and Write Offs</li> </ul>	Risk Management and Control of Resources
<b>25. Taxation</b>	<ul style="list-style-type: none"> <li>• Pay as You Earn (PAYE)</li> <li>• Value Added Tax (VAT)</li> </ul>	Financial Systems and Procedures
<b>26. Travel and Subsistence</b>	<ul style="list-style-type: none"> <li>• Claim Completion and Certification</li> <li>• Receipts</li> <li>• Timeliness of Claim</li> <li>• Motor Insurance, Driving Licences and Vehicle Roadworthiness</li> <li>• Council Members</li> </ul>	Financial Systems and Procedures
<b>27. Treasury Management</b>	<ul style="list-style-type: none"> <li>• Cash Position;</li> <li>• Investments</li> <li>• Borrowing</li> <li>• General including Monitoring</li> <li>• Trust Funds</li> </ul>	Risk Management and Control of Resources
<b>28. Work for Third Parties</b>	<ul style="list-style-type: none"> <li>• Approval</li> <li>• Legality</li> <li>• Financial Matters</li> <li>• Contracts</li> <li>• Service Provision</li> </ul>	External Arrangements

The following financial limits apply to the relevant section in the guidance:

Table 1:

Item Value inc VAT	Acquisitions: Land and Buildings – Section 2
Up to £500, 000	The <b>Head of Assets (Corporate Property Officer)</b> in consultation with the <b>Section 151 Officer, the Director of Place and Enterprise, Lead Member for Assets and Leader</b> , may agree to the acquisition of land and property where the market value does not <b>exceed £500,000.00</b>
£500,000 to £1,000,000	The acquisition of any land and buildings of a value between <b>£500,000 to £1,000,000</b> requires the approval of the <b>Hub Committee</b> (West Devon), or the <b>Executive</b> (South Hams) (as appropriate) and shall be made within the context of the Council’s Asset Management Plan.
Above £1,000,000	The acquisition of any land and buildings of a value in excess of <b>£1,000,000</b> requires the approval of the <b>full Council</b> and shall be made within the context of the Council’s Asset Management Plan.

Table 2: THIS IS NEW (was not in the list of summary tables)

Project Total Value Inc VAT	Maximum % Overspend inc VAT	Authorised By
Up to £50,000	10%	<b>Section 151 Officer</b> in consultation with the <b>Head of Assets (Corporate Property Officer)</b> , the <b>Relevant Executive Member</b> (South Hams); or <b>Chairman of Hub Committee</b> (West Devon) (as appropriate) With retrospective reporting to the <b>Executive</b> (South Hams) or <b>Hub Committee</b> (West Devon) (as appropriate) within the quarterly monitoring report.
£50,000 to £500,000	10%	Approval required from <b>Hub Committee</b> (West Devon) or <b>Executive</b> (South Hams) (as appropriate)
Over £500,000	10%	Approval required from full Council

**Table: 3**

<b>Item Value inc VAT</b>	<b>Disposals: Land and Buildings – Section 3</b>
Up to £300,000	The <b>Head of Assets (Corporate Property Officer)</b> in consultation with the <b>Section 151 Officer, the Director of Place and Enterprise, the Lead Member for Assets and the Leader</b> , may agree to the disposal of land or building assets, where the market value does not exceed <b>£300,000</b>
Above £300,000	The disposal of any land and buildings over <b>£300,000.00</b> in market value requires the prior approval of the <b>Hub Committee</b> (West Devon), or the <b>Executive</b> (South Hams) (as appropriate) and shall be made within the context of the Council's Asset Management Plan.

**Table 4:**

<b>Item Value inc VAT</b>	<b>Disposals: Plant and Equipment – Section 3</b>
Above £5,000	The disposal of any item of plant and equipment valued at more than £5,000, at date of disposal shall require the prior approval of the <b>Section 151 Officer</b> .

**Table 5:**

<b>Item Value inc VAT</b>	<b>Income: Banking – Sections 5 and 13</b>
Daily/Weekly according to Insurance Limit	All monies received on behalf of the Council shall be banked without delay.

**Table 6:**

<b>Sum involved for each individual virement</b>	<b>Budget Changes (Virement) – Section 6</b>
Up to £5,000	The appropriate responsible budget holder may approve the virement in consultation with the appropriate accountant. No form is required.

£5,000 to £30,000	A virement form is required which is to be authorised by the relevant <b>Senior Officer</b> and <b>Section 151 Officer</b> or nominated deputy.
£30,000 to £100,000	The appropriate <b>Senior Officer</b> and the <b>Section 151 Officer</b> shall sign a virement form in consultation with the appropriate accountant and submit it to the <b>Executive</b> (South Hams only) for approval.
Above £100,000	The appropriate <b>Senior Officer</b> and the <b>Section 151 Officer</b> shall sign a virement form in consultation with the appropriate accountant and submit it to full Council for approval.

**Table 7:**

Item Value inc VAT	Use of Reserves – Section 6
Up to £100,000	The <b>Section 151 Officer</b> may approve the use of Earmarked Reserves and Unearmarked General Fund Reserves up to a limit of £100,000, and may also approve increasing or creating Earmarked Reserves up to a limit of <b>£100,000</b> .
£100,000 to £500,000	The use of Reserves of between £100,000 to £500,000 requires the prior approval of the <b>Hub Committee</b> (West Devon), and the <b>Executive</b> (South Hams) (as appropriate) upon receipt of a report from the <b>Senior Officer and Section 151 Officer</b> .
Above £500,000	The use of Reserves above £500,000 requires the prior approval of the full Council upon receipt of a report from the <b>Senior Officer and Section 151 Officer</b> .
	The use of reserves for <b>Salcombe Harbour</b> requires a recommendation to the Executive by the Salcombe Harbour Board.

**Table 8:**

Item Value inc VAT	Use of Section 106 Monies – Section 6
Below £100,000	Authorisation of expenditure using funds received from Section 106 Agreements must be sought from the <b>Section 151 Officer</b> for amounts up to £100,000 by the appropriate <b>Senior Officer</b> , following consultation with the relevant <b>Ward Member</b> as a minimum.
£100,000 to £500,000	The use of funds received from Section 106 Agreements for projects between £100,000 to £500,000 requires the prior approval of the <b>Hub Committee</b> (West Devon), and the <b>Executive</b> (South Hams) (as appropriate) upon receipt of a report from the <b>Senior Officer and</b>

	<b>Section 151 Officer</b> , following consultation with the relevant <b>Ward Member</b> .
Above £500,000	The use of funds received from Section 106 Agreements for projects above £500,000 requires the prior approval of the <b>full Council</b> upon receipt of a report from the <b>Senior Officer and Section 151 Officer</b> , following consultation with the relevant <b>Ward Member</b> .

**Table 9:**

<b>Item Value inc VAT</b>	<b>Quotations/Tendering for Goods and Services – Section 8</b>
Below £25,000	Most favourable prices and terms, having regard to the principles set out in the Council's Procurement Strategy appropriately evidenced (in accordance with Contract Procedure Rules).
£25,000 to £100,000	3 written quotations appropriately evidenced (in accordance with Contract Procedure Rules).
Above £100,000	Tendering in accordance with Contract Procedure Rules and UK Procurement Legislation as appropriate.

**Table 10:**

<b>Item Value inc VAT</b>	<b>Quotations/Tendering for Works and ICT – Section 8</b>
Below £25,000	Most favourable prices and terms, having regard to the principles set out in the Council's Procurement Strategy appropriately evidenced (in accordance with Contract Procedure Rules).
£25,000 to £100,000	3 written quotations appropriately evidenced (in accordance with Contract Procedure Rules).
Above £100,000	Tendering in accordance with Contract Procedure Rules and UK Procurement Legislation as appropriate.

**Table 11:**

<b>Item Value inc VAT</b>	<b>Income: Unders and Overs – Section 13</b>
Over £100	'Unders and overs' and discrepancies must be reported immediately to the <b>Section 151 Officer</b> .

**Table 12:**

Item Value inc VAT	Write Off: Bad and Doubtful Debts – Section 13
Finance Up to £5,000	The <b>Section 151 Officer</b> is empowered to write off bad and doubtful debts, after satisfying her/himself that it would be uneconomic or inappropriate for the Council to pursue them, and where appropriate a Legal representative has considered the Council’s position.
Other Services Up to £5,000	In the case of debts due to other service groups, the <b>Section 151 Officer</b> will consider write off in accordance with the above upon the written authorisation of the Senior Officer involved or her/his deputy.
All Debts Up to £5,000	The total amounts of debt written off by the <b>Section 151 Officer</b> under delegated powers will be reported to the <b>Hub Committee</b> (West Devon), and the <b>Executive</b> (South Hams)(as appropriate).
All Debts Above £5,000	No debts in excess of £5,000 may be written off without the prior approval of the <b>Section 151 Officer</b> and the <b>Hub Committee</b> (West Devon), and the <b>Executive</b> (South Hams)(as appropriate).

**Table 13:**

Item Value inc VAT	Inventories – Section 16
Individual items above £5,000	Inventories of all property (furniture, fittings and equipment) belonging to or in the care of the Council, other than stores, shall be prepared and maintained by the <b>Senior Officer</b> concerned or a designated officer.

**Table 14:**

Item Value inc VAT	Write Off: Stock Deficiencies and Obsolete Stocks – Section 24
Above £5,000	The disposal or write-off of any stock or stores item/s valued at more than £5,000 at date of disposal shall require the prior approval of the <b>Section 151 Officer</b> .

**Table 15:**

Sum involved	Borrowing – Section 27
Up to £500,000	The borrowing of up to £500,000 for any purpose other than the acquisition of land or buildings requires the prior approval of the <b>Hub Committee</b> (West Devon), and the <b>Executive</b> (South Hams) and any approval shall be made in the context of the borrowing limits set by the full Council at the beginning of the financial year.
Above £500,000	The borrowing above £500,000 for the acquisition of land or buildings requires the prior approval of the full Council.

## 1. ACCOUNTING

### Why is this important?

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources.

The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year, which are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

### Risks:

The Council may not account for all income received and expenditure made;

Financial systems could provide inaccurate or misleading information leading to poor decision making;

Insecure accounting or financial systems could give rise to opportunities for fraud or loss; and

Statutory requirements for reporting on the Council's financial affairs may not be met.

### Responsibilities

#### Financial Management Standards

- 1.1 All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.
- 1.2 The **Section 151 Officer** shall:
  - Ensure the proper administration of the financial affairs of the Council.
  - Set the financial management standards and to monitor compliance with them.
  - Ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council.
  - Advise on the key strategic controls necessary to secure sound financial management.
  - Ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.



## 1. ACCOUNTING

- Determine the accounting procedures and keep the accounting records of the Council including cost and stores accounts for all service groups of the Council, and to select suitable accounting policies and ensure that they are applied consistently
  - Administer the Council's arrangements for underspendings to be carried forward to the following financial year.
- 1.3 Where she/he is satisfied that it is in the interest of administrative efficiency for any such records to be maintained in other service groups, the **Senior Officer** of that service group shall have a duty to maintain a standard of financial control which is to the satisfaction of the **Section 151 Officer**.
- 1.4 In all cases the **Section 151 Officer** shall be consulted and shall approve the form of new accounting records, financial stationery and systems or changes to them following consultation with the **Senior Officer** of the service group concerned.
- 1.5 This will include adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements. Financial and accounting systems shall incorporate appropriate controls to ensure that, where relevant:
- All input is genuine, complete, accurate, timely and not previously processed;
  - All processing is carried out in an accurate, complete and timely manner; and
  - Output from the system is complete, accurate and timely.
- 1.6 **Senior Officers** shall:
- Promote the financial management standards set by the **Section 151 Officer** to their departments and to monitor adherence to the standards and practices, liaising as necessary with the **Section 151 Officer**.
  - Promote sound financial practices in relation to the standards, performance and development of staff in their departments.

### Separation of Duties

- 1.7 The following principles should be applied when allocating accounting duties, unless good reason disallows and the prior approval of the **Section 151 Officer** has been obtained normally through Internal Audit:
- The duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums should be separate from the duty of collecting or disbursing them; and

## 1. ACCOUNTING

- Employees with the duty of examining or checking the accounts of cash transactions shall not themselves be engaged in these transactions.

Compensating controls should be in place where the **Section 151 Officer** approves a reduced separation of duties for reasons such as low staffing levels.

### Other Information

- 1.8 **Senior Officer** shall supply requisite information to the **Section 151 Officer** for financial costing and accounting purposes.
- 1.9 The **Section 151 Officer** shall by arrangement with a Senior Officer provide such costing or other financial information required to facilitate the efficient conduct of their functions by officers responsible for incurring expenditure.
- 1.10 The **Senior Officer** will be the responsible for advising the **Section 151 Officer** of any likely overspending of their authorised budget provision.

### Reports to Member Bodies

- 1.11 Copies of all reports having financial implications shall be submitted to the **Section 151 Officer** in sufficient time prior to the meeting of the member body at which such reports are to be considered to enable the **Section 151 Officer** to make her/his observations on the financial implications to the **Senior Officer** concerned. Where the **Section 151 Officer** is not a signatory to the report, her/his observations and submissions must be reflected in the report by the author.

### Accounting Records

- 1.12 The **Section 151 Officer** is to ensure that accounting and financial records are held securely and procedures are in place to enable accounting records to be reconstituted in the event of a system failure. A documented and tested disaster recovery plan to allow information processing to resume quickly in the event of an interruption shall be in place.
- 1.13 Working papers leading to the preparation of Final Accounts are to be kept by the officer responsible for the year of audit and for preceding years in accordance with the Document Retention Policy. Adequate records to provide a management trail leading from the source of income/expenditure through to accounting statements is to be maintained.
- 1.14 All financial systems shall be documented and users trained in their operation prior to the system being used in a live environment.

### Trading Accounts

## 1. ACCOUNTING

- 1.15 The **Section 151 Officer** shall advise on the establishment and operation of Trading Accounts. With **Senior Officers**, s/he will ensure that the same accounting principles are applied in relation to trading accounts as for other services.
- 1.16 **Senior Officers** shall observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure and overheads are charged. An annual report shall be prepared in support of the final accounts.

### Annual Accounts and Treatment of Year End balances

- 1.17 The **Section 151 Officer** shall:
- Prepare annual accounts, which present fairly the financial position of the Council, in accordance with statutory and professional requirements, CIPFA best practice and in liaison with the External Auditors.
  - Make proper arrangements for the audit of the accounts.
  - A timetable for their preparation shall be drawn up and staff and the external auditors advised accordingly.
  - Prepare and sign the statutory annual statement of accounts, and produce an annual report. There is a statutory requirement for the **Section 151 Officer** to sign the accounts and the Council to approve the accounts by the required date and this must be adhered to.
  - Select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year.
- 1.18 For specific trading accounts, the year-end balance will be taken to an earmarked reserve in line with current legislation.
- 1.19 **Senior Officers** must:
- Comply with accounting guidance provided by the **Section 151 Officer** to supply the information required. This includes notification of any outstanding income and/or expenditure relating to the previous financial year as soon as possible after the 31st March in accordance with the year-end timetable.
  - Maintain adequate records to provide a trail leading from the source of income/expenditure to the accounts.
  - Consult and obtain the approval of the **Section 151 Officer** before making any changes to accounting records and procedures.

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1.20 The **Section 151 Officer** is to administer the Council's arrangements for under and overspendings at year end to be carried forward to the following financial year. This will include advising the **Hub Committee** for **West Devon** or the **Executive** for **South Hams** (as appropriate) comparisons of actual income and expenditure with that budgeted and advice on the appropriate treatment of the year end balances, having considered the reasons behind the nature of their origins.

1.21 For **West Devon** only:

- Responsible Budget Officers should seek to match overspends with underspending within the same costs centres within the same **Committees**.
- Any overspending on a **Committee's** budget may be carried forward to the following year. If this course of action is taken the overspend will constitute the first call on that **Committee's** budget in the following year.
- Net underspendings on a **Committee's** budgets may be carried forward subject to the approval of the **Hub Committee** following advice from the **Section 151 Officer** who shall consider the implications of the Council's overall financial position.

## 2. ASSETS

### Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register and inventory is a prerequisite for sound asset management.

### Risks:

Assets may be acquired without prior approval, for which there is no use and/or on financially unacceptable terms;

Assets could be lost, stolen or used for non-Council business; and

Assets are not available when required in the provision of a service.

### Responsibilities

#### Asset Management

- 2.1. The Head of Assets shall be the **Corporate Property Officer (CPO)**.
- 2.2. The **Corporate Property Officer** shall be the Chair of , and be responsible for the operation of the Asset Management Group whose role is set out in the Council's Asset Management Plan and includes:
  - Providing advice to Members and Senior Leadership Team on strategic management of the Council's assets and the performance of the Council's portfolio;
  - Contributing to plans dealing with maintenance, acquisitions and disposals of land and property, health and safety and risk assessment, so far as the Council's portfolio is concerned; and
  - Recommending projects to be included in the Council's Capital Programme and monitoring of these projects.
- 2.3. The **Corporate Property Officer** shall be empowered to:
  - Give consent to the assignment, sub-letting or surrender of existing leases (authority also to be exercised by a nominated deputy).

## 2. ASSETS

- Subject to authorisation by the Monitoring Officer, to authorise and take necessary legal proceedings towards the termination and renewal of leases, agreements and licences.
- Subject to authority from the Monitoring Officer to take legal and court action to enforce payment of rent and charges due.
- To approve the revision of rents and licence fees.
- To approve amendments to the terms of an existing lease, agreement or licence.
- To grant or obtain easements and wayleaves.
- To grant licences, periodic tenancies and leases (not exceeding 15 years) at a fee/rental calculated.
- To approve the conveyancing of land to public utility services in connection with Council development.
- Day to day management of Council land and buildings where not delegated to other **Senior Officers**.
- Imposition or release of covenants in respect of land where the Council has an interest.
- Ensure that lessees and other prospective occupiers of Council owned land are not allowed to take possession or enter the land until a lease or agreement (in a form approved by the Council's Solicitor has been completed.

2.4 The **Corporate Property Officer** shall maintain a property asset register (terrier) of all properties owned by the Council (except dwellings provided under the Housing Acts) recording amongst other things service user, purpose for which held, location, nature of the Council's interest and rents payable, extent and plan references, purchase details, particulars and terms of tenancies granted together with other information as may be required by law.

2.4. The **Section 151 Officer** shall:

- Ensure that an asset register is maintained by the Head of Finance in accordance with good practice for all fixed assets with a value in excess of £10,000 and all land/buildings regardless of value. This register should be compared with other registers (e.g. the property terrier on a regular basis. An up to date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

## 2. ASSETS

- To receive the information required for accounting, costing and financial records from each relevant **Senior Officer**.
- To ensure that arrangements are made for the assets to be valued in accordance with the [Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice \(CIPFA/LASAAC\)](#).

### 2.5. **Senior Officers** shall:

- Ensure that the department informs the **Section 151 Officer** of the purchase/disposal of moveable assets in accordance with arrangements defined by the **Section 151 Officer**.
- Assist the **Corporate Property Officer** to provide a report on property performance and asset management to the Council.

### **Land and Buildings**

2.6. The **Council's Monitoring Officer** will have custody of all title deeds or Land Registry confirmation documents under security arrangements agreed with the **Section 151 Officer**.

### **Vehicles, Plant and Equipment**

2.7. Senior Officers shall ensure that up to date records exist for all vehicles and items of plant and equipment under her/his control. The records are to include:

- Registration or serial numbers;
- Council identification numbers;
- Description; and
- Usual storage location.

2.8. All Council vehicles and items of plant and equipment are to be kept under secure arrangements at all times. Relevant **Senior Officers** shall nominate the employees who are responsible for the security arrangements.

2.9. No private use is permitted of any vehicle (except cars leased to officers for this purpose) or item of plant or equipment in the ownership of or leased to the Council.

### **Acquisition**

## 2. ASSETS

- 2.10. All purchases or the leasing of land, buildings, vehicles or items of plant and equipment shall be on the best financial terms that can be obtained for the Council. The purchasing or leasing arrangements are to be in accordance with the purchasing arrangements laid down elsewhere in these Rules and [the Contract Procedure Rules](#).
- 2.11. All purchases or the leasing of land, buildings, vehicles or items of plant or equipment shall be within the budget provision and the **Section 151 Officer** must be consulted on the method of financing. This includes any simple rental agreements because of the potential implication for the accounts.

Note: [Table 1](#) sets out the financial limits and approvals required

### Insurance

- 2.12. All buildings, vehicles or plant or equipment shall be appropriately insured, see also FPR Insurance. The circumstances of losses of or damage to any vehicle or item of plant and equipment must be reported immediately to the relevant **Senior Officer** and the **Section 151 Officer**. Losses are to be recorded in the appropriate inventory or asset register.

### Capital Programme

- 2.13. The **Section 151 Officer** shall:

- Issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by, having regard to government regulations and accounting requirements.
- Determine the most appropriate method of funding of items approved in the capital programme in subsequent financial years.

- 2.14. The **Section 151 Officer** and **Corporate Property Officer**, in association with other relevant **Senior Officers** shall:

- Ensure that specific approval has been obtained from the Council, or as delegated, for capital expenditure prior to any costs being incurred;
- Prepare capital estimates and jointly report them to Council for approval. Council approval is required where a **Senior Officer** proposes to bid for or exercise additional borrowing not anticipated in the capital programme. This is because the extra borrowing may create future commitments to financing costs.
- Procurement for approved capital projects must be made in line with [the Contract Procedure Rules](#).



## 2. ASSETS

- Where any tender for projects under the Capital Programme exceeds the available budget by 10% approval to proceed may be made by the **Corporate Property Officer** and **Section 151 Officer** with retrospective reporting through the monitoring process. Above these amounts the specific approval of the **Hub Committee** (West Devon only) should be sought prior to acceptance. **[Should there be a table?]**
- Have monitoring responsibilities to receive regular reports from Project Managers on the performance of their project; and report quarterly to the **Hub Committee** (West Devon) or **the Executive** (South Hams) (as appropriate) on the overall progress of the Capital Programme. The monitoring report will outline the budget position as a whole and include, as a minimum, the financial position of each approved project.

### ***Project Overspends***

- 2.15. In monitoring expenditure on a project, the **Officer/Project Manager** shall make all efforts to ensure that no overspend occurs. In exceptional circumstances he/she shall seek the formal approval of the **Section 151 Officer, Corporate Property Officer** or Member body at the earliest opportunity where the approved expenditure appearing in the capital programme is likely to be exceeded.
- 2.16. [Table 2](#) sets out the authorisation required for project overspends.
- 2.17. **Senior Officers** shall:
- Comply with guidance concerning capital schemes and controls issued by the **Section 151 Officer**.
  - Ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of **Section 151 Officer** and, if applicable, approval of the scheme through the capital programme.
  - Ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the **Section 151 Officer**.
  - A scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the appropriate **Committee** and by **Council**; accountability for each proposal is accepted by a named project leader.
  - To ensure that adequate records are maintained for all capital contracts.

## 2. ASSETS

- To consult with the **Section 151 Officer** where the **Senior Officer** proposes to bid for capital expenditure supported by an external capital grant to support expenditure that has not been included in the current year's capital programme. The capital expenditure and external capital grant should then be reported to the **Hub Committee** (West Devon) or **the Executive** (South Hams) (as appropriate) as part of the capital programme monitoring report.

### 3. ASSETS - DISPOSAL

#### Why is this important?

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council with the objective of securing maximum residual value.

#### Risks:

Assets could be sold when there remains an operational use for them;

Assets could be sold for far less than the market or expected residual value; and

Assets could be disposed of to officers, Members or others at no or very little cost, which could be construed as tantamount to fraud; and compliance with Government directives such as for electronic equipment.

#### Responsibilities

- 3.1. Assets no longer required may be disposed of, but only in accordance with the law and the rules of the Council as to maximise the benefit.
- 3.2. The relevant **Senior Officers** will ensure that income received from the sale of surplus assets is properly banked and coded to the Council's accounts, and the **Section 151 Officer** informed promptly.
- 3.3. The **Section 151 Officer** will ensure that the appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds in the accounts as appropriate
- 3.4. The proceeds for the sale of any asset will be held corporately and may not be attributed to the service that used or disposed of the asset.

#### Land and Buildings

- 3.5. The **Corporate Property Officer**, in association with **Senior Officers**, will draft the Council's Disposal Strategy and ensure that the procedures in the Strategy are complied with.
- 3.6. Table 3 sets out the financial limits and approvals required for the disposal of land and buildings.

#### Vehicles

### 3. ASSETS - DISPOSAL

- 3.7. Any vehicles that are surplus to the Council's requirements shall only be disposed of on the prior written authority of the relevant **Senior Officer**. S/he is empowered to dispose of vehicles by way of trade-in or, following advertisement, to the highest tenderer and to hire additional vehicles where necessary. Where a vehicle has little or no sale value parts should be re-used where appropriate. The disposal of any vehicle shall either be by part-exchange or by public auction in normal circumstances. The decision on the method of disposal is the responsibility of the relevant **Senior Manager**, in consultation with the **Section 151 Officer**, who may also in exceptional circumstances use alternative methods where it is beneficial to the Council.
- 3.8. All documentation relating to the sale of any vehicle is to be retained in safe custody for a period of six years and is to be available for inspection by Internal Audit, if requested.
- 3.9. Any inventory or similar record relating to the vehicle disposed of is to be endorsed with the date of disposal and the receipt number for the income received.

#### **Plant and Equipment**

- 3.10. The term equipment in this section includes all equipment of the Council including engineering, building and office equipment or machinery, but excluding computer equipment.
- 3.11. Proposed disposals of plant and equipment that are surplus to the Council's requirements shall not be separated to avoid the approval and reporting limits set out in [Table 4](#).
- 3.12. On acceptance of the highest offer, the purchaser must pay the Council before the item is released.
- 3.13. All documentation relating to the sale of any item of plant and equipment is to be retained in safe custody for a period of six years and is to be available for inspection by Internal Audit, if requested.
- 3.14. Any inventory or similar record relating to the item of plant and equipment disposed of is to be endorsed with the date of disposal and the receipt number for the income received.

#### **Computer and Computer Related Equipment**

- 3.15. The disposal of computers and computer related equipment on behalf of the Council is the responsibility of the **Head of ICT**, although the above principles will apply.
- 3.16. In certain circumstances, where the cost of preparing an item for disposal exceeds the estimate of likely income, obsolete equipment may be destroyed on obtaining the

### 3. ASSETS - DISPOSAL

prior written authority of the **Section 151 Officer** or her/his authorised representative.

- 3.17. Disposal of electrical and electronic equipment including household appliances, IT/telecommunications equipment, electrical and electronic tools, leisure and sports equipment etc. should comply with any relevant government/health and safety directives. Wherever possible, items should be offered for re-use or recycling where there is little or no residual value.

## 4. AUDIT

### Why is this important?

#### Internal Audit

The Chartered Institute of Public Finance and Accountancy (CIPFA) states that 'Internal audit is an assurance function that primarily provides an independent and objective opinion to the Council on the control environment comprising risk management, control and governance by evaluating its effectiveness in achieving the Council's objectives. Internal audit objectively examines, evaluates and reports on the adequacy and effectiveness of the control environment as a contribution to the proper, economic, efficient and effective use of resources'.

#### External Audit

External auditors are appointed by the Public Sector Audit Appointments ("PSAA") for a fixed period (normally five consecutive financial years). External auditors are required to be satisfied that proper arrangements have been made by the Council for governance and securing value for money in its use of resources. This work includes providing an opinion on the Council's published accounts and an annual letter to Members outlining the auditor's key findings and recommendations.

#### Risks

Changes in the delivery of services could lead to internal control systems failing thereby increasing the possibility of fraud, loss, extravagance, waste or embarrassment to the Council; and

The Council could face legal action for failing to maintain an adequate and effective internal audit service.

### Responsibilities

#### Internal Audit

- 4.1. The Accounts and Audit Regulations 2015 state that a relevant body must 'maintain an adequate and effective system of internal audit of the Council's accounting records and of its system of control in accordance with the proper internal audit practices'.
- 4.2. The Council, through the **Section 151 Officer**, shall therefore make provision for an independent internal audit in accordance with the professional standards set out in the CIPFA Code of Practice for Internal Auditors in Local Government in the United Kingdom.

## 4. AUDIT

- 4.3. Representatives from **Internal Audit** shall have authority to:
- Enter at all reasonable times on to any Council premises or land;
  - Have access to all assets, records documents and correspondence relating to any transaction of the Council;
  - Require and receive such information and explanations as are necessary concerning any matter under examination;
  - Require any employee or agent of the Council to account for cash, stores or any other Council property under her/his control; and
  - Access records belonging to third parties, such as contractors, partners etc. when required. Such a requirement shall be written into all contracts and partnership agreements.
- 4.4. The **Section 151 Officer** and **Senior Officers** must ensure that the above requirements are not compromised, and that all records and systems are up to date and available for inspection.
- 4.5. The **Internal Auditor** will follow professional standards and guidelines issued by CIPFA, specifically the Code of Practice for Internal Audit in Local Government in the United Kingdom and prepare risk based strategic and annual audit plans as a basis of their work.
- 4.6. At the beginning of each financial year, the **Internal Auditor** will present to the **Audit and Governance Committee** a risk based audit plan which over a period of time will cover all aspects of the Council's control environment and be accompanied by Terms of Reference and a Strategy setting out how the plan will be achieved.
- 4.7. Internal audit will report on its activities to the **Audit and Governance Committee** quarterly. Such reports are to include details of action agreed on recommendations of a significant nature and the **Internal Auditor** shall deliver an annual opinion as to the adequacy of internal control within the authority.
- 4.8. **Senior Officers** are to consider and promptly respond to recommendations set out in Internal Audit reports and to ensure that any agreed actions arising from the recommendations are carried out in a timely and efficient fashion.

### **Systems Changes - Direct or Indirect Financial Nature**

- 4.9. The **Section 151 Officer** shall advise the **Internal Auditor** of any changes to systems that s/he has been informed of, to allow Internal Audit to influence the controls in the new system at an early stage.

## 4. AUDIT

### Irregularities (Anti-Fraud and Corruption)

- 4.10. The **Section 151 Officer** in conjunction with the **Monitoring Officer**, must ensure that effective procedures are in place to promptly investigate any fraud, corruption or other irregularity.
- 4.11. The Council's 'Anti-Fraud, Corruption and Bribery Policy and Strategy' is the responsibility of the **Section 151 Officer**, **Monitoring Officer** and **Internal Auditor** and sets out the Council's anti-fraud position. A published 'Response Plan' sets out the procedures to be followed for investigations.
- 4.12. Internal Audit officers will be the normal independent investigators particularly where suspicions involve assets. The **Internal Auditor** must set aside a contingency budget within the audit plan to cover such eventualities, having regard to other pressures on the team.

### Direct Access to the Head of Paid Service, the Audit and Governance Committee and Executive or Hub Committee

- 4.13. In the event of the necessity arising, the facility exists for Internal Audit to have direct access to the **Head of Paid Service**, **Section 151 Officer** and the Chairman the **Audit and Governance Committee** and/or of the **Executive** or **Hub Committee**.

### External Audit

- 4.14. The **Section 151 Officer** shall ensure that there is effective liaison between external and internal audit.
- 4.15. The **Section 151 Officer** will work with the external auditor and advise the Council, **Executive** or **Hub Committee**, and the **Audit and Governance Committee** on their responsibilities in relation to external audit.
- 4.16. **Senior Officers** shall ensure that external audit are given access at reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.



## 5. BANKING ARRANGEMENTS

### Why is this important?

Banking arrangements determine who has access to the funds of the Council. All the Council's income and expenditure is managed through its bank accounts. Each day many transactions take place between the Council, its customers and the Council's bankers. Bank accounts are, therefore, exposed to risk in the form of fraud or error. As a result tight control over setting them up, maintaining them and dealing with the transactions that flow through them is required.

### Risks:

Bank accounts could be opened in the name of the Council with the aim of perpetrating a fraud;

Unauthorised persons could gain access to the Council's bank account and carry out fraudulent transactions; and

Banking instruments, e.g. cheques, money orders etc. could be stolen and used to steal money from the Council's bank account.

### Responsibilities

#### Section 151 Officer

- 5.1. All arrangements with the Council's bankers regarding the Council's bank accounts and the terms on which they are conducted shall be made by the **Section 151 Officer** who will advise on the establishment of suitable controls over access to the bank account including approval of signatories.
- 5.2. No account shall be opened, closed or altered with any bank or other such institution without the prior approval of the **Section 151 Officer**.
- 5.3. All the Council's bank accounts must be in the full name of the Council.
- 5.4. The Council operates on a cashless basis and no longer accepts cash or cheques. References to cheques in this guidance are for the rare instances when cheques are used in exceptional circumstances, for example, in an emergency.
- 5.5. Cheques and related stationery shall be ordered only on the authority of the **Section 151 Officer** or nominated Deputy who shall make proper and secure arrangements for safe custody.
- 5.6. All cheques drawn on the Council's bank accounts shall be signed by the **Section 151 Officer** or an officer designated in the Bank's mandate or bears the facsimile signature of the **Section 151 Officer**.

## 5. BANKING ARRANGEMENTS

### Separation of Duties

5.7. The **Section 151 Officer** shall arrange such safeguards as she/he deems necessary and practicable including separation of staff duties so that as far as possible the following:

- Receipt and banking of cash and cheques;
- Checking of creditors'; benefits; salaries and wages;
- Control of cheques;
- Preparation of cheques;
- Despatch of cheques; and
- Reconciliation of bank balances

### Reconciliation of Bank Accounts

5.8. The **Section 151 Officer** shall nominate an officer to be responsible for reconciling all bank accounts in the name of the Council with the accounting records on a regular basis, and not less frequently than monthly. The reconciliation statement is to be signed jointly by the officer responsible for its preparation and the **Section 151 Officer** or their nominated deputy.

5.9. Any discrepancy arising at the time of reconciling the accounts and records will be made known to the **Section 151 Officer** and any such discrepancy clearly stated on the reconciliation statement.

### General

5.10. Crossed cheques issued by the Council shall only be opened with the express approval and countersignature of the **Section 151 Officer** or designated authorised officer.

5.11. Reference should be made to [Table 5](#)

## 6. BUDGET and BUDGETARY CONTROL

### Why is this important?

Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

### Risks:

There may be inefficient use of public money and a failure to comply with the Council's objectives;  
The viability of the Council as a business could be undermined; and  
The Council's resources may be vulnerable to fraud or misuse.

### Responsibilities

#### Format of the Budget

- 6.1. The format of the budget determines the level of detail to which financial control and management will be exercised.
- 6.2. The **Section 151 Officer** will advise the Council through the **Hub Committee** (West Devon), or the **Executive** (South Hams), (as appropriate) on the format of the budget that must be approved by Council ensuring that the format complies with all legal requirements; reflects the accountabilities of service delivery.

#### Budget Preparation

- 6.3. The **Section 151 Officer** is responsible for ensuring that a revenue and capital budget is prepared on an annual basis and a medium term financial strategy on a three-yearly basis for consideration by the the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate), and in accordance with professional and statutory requirements.
- 6.4. The Council's proposed budgets must reflect service plans and identify areas of cost pressure and budget holders applications for growth in the budget. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds in accordance with corporate priorities.
- 6.5. The full Council may amend the budget or ask the the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate) to reconsider before approving it.

## 6. BUDGET and BUDGETARY CONTROL

- 6.6. Responsible Budget Officers (RBOs) are consulted in the preparation of the budget as they are accountable for the budgets which arise from the planning process,
- 6.7. The **Section 151 Officer** will encourage the best use of resources and value for money by working with **Senior Officers** to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- 6.8. **Senior Officers** must prepare estimates of future anticipated incomes and expenditures including areas of cost pressures and growth for inclusion in the five-year financial plan with a careful consideration of corporate and service priorities.

### Resource Allocation

- 6.9. The **Section 151 Officer** shall:
- Advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
  - Assist in the allocation of resources to Responsible Budget Officers (RBOs).
  - For **West Devon**, bids to the Contingency Fund must be approved by the **Hub Committee** and bids to the Emergency Fund must be approved by the **Section 151 Officer** in consultation with the Chair and Vice Chair of the **Hub Committee**.
- 6.10. **Senior Officers** shall:
- Work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
  - Identify opportunities to minimise resource requirements without having a detrimental effect on service delivery.

### Budget Management

- 6.11. After approval by the Council budget management must be exercised within the annual budget limits; there must be no increase in the overall budget (see Supplementary Estimate Request below). Expenditure is to be committed only against an approved budget head.
- 6.12. The **Section 151 Officer**:

## 6. BUDGET and BUDGETARY CONTROL

- Is responsible for establishing an appropriate framework and providing appropriate financial information to enable budgets to be monitored effectively on an individual basis and as a whole;
- Must monitor and control expenditure against budget allocations and report to the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate) on the overall position and projected income and expenditure on a regular basis;
- To submit reports to the **Hub Committee** (West Devon), or the **Executive** (South Hams), (as appropriate) in consultation with the relevant **Senior Officer** where the **Senior Officer** is unable to balance expenditure and resources within existing approved budgets under their control.
- Must ensure that:
  - expenditure is committed only against an approved budget codes;
  - each budget has a single named RBO, determined by the relevant **Senior Officer**. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making process that commits expenditure;
  - each RBO has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
  - all officers responsible for budgets comply with relevant guidance, and the Financial Procedure Rules;
  - significant variances from approved budgets are investigated and reported by RBOs regularly.
- Will administer the Council's scheme of virement.

### Senior Officers must:

- Ensure prior approval by Council or the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate) for new proposals, of whatever amount, that:
  - create financial commitments in future years;
  - materially extend or reduce the Council's services; or

## 6. BUDGET and BUDGETARY CONTROL

- involve expenditure for which budget provision is not made or is exceeded.
- Maintain budgetary control within their service;
- Control income and expenditure within their area and to monitor performance, taking account of financial information provided by the **Section 151 Officer**. They should report on variances within their own areas.
- Ensure that an RBO is identified for each item of income and expenditure under the control of the **Senior Officer** (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making process that commits expenditure.
- Responsible Officers are to be accountable for the income and expenditure for the budgets that they control. Responsible Officers are to understand their financial responsibilities and comply with accounting guidance provided by the Section 151 Officer and the Council's Financial Procedure Rules.
- Take any action necessary to avoid exceeding their budget allocation and alert the **Section 151 Officer** to any problems.

### General

6.13. No officer should code expenditure to a cost centre without the approval of the RBO for that cost centre.

### Virement (Budget Changes)

6.14. The full Council is responsible for agreeing the procedures for virement between budget headings. [Table 6](#) sets out the financial limits and the approvals required

6.15. Virement does not create additional budget liability.

6.16. The scheme of virement is to be administered by the **Section 151 Officer**, and applies to both revenue budgets and the capital programme (but not between the two):

- Properly approved virement request forms and requests not requiring approval must be processed by the appropriate Accountant who will amend the financial management system (general ledger) budget files. Approved forms must be retained for audit purposes.

## 6. BUDGET and BUDGETARY CONTROL

- The transfer of non salary budgets for use on salary expenditure will be permitted up to a total of £10,000 per relevant **Senior Officer** per annum (not per service).

6.17. RBOs are responsible for initiating the virement procedure if an overspend is likely to occur within the departmental budget.

6.18. A 'Virement Request' form may need to be completed where approval is required as set out in the tables below.

No virement relating to a specific financial year can be made after 31 March in that year.

### **Supplementary Estimate Request**

6.19. If virement is not possible, for example if there is no existing budget to vire or use of reserves is inappropriate, the **Senior Officer** concerned, in consultation with the **Section 151 Officer**, shall submit a Supplementary Estimate Request to the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate). No such expenditure may be incurred except on resolution of the Council after considering the proposals of the the **Hub Committee** (West Devon), or the **Executive** (South Hams) (as appropriate).

### **Reserves**

6.20. The **Section 151 Officer** will advise Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.

6.21. For each reserve established, the purpose, usage and basis of transactions should be clearly identified. Reserves should only be used for the purposes for which they were intended.

6.22. Authorisation of expenditure from reserves must be sought by the appropriate **Senior Officer** in consultation with the **Section 151 Officer**

6.23. [Table 7](#) sets out the financial limits and the approvals required.

### **Using Funds Held Under Section 106 Agreements**

6.24. Projects to be funded, in whole or in part, from Section106 Agreements must meet the requirements of the agreement.

6.25. [Table 8](#) sets out the financial limits and the approvals required

### **Shared Services**

## 6. BUDGET and BUDGETARY CONTROL

6.26. The **Section 151 Officer**) will ensure that a framework exists for the recharging of costs incurred by one partner Council on behalf of the other, having regard to the:

- Legal requirement that tax payers of one authority are not subsidising the costs of the others:
- Principle accepted by Members that partner Council's do not incur excessive costs in establishing the value of recharge due, although the recharge must be transparent and supportable to ensure its acceptability to the Councils' external auditors.

6.27. **Senior Officers** must ensure that:

- Appropriate staff are aware of their responsibilities for the recharging of costs incurred and must consider budget implications of using employees of the shared Council before deciding where a shared resource is deployed. In each case focus needs to be on who will benefit from the expenditure (and therefore who should bear the cost of the work).
- Budgets must not be used to fund another authority's costs even where they have a budget shortfall.
- All recharges must be transparent and robust with a clear audit trail and a clear basis for recharge.
- Should tasks be undertaken by an officer in one Authority on behalf of both, clear parameters need to be set to ensure that there is no duplication

6.28. The lead officer must check the VAT and insurance implications of any proposed new shared services working arrangements with the Head of Finance well before they are due to start.

6.29. Officers must always be thinking about shared services and whether any of their work needs to be recharged (on a regular or ad hoc basis).

### **Capital Programme**

6.30. See Section 2 - Assets



## **7. CAR LOANS**

**No longer applicable**

The Councils no longer provide car loans

## 8. EXPENDITURE - ORDERING (Goods, Works, Services)

### Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

### Risks:

The incorrect volume, number or quality of goods, works and services may be received; Goods, works or services received may not be fit for purpose;

The Council may be committed to spending on goods, works or services for which no budgetary provision has been determined;

Officers failing to follow contract and tendering procedures may leave both themselves and the Council open to accusations of favouritism and unfair contract terms;

Goods, works or services ordered may fail to meet the Council's environmental, health and safety and other strategies and policies; and

Short-term expenditure may commit the Council to longer-term maintenance costs.

### Responsibilities

- 8.1. This guidance should be read in conjunction with the Council's Contract Procedure Rules and the Procurement Strategy.
- 8.2. Every officer and Member of the Authority has a responsibility to declare to the **Monitoring Officer** any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct.
- 8.3. Each relevant **Senior Officer** is authorised to incur normal recurring expenditure provided that:
  - Provision has been made by way of revenue budget or supplementary estimate, virement or the work is rechargeable. Officers must not use an incorrect expenditure code to avoid overspending;
  - The quotation or tendering procedure required by the Contract Procedure Rules has been observed unless the Council has given authority for [Exemption to Contract Procedure Rules](#);

## 8. EXPENDITURE - ORDERING (Goods, Works, Services)

- In cases not covered by Contract Procedure Rules, **Senior Officers** shall obtain competitive quotations; and
- Each order shall conform to the directions of the Council with respect to central purchasing and the standardisation of supplies and materials.

### Orders

- 8.4. Official orders shall be in a form agreed by the **Section 151 Officer** with the responsible **Senior Officer** which in normal circumstances will be the Council's electronic ordering system.
- 8.5. The **Section 151 Officer** may approve alternative arrangements for the ordering of goods etc. where circumstances or trading necessity make this in her/his opinion desirable. Such approval must be given in writing/email.
- 8.6. Official orders shall be serially numbered and directions shall be specified on all orders that invoices shall be sent to Kilworthy Park for West Devon, and service group or establishment issuing the orders for South Hams as soon as possible after the despatch of goods.
- 8.7. The relevant **Senior Officer** of a service area shall be responsible for all orders issued from that service group. S/he shall maintain a list of all persons authorised to raise orders on her/his behalf and a copy of the list shall be supplied to the **Section 151 Officer**.
- 8.8. Blank paper orders (where held) should be kept securely at all times.

### Ordering

- 8.9. **Senior Officers** should ensure that:
- All goods and services are ordered only by appropriately authorised persons;
  - Officers are aware that official orders, either in whole or in part, are not to be used to obtain goods works or services for private use.
  - Official orders are issued for all work, goods and services to be supplied to the Council. They are a simple form of contract between the Council and a supplier.
- 8.10. Orders are not required for:-
- Rates;
  - Supply of utility services (e.g. gas, water, electricity, telephone); and

## 8. EXPENDITURE - ORDERING (Goods, Works, Services)

- Small cash purchases properly paid out of petty cash (see FPR Petty Cash).
- 8.11. Other exceptions must be agreed by the **Senior Officers** concerned, in consultation with the **Section 151 Officer**.
- 8.12. Oral orders shall only be given in the case of urgency by an officer authorised to sign the relevant order. Such oral orders shall be confirmed as soon as practicable within 48 hours by the issue of an official order unless exempt by the paragraph above.
- 8.13. No order shall be issued for goods, work, or services unless the cost is covered by the approved annual budgets, supplementary estimate or by virement approved under these Financial Procedure Rules. The electronic ordering system will alert the authorising officer if there is a shortfall in the cost code being used, and this should only be overridden if the officer is certain that funds are available in related cost codes.
- 8.14. All official orders shall show the relevant expenditure code and the actual or estimated cost of the goods, materials or services taking into account discounts, carriage etc. at the time of the order. The commitment against the budget will be shown when the electronic ordering system is used.
- 8.15. No supplies are to be obtained on behalf of the Council without an order number being quoted and an order despatched.
- 8.16. Orders placed internally for central purchasing contract purchases e.g. stationery, office equipment may only be signed by those authorised to sign orders by the relevant **Senior Officer**.
- 8.17. In cases where orders are lost in the post or by suppliers, confirmation of the order shall be given by letter quoting the original order number, except where duplicate orders issued marked as such (e.g. using the electronic ordering system).
- 8.18. Standard Terms and Conditions must not be varied without the prior approval of the Council's Procurement Officer and/or the **Council's Solicitor** dealing with contracts.

### Quotations

- 8.19. Best endeavours must be made by ordering officers to ensure that the most favourable prices and terms are obtained for the supply of goods, works and services in accordance with the Council's Contract Procedure Rules and Procurement Strategy.
- 8.20. [Table 9](#) and [Table 10](#) set out the financial limits and the approvals required

## 8. EXPENDITURE - ORDERING (Goods, Works, Services)

- 8.21. Where an internal supplier exists, such as printing, waste disposal, legal etc., **Senior Officers** are expected to approach these support services for a quotation before placing any external order for the service.
- 8.22. The use of formal corporate contracts is a requirement and individual orders from other suppliers of items within these contracts should not be made. This is because although a lower price may be found elsewhere, quality will have been tested as part of the contract letting, and the additional costs of looking for lower prices, physically placing a separate order, processing and paying the invoice and in some cases retrospective discounts (rebates), are masked.
- 8.23. In exceptional circumstances, where ongoing large orders are placed and individual items can be found substantially cheaper elsewhere, corporate contracts can be ignored with the written/email approval of both the **Senior Officers and Corporate Procurement Officer**.
- 8.24. Certain suppliers e.g. Devon Purchasing, and other formal Procurement Partnerships are deemed to have obtained sufficient quotations etc. to comply with this requirement, as a part of their compliance with the UK public procurement rules. The Contract Procedure Rules Section 3 refers and the advice of the **Corporate Procurement Officer** or Internal Audit should be sought.
- 8.25. Reliance upon quotations obtained by formal partners should only be used if they meet the requirements of these rules, and are current and appropriately evidenced.
- 8.26. The best value for money for the Council may not necessarily lie with the lowest quotation. Consideration needs to be given to the whole life costs of goods, works and services. In these circumstances, an order may be placed with a provider other than the cheapest. However, the written/email approval of the responsible **Senior Officer** must be obtained and the reasons appropriately recorded.
- 8.27. All **Senior Officers** shall ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the **Section 151 Officer**. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

### Open/Regular Supply Orders

- 8.28. Normally orders must not be kept "open" for more than fourteen working days or until completed, whichever comes first.
- 8.29. However, approval will be given by **Section 151 Officer or Head of Finance Senior Specialists** to keep an order open where it can be shown that specified supplies from one contractor are required on a continuing regular basis, such as rental charges, having regard to the market testing limits above. All such orders are to be

## 8. EXPENDITURE - ORDERING (Goods, Works, Services)

closed down immediately following the approved period to a maximum of the financial year-end, and the expected payments to be recorded on it.

### Information Technology (ICT) Equipment and Software

- 8.30. All system developments and purchases of computer equipment or software must be approved by the **Head of ICT**, or her/his nominated deputy, in accordance with the Council's ICT Strategy and must comply with UK Procurement Legislation. For the purpose of this paragraph, equipment will include any device capable of being linked physically or otherwise to the Council's computer or telephone systems (e.g. digital cameras).
- 8.31. Orders in respect of ICT hardware and software should be in the form of an ICT hardware/software request. These must be submitted to the **Head of ICT**, who is authorised to place the official order.

### Orders, Delivery Notes and Invoices

- 8.32. All incoming invoices should be matched with the relevant order and the delivery note filed accordingly.

### Orders to Individuals (Self-employed)

- 8.33. Special care should be taken when issuing orders or making payments to individuals. The fact that a person considers her/himself to be self-employed does not necessarily mean that they are in the view of the Inland Revenue. Where a service is provided (rather than goods), and payments are calculated by the hour or day, it is probable that payment should be through the Council's payroll.
- 8.34. The matter should be referred to the Head of HR without delay. (It should be noted that failure to treat such payments in the correct manner might result in the Council incurring significant penalties for failing to comply with tax legislation).
- 8.35. See also section 25 Taxation regarding the completion of the HMRC.
- 8.36. Using an existing Council employee, or a relative, as a self-employed consultant should be avoided, even if quotations have been obtained in line with these Rules. In exceptional circumstances, the relevant **Senior Officer** with the agreement of the **Monitoring Officer** may override this Rule where such action is clearly beneficial to the Council.

## 9. EXPENDITURE – PAYMENT of ACCOUNTS

### Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

### Risks:

The Council could pay for goods and services that have not been received;

The Council could pay for goods and services twice or more in error; and

Interest could be charged to the Council by suppliers following late payment.

### Responsibilities

- 9.1. These procedures should be read in conjunction with the previous section on ordering, and the Council's Contract Procedure Rules (Part 4 of the Constitution).
- 9.2. Apart from petty cash, the normal method of payment from the Council shall be electronic or by cheque or other approved method, drawn on the Council's bank account by the **Section 151 Officer**. The use of direct debit or standing order shall require the prior agreement of the **Section 151 Officer or Senior Finance Specialist**, although the most economical method of payment will be encouraged.

### Invoices

- 9.3. The payment of all monies due from the Council will be made under the control of the **Section 151 Officer** with the exception of payments properly made from petty cash (FPR Petty Cash). This includes making payment specifically required under statute or court order whether or not the budget provision exists.
- 9.4. Each **Senior Officer** will arrange for invoices to be forwarded to the relevant case manager. The supplier will be asked to quote the name of the service group, the number of the order and the place where the work was done or goods delivered.
- 9.5. Invoices for payment by the Council must not be drafted by officers of the Council on behalf of others except in any case or category of cases previously agreed by the **Section 151 Officer**.

## 9. EXPENDITURE – PAYMENT of ACCOUNTS

- 9.6. No amendments, changes or avoidance of the system laid down for the processing of invoices for payment must be undertaken without the approval of the **Section 151 Officer**.
- 9.7. Invoices will only be accepted on which details are written in ink, typewritten, printed or generated by computer. No payment is to be made against a faxed or photocopied invoice unless the prior approval of the **Section 151 Officer** or her/his appointed representative has first been sought.
- 9.8. All amendments to an account will be made in ink and signed or initialled in her/his own name by the officer making the amendment and the reasons if not self-evident will be briefly stated on the account. No amendments will be made to the amount of VAT payable.

### Invoices – Self Employed Status

- 9.9. To comply with Inland Revenue requirements **Senior Officers** are required to formally consider the employment status of individuals employed on a 'self employed consultant or sub contract' basis. Advice should be sought from the relevant **Senior Officer** in the case of any doubt as payment via the payroll system may be required.

### Payment Request Forms

- 9.10. In some circumstances a payment request form is completed to generate a payment e.g. Disabled Facility Grants at South Hams where the payment is made to a contractor from an invoice addressed to the claimant.
- 9.11. The principles of the certification and authorisation paragraphs below will apply to payment requests submitted to the Head of Finance either electronically or manually.

### Receiving/Certification

- 9.12. The **Senior Officer** issuing an order will be responsible for the examination, verification and certification of the relevant account on the original document. An attachment may be used for coding purposes.
- 9.13. The 'receiving' (in the electronic ordering system or creditors system) or certification of an invoice on behalf of a **Senior Officer**, by an officer authorised by her/him and who is not the 'authorising officer', will imply:
- That the goods have been received, examined and approved as to quality and quantity, or that services rendered or work done has been performed satisfactorily;



## 9. EXPENDITURE – PAYMENT of ACCOUNTS

- That they conform to the order;
  - That the price is in accordance with the quotation, contract or current market rate, whichever is applicable, or is otherwise reasonable;
  - That all trade and cash discounts, other proper allowances and other credits due have been deducted;
  - That the expenditure has been properly incurred, has been duly authorised and is within the estimates;
  - That costing allocations are correct;
  - That the account has not been previously passed for payment and has now been recorded as paid on the copy order or other authorisation;
  - That appropriate entries have been made in any inventories, goods received or stores records which are required to be kept;
  - That the invoice is arithmetically correct and that it complies with VAT regulations; and
  - That any commitments pertaining to the original order have been identified and cancelled.
- 9.14. A list of officers authorised to receive or certify accounts will be sent by each **Senior Officer** to the **Section 151 Officer**. All amendments to the list will be notified to the **Section 151 Officer** in writing. The **Section 151 Officer** will be responsible for arranging the appropriate access to the electronic ordering system or creditors system for service officers.
- 9.15. Every account will be signed in manuscript in the certifying officer's own name, in situations where the electronic ordering system or creditors system has not been used.

### **Authorisation**

- 9.16. The authorisation of accounts will be made by the **Senior Officers** concerned, or by an officer authorised by her/him, either in writing or electronically using the electronic ordering system or creditors system, or the **Section 151 Officer**.
- 9.17. The names of officers with the authority to authorise invoices will be sent by each **Senior Officer** to the **Section 151 Officer**. The **Section 151 Officer** will be notified of any changes in writing/email. The **Section 151 Officer** will

## 9. EXPENDITURE – PAYMENT of ACCOUNTS

be responsible for arranging the appropriate access to the electronic ordering system for relevant officers.

9.18. Every invoice will be signed in manuscript in the authorising officer's own name, in situations where the electronic ordering system has not been used.

9.19. Depending whether manual or electronic ordering is used, the officer authorising the payment will be confirming the following:

- That the order or account has been properly checked and raised/certified by an officer authorised to do so;
- That the order or account relates to necessary and valid expenditure, which conform to the needs of the particular service; and
- That the items are coded to the correct financial code. The electronic ordering system will alert the authorising officer if there is a shortfall in the cost code being used, and this should only be overridden if the officer is certain that funds are available in related cost codes.

### Separation of Duties

9.20. The duties of ordering and receiving goods, works and services and of certifying or authorising the relevant accounts for payment will not be performed by the same officer, subject to the **Section 151 Officer** being informed if such a separation of duties in any individual instance is impracticable.

### Payment

9.21. All payments are to be made to the correct person, for the correct amount and properly recorded, with evidence of the transaction and payment stored for a period in accordance with statutory and Council requirements

9.22. At **South Hams** accounts for payment will be submitted, appropriately certified and authorised to the **Section 151 Officer** within 14 days of receipt by the relevant service and **West Devon** authorised on the creditors system. For both Councils, they must be paid within 30 days of receipt unless they are formally in dispute. Exceptions are where different terms are agreed with the supplier, and for small and medium businesses to be paid in line with any target set by the **Hub Committee** (West Devon), or the **Executive** (South Hams (as appropriate)).

9.23. The **Section 151 Officer** will examine as far as she/he considers necessary all accounts passed to her/him for payment and she/he will be entitled to

## 9. EXPENDITURE – PAYMENT of ACCOUNTS

make all such enquiries and to receive such information and explanations as she/he may require to satisfy her/himself that the accounts are in order.

- 9.24. Payments are not to be made on copy or faxed invoices except where that invoice has been approved by one of the signatories to the Council's bank account following the appropriate checks.
- 9.25. The **Section 151 Officer** will be responsible for carrying out such checks of the arithmetic accuracy of accounts submitted for payment, as she/he deems necessary.
- 9.26. Creditors will be paid by BACS whenever possible with a remittance advice forwarded within 24 hours of payment. All bank details to enable payment will be held on the Creditor's individual file records and amended by Corporate Finance staff only on receipt of official notification in writing from the creditor, duly verified.
- 9.27. Cheques must only be returned to the officer requesting payment in exceptional circumstances, and an appropriate record kept by the Head of Finance of the distribution.
- 9.28. Each **Senior Officer** will as soon as possible after 31st March in each year, and in any case not later than a date to be specified by the **Section 151 Officer**, notify the **Section 151 Officer** of all outstanding items of expenditure relating to and incurred in the previous financial year which have not been passed to her/him for payment. When such items of expenditure are subsequently certified for payment they shall be identified accordingly.
- 9.29. Payment for goods and services not yet received should only occur in exceptional circumstances and with the prior approval of an authorising officer. A record of the payment should be made on the order and checks should be carried out to ensure that delivery subsequently takes place.
- 9.30. All paid invoices and certificates will be retained by the **Section 151 Officer** for a minimum period of six financial years after the year to which they relate.
- 9.31. Payments must not be raised for internal transactions of the Council, even between departments without the prior approval of the **Section 151 Officer**.

### Returned Cheques

- 9.32. The instigating section and Head of Finance are to be informed of any cheques returned in order that appropriate action may be taken to update records etc.

### Value Added Tax (VAT)

## 9. EXPENDITURE – PAYMENT of ACCOUNTS

- 9.33. It is the responsibility of all officers receiving Goods Receipts Notes ('GRN') to ensure that the relevant VAT invoice is forthcoming, in accordance with the guidance issued by the Council's VAT officer on behalf of the **Section 151 Officer**.
- 9.34. All invoices received from VAT registered suppliers, which contain elements of VAT must be valid tax invoices. In cases where payment is required with the order the VAT should be coded to the VAT suspense account.
- 9.35. VAT should not be added to any charge invoiced by a supplier without evidence that the supplier is registered for VAT. No amendments will be made to the amount of VAT payable. If the VAT status of the supplier is thought to be incorrect, the matter should be referred to the Head of Finance for further investigation.

### Credit/Purchase Cards

- 9.36. Corporate credit/purchase cards may be issued for buying work related goods or services and shall only be issued to and used by officers/Members approved by the **Section 151 Officer**.
- 9.37. Officers/Members issued with a corporate credit/purchase card shall ensure that it is held securely at all times and shall immediately report its loss or theft to the **Section 151 Officer** /Internal Audit whereupon the issuing company shall immediately be notified by telephone with confirmation in writing.
- 9.38. Officers issued with a corporate credit/purchase card shall not lend or disclose the details of the card to other officers unless they have received due authority to do so from the appropriate **Senior Officers** and only in emergency cases. Great care should be taken where a purchase is made using the Internet, i.e. only reputable and secure 'https' web sites should be used.
- 9.39. Cardholders must sign the Council's Cardholder Responsibilities and Guideline for Operatives' form to confirm that they have read and understood the guidance.
- 9.40. Where an employee leaves the Council's employment, or is suspended from duty for any reason, the appropriate **Senior Officer** shall ensure that the credit card is immediately surrendered. The **Section 151 Officer** will take immediate steps to cancel the card and destroy it to prevent further use.
- 9.41. The card issuer's statement must promptly be reconciled to receipts and then be submitted to the **Section 151 Officer** before payment is due.

## 9. EXPENDITURE – PAYMENT of ACCOUNTS

Payment to the card issuer must be authorised by the relevant **Senior Officer** or the **Section 151 Officer**.

- 9.42. Should an unauthorised transaction be noted, the employee shall immediately notify the **Section 151 Officer** who will investigate the irregularity.

### **Financial Year End**

- 9.43. **Senior Officer** shall notify the **Section 151 Officer** of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the **Section 151 Officer**.

### **Loans, Leases and Rental Agreements**

- 9.44. **Senior Officers** shall ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the **Section 151 Officer**. All loans, leases and rental agreements must be in a form approved by the Council's Solicitor. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.

## 10. EXTERNAL FUNDING

### Why is this important?

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide 'seamless' service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery provide additional resources to enable the authority to deliver services to the local community. However, in some instances although the scope for external funding has increased such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### Risks:

Statutory requirements are not complied with;

Funds are acquired in respect of policies that have not been approved by the Council;

The Council signs up to long term agreements without securing match funding; and

Unforeseen risks could cause additional expenditure / staff time needed to manage funded projects.

### Responsibilities

10.1. The responsible **Senior Officer** must:

- Complete a project mandate including risk assessment and consult all stakeholders before the project commences to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- Make the **Section 151 Officer** aware of any prospective funding arrangements, prior to entering into an agreement and ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.
- The relevant **Senior Officer** must seek the relevant approvals, including from Members/Member bodies where appropriate, and ensure that reports provide detailed information on future costs to the Council in managing the funding.
- With the officer appointed to manage the project, ensure that the funding bodies grant conditions/requirements are met; that the project progresses in accordance with the agreed project plan; that all expenditure is properly incurred and recorded and that all claims for funds are made by the due date.

## 10. EXTERNAL FUNDING

- With the **Section 151 Officer**, ensure that audit requirements are met.

10.2. The **Section 151 Officer** must:

- Review proposals in detail to ensure that they are viable and ensure all funding requirements are considered and future revenue or capital budgets reflect these requirements
- Ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts, and that the audit requirements with regard to the external funding are met.

## 11. FRAUD, CORRUPTION & BRIBERY - PREVENTION

### Why is it this important?

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought or actions involving fraud and corruption.

### Risks

There may be a loss of assets and reputation if the Council allows fraud, corruption or bribery to be perpetrated against it.

### Responsibilities

11.1. It is the responsibility of all Members and staff act with integrity and lead by example.

11.2. The **Section 151 Officer, Monitoring Officer** and **Internal Auditor** shall:

- Develop and maintain an Anti-Fraud, Corruption and Bribery Policy and Strategy and supporting Response Plan;
- Develop and maintain an Anti-Money Laundering Policy and supporting procedures;
- Regularly update the Anti-Fraud, Corruption and Bribery Policy and Strategy Anti- Money Laundering Policy and present them to the **Audit and Governance Committee** for recommendation of approval; and
- Promote adequate and effective internal control arrangements (see separate FPR).

11.3. The **Monitoring Officer** shall:

- Ensure whistle blowing procedures are in place, promoted and operate effectively;
- Promote high standards of conduct amongst Members and officers; and



## 11. FRAUD, CORRUPTION & BRIBERY - PREVENTION

- Maintain a register of interests in which any hospitality or gifts accepted must be recorded.

### 11.4. **Senior Officers** shall ensure that:

- All suspected irregularities are reported to the **Head of Corporate Services**, or **Section 151 Officer** or internal auditor in line with the Policy and Response Plan.
- Where financial impropriety is discovered, the **Section 151 Officer** and the **Monitoring Officer** are informed and where sufficient evidence exists to believe that a criminal offence may have been committed, the Police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
- All staff are aware of and contribute, when appropriate, to the corporate register of interests held by the **Monitoring Officer**. Managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt.

## 12. GRANTS, SUBSIDIES, CLAIM FORMS & STATISTICAL RETURNS

### Why is this important?

Grants and subsidies are a significant source of finance to the Council. As such it is essential that the Council receives all that is due to it and on time. Statistical returns often have a significant financial impact upon the authority in respect of the allocation of future grant funding streams.

### Risks:

Potential income from grants may not be received or received late, the Council thereby having to meet any shortfall in income;

Grant claim forms may be incorrectly completed; and

The Council could be criticised by external audit for failing to claim and/or record grant income correctly.

### Responsibilities

- 12.1. The **Section 151 Officer**, in association with the relevant **Senior Officers**, shall be responsible for ensuring that all forms relating to subsidies, grants and claims submitted to Government Departments or other grant paying bodies are completed on behalf of the Council.
- 12.2. The **Section 151 Officer** or relevant **Senior Officer** shall nominate specific officers to complete various subsidy, grant and claim forms and it shall be their duty to deal with the forms expeditiously using the most accurate information available.

### Grants Conditions

- 12.3. The **Section 151 Officer** or relevant **Senior Officer** shall ensure that the conditions of any subsidy or grant are met, including the submission of claims on a timely basis as required by the terms of the grant paying body. Great care shall be taken in the preparation and submission of grant claims and statistical returns in order to ensure their accuracy.

### Receipts and Payments

- 12.4. Any payment by or income due to the Council arising from a submitted subsidy, grant or claim form shall be made known to the **Section 151 Officer** and amounts recorded for accounting purposes to the financial codes set up for the purpose.

### Audit Requirements of the Grant Paying Body

## 12. GRANTS, SUBSIDIES, CLAIM FORMS & STATISTICAL RETURNS

- 12.5. The **Section 151 Officer** or relevant **Senior Officers** shall give early consideration to the audit requirements of the grant paying body and make the necessary arrangements for auditing to ensure that relevant deadlines are met.
- 12.6. Copies of subsidy, grant and claim forms, together with adequate supporting working papers shall be prepared and retained and are to be made available for inspection by internal or external auditors.

## 13. INCOME

### Why is this important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly, and all VAT correctly accounted for. Receivable income should be collected at the earliest opportunity and in advance of any consequential supply of goods or services, as this improves the Council's cashflow and also avoids the time and cost of administering debts.

### Risks

Income collected could be lost or stolen;

Income may not be collected or may be incorrect, i.e. the incorrect rate or tariff is charged;

Money owed to the Council may not be adequately pursued; and

Financial and accounting records may not be correctly updated.

### Responsibilities

13.1. The **Section 151 Officer** must:

- Agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- Approve the form of all books of accounts, and all official receipt forms or books, licences, tickets and all documents or vouchers representing receipts for money or money's worth. They shall be ordered, controlled and issued by her/him, and all new stock and issues will be properly recorded by the **Section 151 Officer** and acknowledged by the recipient (unless by prior arrangement and approval e.g. car parking tickets).
- Ensure officers collecting income shall not be the only officer involved in the reconciliation of that income to the amounts due.
- Review and update a Money Laundering Avoidance Policy for the Council.

### Charges for Services

13.2. **Senior Officers** must establish an appropriately approved charging policy for the supply of goods or services, with the appropriate member approval if required, including the appropriate charging of VAT, with advice from the **Section 151 Officer**.

## 13. INCOME

- 13.3. They must ensure that the **Section 151 Officer** is notified promptly of all monies due to the Council under contracts, leases, tenancy agreements, agreements for the sale of property and any other agreements involving the receipt of money by the Council, and the **Section 151 Officer** will have the right to inspect any documents or other evidence in this connection as she/he may decide.
- 13.4. With the exception of those fixed nationally or delegated to officers, no new charges for services, or a revision of charges, will be made except upon a report prepared jointly by the relevant **Senior Officer** concerned and the **Section 151 Officer** to the appropriate member body.

### Cash Collection and Banking

- 13.5. **Senior Officers** must ensure that all monies received on behalf of the Council shall without delay (within one working day unless circumstances prevent) are banked in the Council's name in compliance with the Accounts and Audit Regulations. The responsibility for identifying amounts due and the responsibility for collection, should be separated as far as is practicable.
- 13.6. Where possible income shall be collected in advance of providing goods or services having due regard to accounting and VAT implications as advised by the **Section 151 Officer**.
- 13.7. Cash collected or held on behalf of the Council is to be fully accounted for and an official receipt issued. The official receipt number or other appropriate reference number is to be recorded on all cheques and postal orders received on behalf of the Council. Copy receipts, tickets and other records of income for the appropriate period to hold securely.
- 13.8. No deduction may be made from income save to the extent that the **Section 151 Officer** may specifically authorise
- 13.9. Every department or establishment which receives cash and cheques through the post must arrange for the post to be opened by at least two officers who will record and witness all remittances received.
- 13.10. Third party cheques will not be accepted in payment of accounts due to the Council. No change shall be given for any cheque payments.
- 13.11. Income shall be recorded and banked daily following reconciliation or at such intervals as the **Section 151 Officer** may decide. In any event banking shall be made at least once per week or before the relevant insurance limit is exceeded. This rule also applies to any rent and other cash collectors.

## 13. INCOME

- 13.12. All officers paying in must complete a paying in slip in duplicate in a form approved by the **Section 151 Officer**.
- 13.13. Where a cheque is accepted, together with cash, in settlement of a debt, the detail must be noted on the copy of the cheque list which accompanies the paying in slip.
- 13.14. All collecting officers must maintain an "unders and overs" record for any discrepancies. [Table 11](#) sets out the financial limit and approval requirements.

### **Personal Cheques**

- 13.15. Personal cheques shall not be cashed nor money loaned out of cash held on behalf of the Council, including income or change floats.

### **Change Floats**

- 13.16. The **Section 151 Officer** may advance a fixed imprest to an officer of the Council for use as a change float. Each imprest shall be of such amount as the **Section 151 Officer** may determine in consultation with the relevant **Senior Officer**.
- 13.17. Following certification of receipt, officers holding change floats take personal responsibility for the custody of cash until such time as another authorised officer certifies take over of responsibility.
- 13.18. No income is to be used as a change float. Cash income or change floats are not to be used as petty cash in any circumstances (see also FPR Petty Cash (Imprest Accounts)).
- 13.19. Every officer holding a change float shall certify to the Head of Finance the amount of the float held at 31st March each year.
- 13.20. Change floats shall be available for inspection by internal audit officers at any time.

### **Security**

- 13.21. It is the responsibility of the receiving officers and their managers to ensure that all income and floats are locked away to safeguard against loss or theft, and to ensure the security of cash handling, in line with the requirements of the Council's insurers.
- 13.22. When remittances are passed to a second officer or cashier, a receipt must be obtained from the person to whom they are handed. At least two employees shall be present when post is opened to ensure that money received by post is properly identified recorded and witnessed.

## 13. INCOME

### **Raising Invoices (Sundry Debtors)**

- 13.23. The control and recovery of debts is the responsibility of the **Section 151 Officer**.
- 13.24. The relevant **Senior Officers** will furnish such particulars of charges for work done, goods supplied or services rendered on behalf of the Council and of other amounts accruing due, as the **Section 151 Officer** may require and so ensure prompt recording of all funds receivable by the Council.
- 13.25. The responsible officer must ensure that invoices are raised in respect of work done, goods supplied or services rendered on behalf of the Council within 10 working days of the work having been done/ goods supplied or services rendered.
- 13.26. It is the responsibility of all officers raising invoices to ensure that the VAT is appropriately accounted for in an invoice, in accordance with the guidance issued by the Council's VAT officer on behalf of the **Section 151 Officer**.
- 13.27. Invoices must not be raised for internal transactions of the Council, even between departments without the prior approval of the **Section 151 Officer**.

### **Recovery**

- 13.28. Accounts raised are to be pursued by the designated officer within defined timescales including referral to collection agencies, the Council's Solicitor or Court as appropriate and depending on the type of debt.
- 13.29. The Council's Corporate Debt Policy applies to the collection and enforcement of debts.
- 13.30. **Senior Officers** will ensure that all necessary documentation required to support legal action in pursuit of debt, will be provided promptly and in the form required.

### **Bad and Doubtful Debts**

- 13.31. [Table 12](#) sets out the financial limits and approval requirements for writing-off bad or doubtful debts.
- 13.32. The total amounts of debt written off by the **Section 151 Officer** under delegated powers will be reported to these bodies annually or more frequently if appropriate,
- 13.33. Appropriate accounting entries shall be made only following the receipt of write-off approval, with the charge made to the budget to cost centre.

### **Cancellations**

## 13. INCOME

13.34. Invoices should only be cancelled in circumstances where the income no longer falls due, such as an error or change in circumstances on the original.

13.35. Invoices that have been raised cannot be cancelled without the authorisation of the relevant **Senior Officer** or her/his appointed deputy and the **Section 151 Officer** or her/his appointed deputy.

### **Financial Year End**

13.36. The **Section 151 Officer** is to be informed of any outstanding income relating to the previous financial year as soon as possible after the 31st March, and not later than 30th April. This includes outstanding income data recorded on independent billing and collection systems (both manual and computerised) held within and outside the finance function.



## 14. INSURANCE

### Why is this important?

Many services and activities of the Council are not without inherent risk of death, injury or financial loss to staff, Members of the public or external organisations. The Council needs to assess and log these risks and then decide how to cover them, i.e. take out insurance with an external provider or cover the risk itself by making payments from Council funds as and when claims are made. These procedures should be read in conjunction with the Council's Risk Management Strategy.

### Risks:

The Council may be unable to meet large claims made against it, i.e. death or injury;

The Council may be over insured, i.e. paying out higher premiums than it needs to; and

The Council may not be aware of all risks and has not, therefore, taken steps to reduce them or their effect.

### Responsibilities

14.1. The **Section 151 Officer** shall;

- Effect all insurance cover and negotiate all claims in consultation with other officers where necessary;
- Ensure that all appropriate employees of the Council shall be included in appropriate fidelity guarantee insurance whilst carrying out duties directly connected with their employment as a Council officer; and
- Annually, or at such period as she/he may consider necessary, review all insurances in consultation with other **Senior Officers** as appropriate.

14.2. **Senior Officers** shall:

- Give prompt notification of all new risks, property, equipment or vehicles that require to be insured and of any alterations affecting existing insurances either to the **Section 151 Officer** or using a process approved by him/her to inform the Council's insurers;
- Ensure that all conditions of the Council's insurance policies that relate to their area of responsibility are adhered to.
- Immediately notify the **Section 151 Officer** or their nominated officer in writing of any loss, liability or damage or any event likely to lead to a claim in

## 14. INSURANCE

connection with their service groups together with full supporting details, papers or subsequent explanation as required.

- To ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.
- Consult the **Section 151 Officer** and the **Monitoring Officer** regarding the terms of any indemnity that the Council is requested to give.

### Inspections

- 14.3. Each **Senior Officer** shall keep suitable records to ensure that the inspection of engineering plant under her/his control normally carried out by an insurance company is carried out by that company or nominated contractor within the periods prescribed by the Health and Safety at Work or other legislation.
- 14.4. In the event of failure by the Insurance Company or nominated contractor to carry out inspections within the prescribed periods, the **Section 151 Officer** shall be notified immediately.

### Claims

- 14.5. Any claim made against the Council for expenses or damages incurred, which may reasonably be expected to be covered by insurance should immediately be referred to the **Section 151 Officer**.
- 14.6. Policy premiums and any excess required to be paid in the claims process will be charged to the relevant service, as such premiums and excesses fall due.
- 14.7. Council employees or anyone covered by the Council's insurances must not admit liability or make any offer to pay compensation which may prejudice the assessment of liability in respect of any insurance claim.
- 14.8. It is the responsibility of the relevant **Senior Officer** to ensure that appropriate insurance arrangements are made when undertaking work for third parties, in conjunction with the **Section 151 Officer** or her/his nominated representative.

## 15. INTELLECTUAL PROPERTY

### Why is this important?

Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment then, as a general rule, they belong to the employer not to the employee. Various Acts of Parliament cover different types of intellectual property.

### Risk

The Council may not benefit from activities undertaken within the Council which may give rise to items that may be patentable e.g. software development

### Responsibilities

- 15.1. In the event that the Council decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the Council's approved intellectual property procedures.

### Section 151 Officer

- 15.2. To develop and disseminate good practice and work with **Senior Officer** to ensure that maximum benefit for the Council is derived from development of intellectual property.

### Heads of Service

- 15.3. To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

## 16. INVENTORIES

### Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An inventory is a prerequisite for sound asset management.

### Risks:

Holders of equipment and furniture may be unaware that items have been lost or stolen without a record of all such items being on hand; and

The Council's insurers may reject claims to replace lost or stolen items if the Council cannot demonstrate that it maintains adequate inventory records.

### Responsibilities

- 16.1. Inventories shall be kept in a form approved by the **Section 151 Officer**. These rules do not override any other statutory or regulatory reasons for maintaining an inventory.
- 16.2. [Table 13](#) sets out the financial limits and requirements for inventories.
- 16.3. An inventory of all ICT equipment will be held by the ICT Section.
- 16.4. Each **Senior Officer** shall:
  - Nominate the officers who are responsible for compiling and maintaining the inventories of assets.
  - Arrange for the inventory to be checked at least annually with the physical assets and shall certify the inventory to that effect. The **Section 151 Officer** shall be advised of deficiencies revealed by these checks.
- 16.5. The original copy of an inventory that is to be re-written, for whatever reason, is to be retained until Internal Audit advise otherwise. Similarly, any input documents used for amending entries held in a computerised inventory system are to be held for inspection by Internal Audit, if requested.

### Council Property

- 16.6. The **Section 151 Officer** or her/his representatives may at all reasonable times have access to the property of the Council and may make such checks and tests as she/he deems reasonable and necessary.

## 16. INVENTORIES

- 16.7. The Council's property shall not be removed unless in accordance with the ordinary course of the Council's business or as directed by the **Senior Officers** concerned. All property belonging to the Council and recorded on an inventory shall be marked as Council property.

## 17. PARTNERSHIPS including SHARED SERVICES

### Why is this important?

Partnerships will play a key role in delivering services and community strategies and in helping to promote and improve the well-being of the area.

The Council is working in partnership with other Councils, public agencies, private companies, community groups and voluntary organisations, to bring together the contributions of the various stakeholders to deliver a shared vision of services based on user wishes.

The Council will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations.

### Risks:

The objective of a proposed partnership may not be achieved;

A partnership arrangement may cost the Council more than an existing or singularly administered equivalent, or the quality of service may decline, or both; and

Important issues and problems are not addressed as roles and responsibilities were not clearly defined at the outset.

### Responsibilities

17.1. The main reasons for entering into a partnership are:

- To generate efficiencies and cost savings;
- The desire to find new ways to share risk;
- The ability to access new resources;
- To provide new and better ways of delivering services;
- To forge new relationships.

17.2. A partner is defined as either:

- An organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
- A body whose nature or status gives it a right or obligation to support the project.

## 17. PARTNERSHIPS including SHARED SERVICES

### Members:

- 17.3. The Council may enter into any joint arrangements including with one or more other local authorities.
- 17.4. The **Hub Committee** (West Devon), and the **Executive** (South Hams) (as appropriate) is responsible for approving frameworks for partnerships within the scope of their functions.
- 17.5. For **West Devon**, the **Overview and Scrutiny Committee** shall be responsible for the monitoring of partnership arrangements in accordance with the Council's [Partnership Policy](#).
- 17.6. The **Section 151 Officer** shall:
- Give advice on effective controls and ensure that accounting arrangements are satisfactory.
  - With the relevant **Senior Officer** be guided by the checklist in the Council's approved Partnership Policy and Guidance, and the key elements of funding a project. This will include:
    - A scheme appraisal for financial viability in both the current and future years;
    - Risk appraisal and management;
    - Resourcing, including taxation issues;
    - Audit, security and control requirements; and
    - Carry-forward arrangements.
  - With the **Monitoring Officer** must seek to ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. The overall corporate governance arrangements and legal issues must also be considered when arranging contracts with external bodies. All the risks should have been fully appraised before agreements are entered into with external bodies.
- 17.7. The **Senior Officer** shall:
- Ensure that any partnership that the Council enters into represents value for money i.e. the benefits outweigh the costs including officer time. The value for money should be continuously monitored on an ongoing basis.

## 17. PARTNERSHIPS including SHARED SERVICES

- Ensure that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies;
- Adhere to the Council's approved Partnership Policy and Guidance, having regard to governance, risk management, information sharing, the Council's partnership register, and an annual evaluation of achievements and value for money;
- Maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the **Section 151 Officer**;
- Ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council;
- Ensure that an agreement exists in respect of each partnership and arrangements are properly documented and reviewed by the Council's Solicitor; and
- Provide appropriate information to the **Section 151 Officer** to enable a note to be entered into the Council's statement of accounts concerning material items.

### 17.8. **Partners** must:

- If appropriate, and especially where this Council takes the lead, be aware of their responsibilities under the authority's Financial Procedure Rules, Contract Procedure Rules, and Partnership Policy unless separate governance arrangements, including the administration of financial matters, are adopted by each partner;
- Ensure that risk management processes are in place to identify, assess and monitor all known risks;
- Ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise;
- Agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences; and
- Communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### **Shared Services**

17.9. The **Section 151 Officer** will ensure that a framework exists for the recharging of costs incurred by one partner Council on behalf of the other, having regard to the:



## 17. PARTNERSHIPS including SHARED SERVICES

- legal requirement that tax payers of one council are not subsidising the costs of the others:
- Principle accepted by Members that partner Councils do not incur excessive costs in establishing the value of recharge due, although the recharge must be transparent and supportable to ensure its acceptability to the Councils' external auditors.

17.10. **Senior Officers** must ensure that:

- Their managers are aware that they are responsible for the recharging of costs incurred and must consider budget implications of using employees of the shared Council before deciding where a shared resource is deployed. In each case focus needs to be on who will benefit from the expenditure (and therefore who should bear the cost of the work);
- Budgets must not be used to fund another authority's costs even where they have a budget shortfall;
- All recharges must be transparent and robust with a clear audit trail and a clear basis for recharge; and
- Should tasks be undertaken by an officer in one Authority on behalf of both, clear parameters need to be set to ensure that there is no duplication.

17.11. The lead officer must check the VAT and insurance implications of any proposed new shared services working arrangements with Head of Finance well before they are due to start.

17.12. Officers must always be thinking about shared services and whether any of their work needs to be recharged (on a regular or ad hoc basis).

## 18. PAYMENTS to EMPLOYEES and MEMBERS (PAYROLL)

### Why is this important?

Staff costs are the largest item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the full Council.

### Risks:

Employees may be paid incorrectly;

Payments may be made to fictitious employees; and

Action could be taken against the Council by external agencies for failing to abide by statutory requirements in the employment and remuneration of employees.

### Responsibilities

18.1. The payment of all salaries, wages, gratuities, compensation and other emoluments to employees or to former employees shall be made by the **Head of Paid Service through the Head of HR**, including those powers set out in the [Scheme of Delegation](#). These officers are responsible for advising on areas such as income tax, national insurance and pension contributions.

18.2. The **Head of HR** will:

- Ensure that adequate and effective systems and procedures are operated, so that:
  - payments are only authorised to bona fide employees;
  - payments are only made where there is a valid entitlement;
  - conditions and contracts of employment are correctly applied;
  - employees' names listed on the payroll are checked at regular intervals;
  - to verify accuracy and completeness with **Senior Officers**.
- Control, make accurate and timely payment and account for national insurance, income tax and pension and the maintenance of related records;
- With the **Section 151 Officer**, frequently reconcile payroll expenditure against approved budgets;

## 18. PAYMENTS to EMPLOYEES and MEMBERS (PAYROLL)

- Ensure that checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy; and
- Notify the **Head of Paid Service** and the **Section 151 Officer** as soon as possible of changes in remuneration, other than normal increments and pay awards and agreements of general application.

### Senior Officers

18.3. Each **Senior Officer** shall:

- Ensure appointments are made in accordance with the rules of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available;
- Notify the **Head of HR** as soon as possible and in such form as the Head of HR may prescribe of:
  - appointments, resignations, dismissals, suspensions from duties and transfers;
  - absences from duty for sickness or other reasons apart from approved leave;
  - changes in rate of remuneration (other than normal increments); and
  - information necessary to maintain records of service for superannuation, income tax, national insurance and the like; and
  - such other information as may be required by the **Head of HR** in connection with the calculation and payment of salaries, wages, compensation and other emoluments to the employee.
- Ensure the payment of salaries and wages at the proper time such documents as are required for data processing are to be submitted in accordance with a timetable.
- To ensure that the **Head of HR** and **Section 151 Officer** are notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

### Appointment

18.4. Appointment of employees will be made in accordance with the establishment and rates of remuneration approved by the Council.

## 18. PAYMENTS to EMPLOYEES and MEMBERS (PAYROLL)

- 18.5. The **Head of HR** (and any officer who may be appointed to carry out duties in connection with remuneration or establishment) will be consulted in connection with any proposal to seek approval from the **Senior Leadership Team** /HR Panel for any appointment outside the approved establishment and rates of remuneration.
- 18.6. In applying scales of salaries and wages, and in relation to other remunerations the **Senior Officers** will consult with the **Head of HR**.
- 18.7. Upon the appointment of any member of staff, each **Senior Officer** will provide the **Head of HR** with the relevant payroll starter letters and forms, plus information necessary to maintain records of service, pensions, income tax and national insurance liability etc may prescribe on a timely basis.
- 18.8. The **Head of HR** will maintain personal files for all new and existing employees and will complete pension documentation as required, in accordance with the Local Government Pension Scheme.

### Appointment – Self Employed Status

- 18.9. To ensure that payroll transactions are processed only through the payroll system, **Senior Officers** should give formal consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis by completing the HMRC employment status checklist.
- 18.10. The Inland Revenue applies a tight definition for employee status, and the **Section 151 Officer** and the **Head of HR** must be advised of all appointments.

### Time and Other Amendment Records

- 18.11. All time records and other amendments to payroll data shall be in a form approved by the **Head of HR**.
- 18.12. All time records and other amendments will be certified by or on behalf of the **Senior Officer** concerned. A list of officers authorised to sign such documents will be sent to the **Head of HR** together with specimen signatures.
- 18.13. All amendments to the authorised signatory list will be notified to the **Head of HR**. Documents will be signed in manuscript in the authorised officer's own name.
- 18.14. All time records and other amendment pay sheets will be signed by the employee making the claim.
- 18.15. Electronic mailing or facsimiles are not a suitable media to notify the **Head of Corporate Services** of time or other amendments that result in payment or

## 18. PAYMENTS to EMPLOYEES and MEMBERS (PAYROLL)

deductions from pay, other than in urgent cases when followed up with a signed original document.

18.16. Retention of documents must comply with statutory Inland Revenue, DwP and Pension requirements.

18.17. Each **Senior Officer** will be responsible for keeping adequate records of annual leave, sickness or other absences of employees within her/his service group.

### Payment

18.18. Payments will be calculated by the **Head of HR** in accordance with the information provided, the relevant Conditions of Service, and statutory payroll legislation.

18.19. Payment will be by BACS for all employees. Bank details must be provided by employees in writing.

18.20. Pay advices will be despatched to the relevant department where a designated officer will be responsible for their distribution. Any undelivered pay advices must be returned to the **Head of HR** not payroll officers (contributes to separation of duties in a small team).

18.21. Payment of salaries and wages in advance will not be made except in the case of persons leaving the service of the Council before the day on which their salary or wage would normally be paid or at the discretion of the **Head of HR**.

### Absence

~~18.22.~~ Managers or their authorised officers are responsible for ensuring records of all absences including holidays, sickness, unpaid and other leave are maintained and monitored, and for notifying the **Head of HR** of the same. In addition, for periods of unpaid and unauthorised leave, immediate written notification to the relevant **Senior Officer** is required.

### Leavers

18.23. The relevant **Senior Officer** will notify the **Head of HR** immediately by completion of a Leaver's Form, of all resignations, dismissals, redundancies or retirements. On receipt of the Leaver's Form, the **Head of HR** will calculate and initiate the final payment, and where applicable, forward the necessary pension documentation, to the administering Authority.

### Pay Awards

## 18. PAYMENTS to EMPLOYEES and MEMBERS (PAYROLL)

18.24. The **Head of HR** will be authorised to implement any nationally agreed salary or wage award and will report to the appropriate member body on the financial implications of any pay award affecting employees of the Council.

### Verification

18.25. The names and grades of all employees listed on the payroll shall be annually checked and signed as correct by the appropriate **Senior Officer** to verify the accuracy of the payroll records.

### Members Allowances

18.26. The **Monitoring Officer** will advise the **Section 151 Officer** promptly of the Members' allowances agreed by the Council in the Scheme of Member Allowances. Payments made to Members will be through the payroll and will be subject to the same financial control requirements as those made to officers.

### Staffing

18.27. The **Head of Paid Service** is responsible for providing overall management to staff. He/she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

18.28. The **Head of Paid Service and Section 151 Officer** shall ensure:

- That the budget provision exists for all existing and new employees; and
- The staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

18.29. **Senior Officers** shall:

- Monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff;
- Ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided; and
- Ensure that the **Section 151 Officer** is immediately informed if the staffing budget is likely to be materially over- or under-spent.

## 19. PAYMENTS of HOUSING and COUNCIL TAX BENEFITS

### Why is this important?

The Council grants thousands of people millions of pounds in benefits to assist them in paying their rent and/or Council Tax bills. The Housing Benefit scheme is complex, requires people to declare both personal and financial details and is, as a result, open to error and abuse. This being the case the assessment, calculation and payment of claimants needs to be carefully controlled.

### Risks:

Benefit could be paid to fraudulent claimants;

Personal domestic and financial details relating to a claimant could be disclosed without authority to do so; and

Benefit entitlement could be incorrectly calculated.

### Responsibilities

19.1. The **Head of Housing, Benefits and Revenues** shall be responsible for the procedures, assessment and payment of benefit. S/he shall ensure that periodic checks on the calculations and the entitlement for benefit in selected cases are carried out.

### Personal Data/Declaration of Interest

19.2. All records and files of personal information relating to claims and the calculation of entitlement to benefit are to be held under arrangements that will prevent access by unauthorised persons.

19.3. Any information gained in the assessment and payment of benefit shall not be divulged by any member of staff to persons not authorised to receive that information. Any person seeking information on behalf of another must provide satisfactory evidence that they are authorised to do so within the confines of the Data Protection Act.

19.4. Any members of staff with a personal interest in a benefit claim shall notify their manager in writing and have no part in the assessment or payment of that claim.

### Payment – BACs

19.5. Benefit payment will be made by BACS whenever possible. All bank details to enable payment will be amended by benefits staff only on receipt of official notification in writing from the claimant. For landlord payment to companies, written details of bank account changes will be subsequently verified direct with the company.

## **19. PAYMENTS of HOUSING and COUNCIL TAX BENEFITS**

### **Payment - Cheques**

- 19.6. All cheques in payment of benefit shall be crossed and opening of those cheques will not be permitted. Alternative arrangements will be made by the relevant Senior Officer to allow claimants to cash cheques with the appropriate identification.
- 19.7 All benefit cheques returned to the Council, whether by hand or by post, shall be passed immediately to the Cashier and cancelled. The Benefits team and accountants are, however, to be promptly notified that any such cheques have been returned.



## 20. PETTY CASH (IMPREST ACCOUNTS)

### Why is this important?

Public money should be spent with demonstrable probity and in accordance with the Council's policies, even in respect of low value purchases. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

### Risks:

Cash may be stolen, lost or borrowed without due authority; and

Expenditure may be poorly controlled with little comparison of costs.

### Responsibilities

- 20.1. The **Section 151 Officer** may advance a fixed imprest to an officer of the Council for petty cash expenditure. Each imprest shall be of such amount as the **Section 151 Officer** may determine in consultation with the **Senior Officer**. A centralised imprest should be used wherever this is practical, and the principles of these rules apply equally to it.
- 20.2. Following certification of receipt, officers holding petty cash take personal responsibility for the custody of cash until such time as another authorised officer formally takes over responsibility for the money.

### Expenditure

- 20.3. Petty cash items shall be limited to minor non-recurring items of expenditure and shall not exceed in the case of each individual item, the sum prescribed by the **Section 151 Officer** of £30. This amount may only be exceeded with the prior agreement of the **Section 151 Officer** or their nominated Deputy.
- 20.4. None of the following items of expenditure shall be paid out of petty cash:
  - Travelling and subsistence expenses of officers, including car park and ferry/bridge crossings;
  - Postages, except where a small supply of stamps is held for a specific purpose agreed by the **Section 151 Officer**; and
  - Stationery.
- 20.5. No personal cheques are to be encashed via petty cash, nor personal loans made.

## 20. PETTY CASH (IMPREST ACCOUNTS)

- 20.6. Where petty cash disbursements are made for goods that include VAT, a VAT invoice or receipt must be obtained.
- 20.7. Any claim for petty cash shall be recorded on an official petty cash voucher. The voucher is to be signed by the officer making the claim and attached to a suppliers payment receipt.
- 20.8. The holder of the petty cash imprest shall check the claim to ensure that the item is for work use, the amount claimed matches the receipt and that it is correctly coded for both financial management and VAT purposes.

### Reimbursement

- 20.9. Petty cash imprests shall be reconciled and balanced (vouchers to cash balances) on a regular basis (monthly is recommended) or when handed to another officer to administer. Every officer holding a petty cash imprest shall certify to the Head of Finance the amount of the imprest as at 31 March each year.
- 20.10. Receipts and vouchers for petty cash disbursements shall be forwarded to the Head of Finance with the claim for reimbursement. A claim for reimbursement must also be made as close to the 31st March annually as is practical.
- 20.11. The claim shall be certified as correct by the **Senior Officer** or such person nominated by her/him for that purpose.

### General

- 20.12. No income is to be paid into petty cash.
- 20.13. Cash income or change floats are not to be used as petty cash in any circumstances.
- 20.14. Floats and vouchers shall be held securely and access restricted to authorised officers.
- 20.15. The Finance team must be advised of any significant variances, above £30, identified by the reconciliation of the petty cash float.
- 20.16. On leaving the Council's employment or otherwise ceasing to hold an imprest advance, an employee shall account to Corporate Finance for the amount advanced to her/him. Under no circumstances should the petty cash be banked as income, instead it should be coded to the relevant petty cash code supplied by Corporate Finance. On change of custody of the float it should be counted by both officers and a signed record of the balance held.

## 20. PETTY CASH (IMPREST ACCOUNTS)

- 20.17. Cash balances and vouchers shall be available for inspection by internal audit officers at any time.
- 20.18. The officer responsible will provide the **Section 151 Officer** with a certificate of the value of the account held at 31st March each year.

### **Centralised Imprest - Petty Cash Advances**

- 20.19. Advances of cash up to £30 may be made with the prior authorisation of an authorised signatory upon completion of a 'Cash Advances' form. The name of the person to whom the advance is to be issued and that of the issuing officer together with the date of issue and the amount shall be recorded on the form.
- 20.20. Receipts shall be kept in respect of purchases made using the cash advance. These, together with any residual balance shall be paid back within 2 working days of the original advance being issued. The balance of any residual cash plus the value of the receipts shall agree to the amount originally issued.
- 20.21. The Cashier shall check the receipts and ensure that a coding slip is completed to ensure that the FMS system is updated with the expenditure incurred.

## 21. RETENTION OF DOCUMENTS

### Why is this important?

Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources.

A complete and accurate audit trail is the key mechanism underpinning the control environment.

### Risks:

The External Auditor may not be able to provide an adequate assurance that the Councils accounts present a true and fair view;

Statutory obligations concerning the retention of key documents may not be met, e.g. VAT, PAYE;

Court action could fail due to the loss of prime documents; and

Performance statistics cannot be verified.

### Responsibilities

- 21.1. In conjunction with the **Section 151 Officer**, the **Monitoring Officer** shall create, maintain and make available a Records Management Policy and Records Retention Policy to all staff.
- 21.2. **Senior Officers** shall ensure that their staff retain adequate records in line with statutory requirements and internal policies to provide a management and audit trail. This shall include making staff aware of and follow guidance set out in the Records Management Policy and Records Retention Policy.
- 21.3. It is the responsibility of all officers and Members to ensure the security of any retained documents in line with the Data Protection Act and these Rules

## 22. RISK MANAGEMENT, INTERNAL CONTROL, GOVERNANCE

### Why is this important?

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

### Risks:

The Council may be unable to meet large claims made against it, i.e. death or injury;

The Council may be over insured, i.e. paying out higher premiums than it needs to; and

The Council may not be aware of all risks.

### Responsibilities

#### Risk Management

- 22.1. It is the overall responsibility of the Council to oversee the Council's Risk Management Policy, and to promote a culture of risk management awareness throughout the Council.
- 22.2. The Council will be assisted in this by the **Audit and Governance Committee** who will monitor the effectiveness of the Council's risk management process on a regular basis.
- 22.3. On a six monthly basis the Head of Paid Service will provide update reports to the **Audit and Governance Committee**.
- 22.4. The Senior Leadership Team will comprehensively review the Corporate Risks on a quarterly basis.
- 22.5. As part of the System of Internal Control **Senior Officers** will set the operational objectives for their service each year linked to corporate objectives; identify the risks to achieving those objectives and the controls to mitigate these risks. In addition, the risks deriving from the 'Blueprint' objectives must also be established and recorded in the Council's risk registers.

## 22. RISK MANAGEMENT, INTERNAL CONTROL, GOVERNANCE

22.6. **Senior Officers** shall:

- Identify and quantify risks and potential liabilities;
- Ensure awareness among all levels of staff with regards to the control of risk;
- Ensure that all significant risks and potential liabilities are addressed;
- Ensure that the appropriate decisions are taken on the acceptable level of retained risk; and
- Regularly review the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.

22.7. Managers are responsible for managing the day to day risks.

22.8. The Head of Strategy and Projects will maintain the Council's risk register. And will ensure that it reflects the risks identified by **Senior Officers**.

22.9. **Senior Officers** are also responsible for identifying significant changes in risk for their service and must ensure that the Head of Strategy and Projects is advised on a timely basis.

22.10. The **Senior Officers** will drive the implementation and embedding of risk management, and contribute to the maintaining of the Council's risk registers.

22.11. Internal Audit will review the risk management process on an annual basis and report the results to the Audit and Governance Committee in addition to normal reporting lines.

22.12. The risk management framework links with the Council's System of Internal Control and Code of Corporate Governance, all of which form part of the assurance streams that enable the Council to publish an annual governance statement as required by the Accounts and Audit Regulations

### **System of Internal Control**

22.13. The Council is responsible for maintaining a System of Internal Control – setting of objectives, identification of risk and controls to mitigate the risks.

22.14. The Council will also be responsible for conducting a review at least once a year of the effectiveness of internal control and shall prepare a statement (the Annual Governance Statement), in accordance with proper practices, for publication with the Council's published annual accounts.

## 22. RISK MANAGEMENT, INTERNAL CONTROL, GOVERNANCE

- 22.15. The **Audit and Governance Committee** will act as the nominated member body to examine the draft statement and supporting evidence and approve the Annual Governance Statement on behalf of the Council with the Statement of Accounts.
- 22.16. **Senior Officers** are to manage system processes to ensure that established controls are being adhered to and to evaluate their effectiveness in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- 22.17. The **Section 151 Officer** will advise on the systems of control devised by managers and co-ordinate the management group with responsibility for drafting the statement, evaluating assurances and supporting evidence in respect of:
- Performance Management;
  - Internal Audit;
  - External Audit;
  - Senior Officers;
  - Monitoring Officer;
  - Statutory Officers Group; and
  - Corporate Governance.

### **Systems Changes - Direct or Indirect Financial Nature**

- 22.18. The **Section 151 Officer** shall be informed of the creation, amendment or removal of systems of a financial nature or where decisions arising from the use any system have a financial consequence.
- 22.19. The requirements set out in the Council's [Data Quality Strategy](#) shall also be adhered

### **Corporate Governance**

- 22.20. The Council is responsible for approving the Council's [Code of Corporate Governance](#).
- 22.21. The principle of the Code will be openness, integrity and accountability and will cover the areas required by CIPFA/Solace, which at the date of these Financial Procedure Rules include:
- Purpose of the Council and outcomes for the community;

## 22. RISK MANAGEMENT, INTERNAL CONTROL, GOVERNANCE

- Members and officers with clearly defined functions and roles;
- Upholding high standards of conduct and behaviour;
- Informed decision making, effective scrutiny, and risk management;
- Developing the capability of Members and officers; and
- Engaging with local people and other stakeholders.

22.22. Direct responsibility for the monitoring of compliance with the principles and elements of corporate governance and the requirements of the Code are placed with the Council's **Section 151 Officer**, **Monitoring Officer** and **Internal Audit**.

22.23. These officers, through Internal Audit, will therefore:

- Test the code annually and the results of the monitoring and testing will be reported to both the **Audit and Governance Committee** as required by the Constitution.
- Prepare a statement, in accordance with proper practices, for publication with the Council's published annual accounts.

### **Performance Management/Data Quality**

22.24. The **Section 151 Officer** shall:

- Advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- Contribute to the development of corporate and service targets and objectives and performance information.
- Ensure that systems are in place to measure activity and collect accurate financial information for use in performance indicators.

22.25. **Senior Officers** shall:

- Contribute to the development of performance plans and the Financial Strategy in line with statutory requirements;
- Contribute to the development of corporate and service targets and objectives and performance information; and



## 22. RISK MANAGEMENT, INTERNAL CONTROL, GOVERNANCE

- Ensure that robust systems exist for the collection and monitoring of performance information.

### **Business Continuity**

- 22.26. The Civil Contingencies Act 2004 requires the Council as a Category 1 responder to put in place business continuity arrangements to ensure that in the event of an emergency it can continue to exercise both its civil protection functions and perform its ordinary functions.
- 22.27. The Council has identified business continuity as a strategic risk.
- 22.28. In addition business continuity will require a separate but similar risk management strategy and process. A separate Business Continuity Planning Group must meet with operational links between it and the Statutory Officers Group.

## 23. SECURITY

### Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations.

### Risks:

Cash and other assets could be lost, stolen or misused; and

Claims against the Council's insurers may be invalidated.

### Responsibilities

#### 23.1. Each **Senior Officer**:

- Is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under her/his control;
- Shall consult the **Section 151 Officer** in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
- Must ensure that attractive and portable items are to be identified with security markings as belonging to the Council and recorded;
- Must ensure that cash holdings shall be kept to a minimum and at a level agreed with the **Section 151 Officer**. They shall not exceed insurance cover;
- To ensure that no Council asset is subject to personal use by an employee without proper authority; and
- shall ensure that staff leaving the authority hand back any keys or assets held by them prior to their departure. Door entry systems combinations and safe combinations etc. shall be changed on the day of departure.

23.2. All staff are to ensure that all windows, cabinets, safes and drawers are locked in any location wherever cash or keys are held out-of-hours.

23.3. Employees of the Council responsible for collecting, holding and the paying-in of official cash are to ensure that it is held under secure arrangements at all times.

## 23. SECURITY

### Safes

- 23.4. Members of staff who are authorised to gain access to any Council safe must not allow the keys or combination access codes to pass from their control or to be available to unauthorised persons at any time.
- 23.5. The loss of any such keys must be reported to the **Section 151 Officer** immediately. The combination of any Council safe must not be disclosed to another person without the express authorisation of the **Senior Officer** or relevant manager. The combination of a safe must be changed immediately when a member of staff, who is authorised to open that safe, leaves the employment of the Council.
- 23.6. All keys held for any official purpose by an authorised member of staff shall be held under proper and secure arrangements and not passed or be available to any unauthorised person. (This regulation includes card keys and door entry codes issued to members of staff).

### Postal Franking Machines

- 23.7. Postal franking machines must also be securely held, and officers responsible will keep proper records of usage and certify the balance of impressions held in the machine at the 31st March each year. The certificate is to be forwarded to the **Section 151 Officer** promptly. Stocks of postage stamps shall also be held securely.

### ICT Software and Hardware

- 23.8. Security of computer software, hardware and related vulnerable equipment are covered by a separate [Council ICT Security Policy](#) which is the responsibility of the **Head of ICT**, and all staff should make themselves aware of the requirements on them with regard to safeguarding the Council's computer systems.

### Data – Electronic/Paper Based

- 23.9. All **Senior Officers** shall ensure that their employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, including the requirements of the Data Protection Act, whether held in manual or computerised records.

## 24. STOCKS and STORES

### Why is this important?

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date stock record, assets register and inventory is a prerequisite for sound asset management.

### Risks:

Stocks and stores could be lost or stolen; and

Stocks and stores may be held at unreasonably high and uneconomic levels.

### Responsibilities

- 24.1. Each **Senior Officer** shall make arrangements for the care and custody of stocks and stores in their service. She/he shall ensure that stocks are maintained at reasonable levels and are subject to a regular independent physical check (being a minimum of once a year). All discrepancies should be investigated and pursued to a satisfactory conclusion.
- 24.2. Designated officers are to maintain accurate records of all receipts and issues in a form agreed by the **Section 151 Officer**. All requests for stores and materials must be made to the officer responsible for the control and issuing of those stores and materials.
- 24.3. The relevant **Senior Officers** will arrange to investigate and remove from the Council's records (i.e. write-off) discrepancies as necessary, and to obtain the relevant approvals for write off and disposal of redundant stocks and equipment in line with the limits below

### Stock Control and Issues

- 24.4. All stocks will be recorded in a stock control record in a format agreed by **Senior Officers** in association with the **Section 151 Officer**.
- 24.5. Stock items are only to be issued to persons authorised to receive those materials. Requisition notes or equivalent documents approved by the **Section 151 Officer** are to be used bearing the signature of the appropriate authorised receiving officer.

## 24. STOCKS and STORES

### Stock Takes

- 24.6. **Senior Officers** shall arrange for stock takes to be carried out at a frequency agreed with the **Section 151 Officer** but at least once in every financial year, at financial year end. Where continuous stocktaking arrangements are operating, this will not apply.
- 24.7. All discrepancies should be investigated and pursued to a satisfactory conclusion. Stock taking sheets must clearly show surpluses and deficiencies and should be retained with all related system documentation.
- 24.8. Random stock checks may also be carried out by Internal Audit.
- 24.9. Whenever a storekeeper or person in charge of stores hands over, leaves or ceases to have custody of the stores, **Senior Officers** shall ensure that a prior check is made of the stores concerned and that a handing over certificate is signed by the outgoing and incoming officers, i.e. agreement of volumes, numbers etc. as at the handover date.

### Stock Certificates

- 24.10. **Senior Officers** or their nominated Deputy shall certify the quantities and values of stocks at cost price held by her/him at 31st March each year and forward this with a summary of the stock control system to the **Section 151 Officer**.
- 24.11. Where appropriate, the **Section 151 Officer** shall arrange for stock control systems to be reconciled to the Council's accounts regularly at an appropriate frequency, and annually at 31st March as a minimum.

### Surpluses, Deficiencies and Write Offs

- 24.12. Any significant surpluses or deficiencies revealed in any items of stock at any stocktaking shall be reported immediately to the **Senior Officer** or her/his Deputy and write offs arranged with the **Section 151 Officer**.
- 24.13. [Table 14](#) sets out the financial limits and approval requirements:

## 25. TAXATION

### Why is this important?

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is, therefore, very important for all officers to be aware of their role.

### Risk:

Risk that the statutory rules on taxation are broken, with the potential for the Council to incur penalties in addition to the amounts due.

### Responsibilities

25.1. The **Head of HR** will ensure:

- Completion of all HMRC returns regarding PAYE in line with the statutory deadlines;
- That all payroll related taxable transactions are identified properly carried out and accounted for within stipulated timescales;
- Records are maintained in accordance with instructions; and
- Up-to-date guidance on PAYE issues is made available to the Council's managers and employees.

25.2. The **Section 151 Officer** will arrange for:

- A monthly return of VAT inputs and outputs to Her Majesty's Revenue and Customs (HMRC) in line with statutory deadlines;
- A regular calculation to establish the Council's position against the HMRC's VAT de minimis requirements;
- Details regarding the construction industry tax deduction scheme to be sent to the HMRC as required by the guidelines; and
- Up-to-date guidance on VAT issues to be made available to managers and relevant Council employees.

## 25. TAXATION

25.3. **Senior Officers** will ensure that:

- The correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations;
- Where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements; and
- All persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are employed by a recognised staff agency.

25.4 If, in exceptional circumstances, a **Senior Officer** considers it beneficial to recruit a self employed individual, checks must be carried out on their employment status using the Council's or HMRC's checklist. The completed checklist must be sent to the **Head of HR** before any payment of an invoice is generated. Under no circumstances should a payment be generated through a payment request form i.e. not supported by an invoice.

## 26. TRAVEL AND SUBSISTENCE

### Why is this important?

In the course of their duties officers and Members may be required to work away from their normal place of work, attend seminars, training days, etc. The officer/Member should be reimbursed for their travel and associated costs at agreed rates and in accordance with agreed procedures. In so doing the officer receives what is due to them and the Council has an acceptable record of what is claimed and by whom.

### Risks:

Fraudulent claims may be made, i.e. fictitious journeys, embellished claims, incorrect rates etc.

Claims could be paid twice or at the wrong rates; and

Financial and accounting records are not correctly updated.

### Responsibilities

#### Head of HR

26.1. All claims for payment of travelling and subsistence shall be in a form approved by the **Head of HR**, and will in normal circumstances be made through salaries in accordance with the Council's approved [Travel and Subsistence Policy](#)

#### Claim Completion and Certification

26.2. Claims for travel and subsistence shall only be made where journeys were authorised and expenses were properly and necessarily incurred. All claims shall be completed fully to the satisfaction of the **Head of HR** and in accordance with the Council's approved [Travel and Subsistence Policy](#).

26.3. All claims for travelling and subsistence shall be signed by the claimant and authorised by or on behalf of the appropriate **Senior Officer**.

26.4. A list of officers authorised to sign claims shall be sent to the **Head of HR**. All amendments to the list shall be notified to the **Head of HR** in writing. The claims shall be signed in manuscript in the authorised officer's own name. Claimants may not authorise their own claim.

26.5. The certificate by or on behalf of the **Senior Officer** shall mean that the journeys were authorised and that the manager is satisfied that expenditure was necessarily incurred on travel and subsistence for which the proper allowances have been claimed, ensuring that cost-effective use of travel arrangements is achieved.



## 26. TRAVEL AND SUBSISTENCE

- 26.6. Petty cash must not be used for any travel or subsistence related expenses by officers or Members.

### Receipts

- 26.7. If a receipt is not attached an explanation of the circumstances may be called for by Internal Audit. In any event, where no receipt is supplied, the expense claimed must be treated as a taxable item.
- 26.8. In addition, a VAT receipt for petrol must be attached to cover the VAT element claimed for car mileage. This is a requirement of HM Revenue and Customs, if the Council is to reclaim the VAT paid to the employee. As a result, if no VAT receipt is supplied, the Council cannot pay the VAT element to employees.
- 26.9. Credit card slips are not acceptable in lieu of other forms of receipt.

### Timeliness of Claim

- 26.10. All claims for payment to employees of car allowances (including leased cars), subsistence allowances, travel and incidental expenses must be submitted with all relevant receipts on a monthly basis in accordance with the Council's approved Travel and Subsistence Policy.

### Motor Insurance, Driving Licences and Vehicle Roadworthiness

- 26.11. In accordance with the [Travel and Subsistence Policy](#), all employees undertaking official business travel shall ensure they hold an appropriate driving licence for the class of vehicle being used and that the vehicle is taxed, has a valid MOT certificate where appropriate and is covered by an adequate Motor Insurance Policy which includes clauses covering Business Usage. Payroll will annually request officers to provide their driving licence, MOT certificate and insurance certificate for inspection by their line manager.

### Council Members

- 26.12. Members' signed travel claims will be certified by the **Head of Democratic Services** or a duly authorised officer on her/his behalf and must be submitted on a monthly basis to the **Head of HR** in line with the approved Scheme of Members' Allowances.

## 27. TREASURY MANAGEMENT

### Why is this important?

Many millions of pounds pass through the Council's accounts each year. This led to the establishment of Codes of Practice for Treasury Management. These aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's financial position.

### Risks:

Money invested by the Council could be lost giving rise to the Council facing serious financial difficulty and/or failure to achieve its objectives;

Funds could be misused by a member of staff for their own ends, resulting in a loss to the Council;

Money could be borrowed or lent by the Council at less than advantageous interest rates thereby incurring higher than necessary expenditure or foregoing investment income; and

The Council could fail to repay money borrowed on time thereby having penalties invoked against it.

### Responsibilities

- 27.1. The Council has adopted the [Revised Code of Practice for Treasury Management in Local Authorities](#) (published by CIPFA) and these rules should be adhered to as a matter of principle.
- 27.2. This will be the responsibility of the **Section 151 Officer** and include presentation to Members of a strategy and related policies setting out the approach to managing the risk of the Treasury Management activities.
- 27.3. The **Section 151 Officer** will also ensure that the borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Council's [Treasury Management Policy Statement and Strategy](#) and the [Council's Investment Strategy](#). The Strategy would take account of any proposed borrowing under the Prudential Code.

### Cash Position

- 27.4. The **Section 151 Officer** shall arrange for a nominated officer to assess the cash position each working day to determine the funds to be invested, recalled or borrowed as necessary. The nominated officer shall prepare a Daily Cash Position Statement which is to be signed by an authorised officer on the day of preparation.

## 27. TREASURY MANAGEMENT

27.5. The **Section 151 Officer** shall be authorised to invest or utilise such surplus monies of the Council as may seem to her/him proper and in the Council's interest, within the approved Council Policy.

### Investments

27.6. All investments of money under its control shall be made in the name of the Council, or in the name of nominees approved by the Council.

27.7. All securities in the name of the Council and the title deeds of all property in its ownership shall be held in the custody of the Council's Solicitor. The **Section 151 Officer** will act as registrar of stocks, bonds and mortgages and maintain records of all borrowing by the Council.

### Borrowing

27.8. All borrowing shall be made in the name of the Council.

27.9. The **Section 151 Officer** shall:

- Negotiate all loans of money to the Council (including overdrafts) within the Council's overall borrowing powers;
- Be the Council's registrar of stocks, bonds and mortgages;
- Maintain a record of all borrowing of money by the Council;
- Borrow at the most advantageous rates and terms possible; and
- Ensure that the Council's aggregate credit limit is monitored and at no time exceeded.

27.10. The **Section 151 Officer** shall prepare a report prior to the commencement of each financial year for the Council to consider and then set the borrowing limits for the ensuing year.

27.11. [Table 15](#) sets out the financial limits and approval requirements for borrowing.

### General including Monitoring

27.12. **Senior Officers** must ensure that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Council, following consultation with the **Section 151 Officer**.

## 27. TREASURY MANAGEMENT

- 27.13. It is the responsibility of relevant **Senior Officer** to ensure that loans are only made to third parties where specific member approval is obtained, such as loans to social, cultural and sporting organisations etc.
- 27.14. A detailed weekly statement of lending (or borrowing) transactions including the closing balances lent (borrowed) shall be prepared by a nominated officer and presented to the **Section 151 Officer** or Senior Finance Specialist.
- 27.15. The **Section 151 Officer** shall report at least three times a year on treasury management activities to the **Executive** at **South Hams** (Strategy, Monitoring and Annual Reports), and the function may be scrutinised by the **Audit and Governance Committee**.
- 27.16. For **West Devon**, the Strategy and mid year Monitoring Report will be taken to the **Hub Committee** and an annual report to the **Audit and Governance Committee** and full Council
- 27.17. Interests must not be acquired in companies, joint ventures or other enterprises without the approval of the full Council, following consultation with the **Section 151 Officer**

### Trust Funds

- 27.18. All trust funds shall wherever possible be in the name of the Council.
- 27.19. All officers acting as trustees by virtue of their official position shall deposit all securities, etc. relating to the trust with the **Section 151 Officer**, or **Monitoring Officer** as appropriate, unless the deed otherwise provides.
- 27.20. It is the responsibility of **Senior Officers** to arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain written records of all transactions as approved by the **Section 151 Officer**.
- 27.21. **Senior Officers** must also ensure that trust funds are operated within any relevant legislation including the expectations of the Charity Commission, and the specific requirements for each trust.

## 28. WORK FOR THIRD PARTIES

### Why is this important?

Current legislation enables the Council to provide a range of services to other bodies, but within certain parameters. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be put in place to ensure that any risks associated with this work is minimised and that such work is within the Council's legal powers.

### Risks:

Internal resources are tied up in providing external users a service with a resulting detrimental effect on the internal service provision; and

The Council could be held liable for uninsured actions of its staff.

### Responsibilities

#### Approval

28.1. The **Hub Committee** (West Devon), and the **Executive** (South Hams) are responsible for approving the contractual arrangements for any work for third parties or external bodies.

#### Legality

28.2. The relevant **Senior Officer** must ensure that any work carried out for third parties is not outside the Council's powers by formally seeking the opinion of the Council's **Monitoring Officer** before such an arrangement is entered into.

#### Financial Matters

28.3. The **Section 151 Officer** shall issue further guidance on the financial aspects of providing third parties with services and in the maintenance of a contracts register.

28.4. The relevant **Senior Officer** must ensure that:

- Proposals are costed properly in accordance with the guidance provided by the **Section 151 Officer**;
- No contract is subsidised by the Council;
- Appropriate insurance arrangements are made;
- The Council is not put at risk from any bad debts;

## 28. WORK FOR THIRD PARTIES

- Wherever possible, payment is received in advance of the provision of the service;
- The **Section 151 Officer** is provided with the appropriate information to enable a note to be entered into the statement of accounts; and
- Information held or assets owned by the Council is/are not used to the detriment of the Council.

### Contracts

28.5. The relevant **Senior Officer** must ensure that:

- Contracts are drawn up using guidance and advice provided by the Council's Solicitor and **Section 151 Officer** and that the formal approvals process is adhered to;
- All contracts are properly documented and that the documentation is kept up to date; and
- A register is maintained of all contracts entered into with third parties in accordance with the procedures specified in the Contract procedure Rules, including providing the **Monitoring Officer** with the original.

### Service Provision

28.6. The relevant **Senior Officer** shall also ensure that:

- The service has the appropriate expertise to undertake the contract; and
- The delivery of the contract will not adversely impact upon the services provided for the Council.



## OFFICER EMPLOYMENT PROCEDURE RULES

### Introduction

These Officer Employment Procedure Rules apply to the employment, management and dismissal of Council officers.

## OFFICER EMPLOYMENT PROCEDURE RULES

### 1. **Appointments on merit**

- 1.1. Every appointment of a person as an officer shall be made on merit subject to the qualifications set out in section 7(2) of the Local Government and Housing Act 1989.

### 2. **Transparency requirement**

- 2.1. The Council will require any candidate for appointment as an officer to state in writing whether they are related to or the partner of any existing councillor or officer of the Council.
- 2.2. No candidate who is related to a Councillor or an officer will be appointed without the authority of the Head of Paid Service or an officer nominated by the Head of Paid Service.
- 2.3. Any candidate who fails to disclose such a relationship can be disqualified for the appointment and, if appointed, will be liable to dismissal without notice.
- 2.4. For the purposes of this Officer Employment Procedure Rule, “related” shall mean the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing councillor or officer of the Council; or of the partner of such persons.

### 3. **Seeking support for appointment**

- 3.1. Subject to Officer Employment Procedure Rule 3.3, the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillors

for any appointment with the Council. The content of this Procedure Rule will be included in any recruitment information.

- 3.2. Subject to Officer Employment Procedure Rule 3.3, Councillors must not seek support for any person for any appointment with the Council.
- 3.3. Nothing in Officer Employment Procedure Rules 3.1 or 3.2 will prevent a Councillor from giving a written reference for a candidate for submission with an application for appointment.

#### **4. Other appointments**

- 4.1. The appointment of officers (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee, and may not be made by Councillors.
- 4.2. The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group

#### **5. Recruitment of Head of Paid Service and Directors**

- 5.1. Where the Council proposes to appoint a Head of Paid Service and/or Director, and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will draw up a statement specifying:
  - (a) the duties of the officer concerned, and
  - (b) any qualifications or qualities to be sought in the person to be appointed;
  - (c) the terms and conditions; and
  - (d) the remuneration package
- 5.2. Whether the post is to be advertised internally only or externally the Council will:
  - (a) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of such persons who are qualified to apply for it; and
  - (b) make arrangements for a copy of the statement referred to in Office Employment Procedure Rule 5.1 to be sent to any person on request.

#### **6. Role of the Statutory Officers Joint Committee**

- 6.1. The Statutory Officers Joint Committee is not a standing committee of the Council. Instead, a Statutory Officers Joint Committee will be formed of six Councillors (three from the Council including at least one member of the Executive and three from West Devon Borough Council). whenever appointments, recommendations of appointments or disciplinary decisions are needed. Members of the Statutory Officers Joint Committee will be nominated by group leaders on a politically proportionate basis.



6.2. For any appointment, the Statutory Officers Joint Committee will decide on the appointment process but the final appointment decision or recommendation to Council shall be that of the Joint Committee.

6.3. Appointment of a Head of Paid Service, Monitoring Officer or Section 151 Officer on an interim basis will follow the same process as that for a permanent appointment.

**7. Appointment of Head of Paid Service, Monitoring Officer, Section 151 Officer**

7.1 Full Council will approve the appointment of the Head of Paid Service, the Monitoring Officer and the Section 151 Officer following the recommendation of such an appointment by the Statutory Officers Joint Committee (which included among its membership is at least one member of the Executive). No offer of appointment is to be made until:

- a) the Statutory Officers Joint Committee has informed the Proper Officer of the name of the person to whom the Statutory Officers Joint Committee wishes to recommend to full Council and any other particulars which the Statutory Officers Joint Committee considers are relevant to the appointment;
- (b) the Proper Officer has notified every member of the Executive of:
  - (i) the name of the person whom the Statutory Officers Joint Committee wishes to recommend;
  - (ii) any other particulars relevant to the appointment which the Statutory Officers Joint Committee has notified to the Proper Officer; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer; and
- (c) either—
  - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Proper Officer that neither the Leader of the Council nor any other member of the Executive has any objection to the making of the offer;
  - (ii) the Proper Officer has notified the Statutory Officers Joint Committee that no objection was received by the Proper Officer within that period from the Leader of the Council; or
  - (iii) where the Leader of the Council has objected to the making of the offer, the Statutory Officers Joint Committee is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded; and

- (d) the Statutory Officers Joint Committee has made a recommendation to full Council.

## 8. **Appointment of Directors**

8.1 The Head of Paid Service will appoint any Directors (unless the Director will also be the Head of Paid Service, the Monitoring Officer or Section 151 Officer).

8.2 An offer of employment as a Director shall not be made until:

- (a) the Head of Paid Service has informed the Proper Officer of the name of the person to whom the Head of Paid Service wishes to make the offer and any other particulars which the Head of Paid Service considers are relevant to the appointment;
- (b) the Proper Officer has notified every member of the Executive of:
  - (i) the name of the person to whom the Head of Paid Service wishes to make the offer;
  - (ii) any other particulars relevant to the appointment which the Head of Paid Service has notified to the Proper Officer; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer; and
- (c) either—
  - (i) the Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Proper Officer that neither they nor any other member of the Executive has any objection to the making of the offer;
  - (ii) the Proper Officer has notified the Head of Paid Service that no objection was received by the Proper Officer within that period from the Leader of the Council; or
  - (iii) where the Leader of the Council has objected to the making of the offer, the Head of Paid Service is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded

## 9. **Other appointments**

### 9.1 **Officers below Director level.**

The appointment of officers below Director level (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee.

## 9.2 **Assistants to Political Groups.**

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group and in line with legislative requirements.

## 10. **Disciplinary action and Dismissal of Head of Paid Service, Monitoring Officer, Section 151 Officer**

10.1. For the purposes of this Officer Employment Procedure Rule 10:

- (a) "the 2011 Act" means the Localism Act 2011;
- (b) "disciplinary action" in relation to a member of staff of a local authority means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract;
- (c) "independent person" means a person appointed under section 28(7) of the 2011 Act;
- (d) "local government elector" means a person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts;
- (e) "relevant independent person" means any independent person who has been appointed by the Council or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate; and
- (f) "relevant meeting" means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant officer.

10.2 The Statutory Officers Joint Committee will hear the case against the Head of Paid Service, Monitoring Officer and Section 151 Officer concerned and in the case of dismissal make a recommendation to the full Council. The hearing will be conducted in accordance with the Council's Disciplinary Procedure.

10.3 The Head of Paid Service, Monitoring Officer and Section 151 Officer may not be dismissed by the Council or subject to disciplinary action falling short of dismissal unless the procedure set out in the following paragraphs is complied with.

- (a) No disciplinary action may be taken in respect of the Head of Paid Service, Monitoring Officer and Section 151 Officer unless an investigation has been undertaken in respect of the allegations made. Accordingly, the Statutory Officers Joint Committee may instruct the Proper Officer to appoint a suitably qualified or experienced person to

conduct such investigation and report to the Statutory Officers Joint Committee on their findings

- (b) The Council must invite relevant independent persons to be considered for appointment to the Statutory Officers Joint Committee, with a view to appointing at least two such persons to the Statutory Officers Joint Committee.
- (c) Subject to paragraph (d), the Council must appoint to the Statutory Officers Joint Committee such relevant independent persons who have accepted an invitation issued in accordance with paragraph (b) in the following priority order:
  - (i) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (ii) any other relevant independent person who has been appointed by the Council;
  - (iii) a relevant independent person who has been appointed by another authority or authorities.
- (d) The Council is not required to appoint more than two relevant independent persons in accordance with paragraph (b), but may do so.
- (e) The Council must appoint the Statutory Officers Joint Committee at least 20 working days before the Council is due to meet to consider any recommendation to dismiss or for disciplinary action falling short of dismissal.
- (f) Before the taking of a vote on whether or not to approve a dismissal of or the taking of disciplinary action falling short of dismissal against the Head of Paid Service, Monitoring Officer and Section 151 Officer the Council must take into account, in particular:
  - (a) any advice, views or recommendations of the Statutory Officers Joint Committee;
  - (b) the conclusions of any investigation into the allegations; and
  - (c) any representations from the relevant officer.
- (g) Notice of the dismissal of the Head of Paid Service, Monitoring Officer, Chief Officer or Section 151 Officer must not be given by the until:
  - (i) the Statutory Officers Joint Committee has notified the Proper Officer of the name of the person who the Statutory Officers Joint Committee wishes to recommend to the full Council should be dismissed and any other particulars which the Statutory Officers Joint Committee considers are relevant to the proposed dismissal;

- (ii) the Proper Officer has notified every Member of the Executive of:
  - (aa) the name of the person who the Statutory Officers Joint Committee wishes to recommend should be dismissed;
  - (ab) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
  - (ac) the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the Executive to the Proper Officer; and
- (iii) either:
  - (aa) the Leader of the Council has, within the period specified in the notice under sub-paragraph (f)(ii), notified the Statutory Officers Joint Committee that neither the Leader of the Council nor any other Member of the Executive has any objection to the dismissal; and
  - (ab) the Proper Officer has notified the Statutory Officers Joint Committee that no objection was received by the Proper Officer within that period from the Leader of the Council; or
  - (ac) where the Leader of the Council has objected, the Statutory Officers Joint Committee is satisfied that any objection received from the Leader of the Council within that period is not material or is not well-founded.

and

  - (iv) full Council has accepted the Statutory Officers Joint Committee's recommendation.

10.4 Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Statutory Officers Joint Committee must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.

## 11. **Disciplinary action and Dismissal of Directors**

11.1 In the case of disciplinary action or dismissal of a Director, the Head of Paid Service will hear the case against the Director concerned and subject to Officer Employment Rule 11.2 being complied with make the final decision. The hearing will be conducted in accordance with the Council's Disciplinary Procedure.

11.2 Officer Employment Procedures Rule 10.2 to 10.4 will apply to the taking of disciplinary action or dismissal of a Director with the necessary changes and to reflect that the Head of Paid Service is the decision-maker.

**12. Dismissal and management of all other officers**

12.1 The dismissal and management of employees (except the Head of Paid Services, Monitoring Officer and Section 151 Officer) including disciplinary action will be carried out by properly authorised officers of the Council in line with the Recruitment and Selection Policy, other employment policies and procedures agreed by the Council and in compliance with statutory obligations.

12.2 Councillors will not be involved in disciplinary action or the dismissal of any officer other than the Head of Paid Service, Section 151 Officer and the Monitoring Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

# CHAPTER 6 – CODES AND PROTOCOLS



## COUNCILLOR COMPLAINT PROCESS

### Introduction

The Localism Act 2011 requires the Council to: adopt its own Code of Conduct for Councillors and Co-opted members; and agree procedures for dealing with alleged breaches of that Code of Conduct. The Code of Conduct sets out the general standards of behaviour that are expected of Councillors and also the arrangements for the registration and declaration of financial and other interests.

Parish and Town Councils within the Council's area are also required to adopt their own Code of Conduct. The Localism Act 2011 requires any complaints about breaches of those Codes by Parish or Town Councillors to be dealt with under the Council's arrangements.

## COUNCILLOR COMPLAINT PROCESS

1. **Making a complaint**
  - 1.1 Complaints should be made in writing to the Monitoring Officer, using the online complaint form or a form provided by the Monitoring Officer if possible.
  - 1.2 For a complaint to be considered it must also:
    - (a) identify the Councillor(s) complained about;
    - (b) identify the provisions of the code of conduct said to have been breached;
    - (c) provide sufficient information for an initial assessment of the complaint to be made; and
    - (d) be clear about what remedy is being sought.
  - 1.3 Anonymous complaints will not be considered



1.4 In the interests of fairness and natural justice, the Councillor who is the subject of the complaint will normally be told who has complained about them and the details of the complaint. There may be occasions where the complainant requests that their identity is withheld. Such a request will only be agreed in exceptional circumstances.

## **2. Who will deal with the complaint?**

2.1 The Initial Assessment of any complaint under Stage 1 will be dealt with by the Monitoring Officer or by a person authorised by the Monitoring Officer in consultation with members of the Audit and Governance (Assessment) Panel.

2.2 Any investigation under Stage 2, will be conducted by the Monitoring Officer or a person appointed by the Monitoring Officer (“the Investigating Officer”).

2.3 The Council’s Audit and Governance (Hearing) Sub-Committee will consider the Investigating Officer’s report.

2.3 The Independent Person will be able to attend any meetings held under Stage 2 of the process.

## **3. How will any complaint be dealt with?**

### **3.1 Stage 1 – Initial Assessment**

The Monitoring Officer or the person authorised by the Monitoring Officer will consider the complaint and in particular will consider whether:

- (a) the complaint is about the conduct of a councillor or lay or co-opted member of the Council or a town or parish council within the Council’s area;
- (b) the Councillor was a councillor at the time of the incident giving rise to the complaint;
- (c) the Councillor was a councillor at the time of the complaint; and
- (d) the matters giving rise to the complaint would, if proven, be capable of breaching the Code of the relevant local authority.

### **3.2 If the complaint:**

- (a) fails one or more of those tests, no further action will be taken.
- (b) shows a clear and obvious breach that can be resolved amicably, the Monitoring Officer after consultation with the Independent Person, may seek to resolve the complaint; or
- (c) if the Monitoring Officer or the person authorised by the Monitoring Officer in consultation with the Independent Person is satisfied that it would be disproportionate to investigate the complaint, no further action will be taken.

In all cases, the Monitoring Officer’s decision will be final.

- 3.3 Unless the complaint is about a failure to disclose a Disclosable Pecuniary Interest or other criminal behaviour (see paragraph 3.8 below), if the complaint satisfies the tests in paragraphs 3.1 and is not otherwise dealt with in accordance with paragraph 3.2, the Monitoring Officer or the person authorised by the Monitoring Officer will prepare a report and consult with members of the Audit and Governance (Assessment) Panel. The Councillor, and if they are a Town or Parish Councillor, the relevant Town or Parish Clerk, will be informed of the receipt of the complaint.
- 3.4 When considering the report and assessing the complaint the Monitoring Officer and the Audit and Governance (Assessment) Panel will have regard to the criteria set out in Appendix A and any relevant guidance issued by the Local Government Association on the assessment of councillor complaints.
- 3.5 The Monitoring Officer in consultation with the members of the Audit and Governance (Assessment) Panel may:
- (a) reject the complaint or to decide to take no action – in which case the Monitoring Officer will give their reasons for doing so;
  - (b) seek an informal resolution (including, for example, an apology, or mediation); or
  - (c) require the complaint to be investigated.
- 3.6 A copy of the complaint and a summary of the Monitoring Officer's Assessment will be sent to the Councillor and to the complainant by the Monitoring Officer or the person authorised by the Monitoring Officer.

NOTE: There will be a strong presumption towards an assessment being treated as being exempt from disclosure to the wider public. This is because the assessment is considering possibly unfounded and potentially damaging complaints about councillors, which it would not be appropriate to make public because of the risk of reputational damage or the risk of prejudicing any future investigation.

- 3.7 The decision of the Monitoring Officer will be final and there will not be any review or appeal.
- 3.8 A complaint that involves an allegation of a breach of a Disclosable Pecuniary Interest will be referred to the Police and will not at that stage be subject to any further investigation by the Council. Where a complaint involves allegations in addition to one relating to a Disclosable Pecuniary Interest, those additional allegations will not usually be investigated following the completion of any police investigation.

### 3.9 **Stage 2 – Investigation and hearing**

The Investigating Officer will examine any available evidence of the alleged breach. They will usually interview the complainant, the Councillor and, if

appropriate any witnesses. The Investigating Officer will prepare a report setting out:

- (a) the agreed facts;
- (b) any facts which are not agreed and the conflicting evidence; and
- (c) their conclusion on whether or not there has been a breach of the Code of Conduct.

- 3.10 The Investigating Officer's report will be circulated with the agenda as an exempt item. Having resolved to exclude the press and public from the meeting, the Audit and Governance (Hearing) Sub-Committee will consider whether the press and public should continue to be excluded further from all or any part of the hearing. Before making its decision the Sub-Committee may ask the Investigating Officer and the Councillor complained about (if present) for their views.

NOTE: To promote public confidence and ensure fairness and transparency, the hearing will normally be held in public. However, the Sub-Committee may resolve to exclude the public and press for any part of the hearing where confidential or exempt information is considered and will usually do so when coming to its decision (see Appendix B).

- 3.11 The Audit and Governance (Hearing) Sub-Committee will reach a view on disputed facts and decide whether or not to accept the conclusion of the Investigating Officer on the alleged breach of the Code of Conduct. The Sub-Committee may:
- (a) dismiss the complaint;
  - (b) refer the complaint to the Monitoring Officer to seek an informal resolution;
  - (c) hold a hearing of the Sub-Committee (which depending on the circumstances may or may not be held on the same day as the initial consideration of the Investigating Officer's report).
- 3.12 The hearing will be to make a final decision on whether or not a Councillor has breached the Code of Conduct and, if so, to decide whether any sanction should be imposed.
- 3.13 The Sub-Committee may decide:
- (a) to take no further action;
  - (b) to seek an informal resolution between the complainant and the subject Councillor (if agreed by both parties);
  - (c) to censure the Councillor;
  - (d) to request the Councillor to give an unequivocal apology ;

- (e) to instruct the Monitoring Officer to request the Councillor to attend training;
- (f) to refer the matter to the full Council (in the case of a Town and Parish Councillor refer the matter to the relevant Town or Parish Council).

**4. Is there a right of appeal?**

- 4.1 There is no right of appeal against the decision of the Audit and Governance (Hearing) Sub-Committee.

**5. How will the Decision be publicised?**

- 5.1 A summary of complaint, the Audit and Governance (Hearing) Sub-Committee's conclusions and reasons shall be sent to the Councillor and in the case of a Town and Parish Councillor to the clerk of the relevant Town or Parish Council, and unless the Sub-Committee agrees otherwise due to exceptional circumstances, be published on the Council's website.

**6. How long will it take to deal with a complaint?**

- 6.1 The Monitoring Officer will aim to complete their initial assessment of any complaint within 20 working days, with the copy of the complaint and a summary of the Monitoring Officer's Assessment being sent to the Councillor and to the complainant within 5 working days.
- 6.2 Where a complaint is to be investigated, the Monitoring Officer will agree a reasonable and realistic target date by which the investigation should aim to be completed with the Audit and Governance (Assessment) Panel. Most investigations will be capable of being carried out, and a report on the investigation completed, within a maximum of six months of the original complaint being referred for an investigation.

## **APPENDIX A: ASSESSMENT CRITERIA**

### **1. Initial Tests**

- 1.1 The complaint is about the conduct of a Councillor or lay or co-opted member of a council within the Council's area;
- 1.2 The Councillor was a councillor at the time of the incident giving rise to the complaint;
- 1.3 The Councillor was a councillor at the time of the complaint; and
- 1.4 The matters giving rise to the complaint would, if proven, be capable of breaching the Code of the relevant local authority.

### **2. Sufficiency of information**

Has the complainant provided sufficient information to allow the Sub-Committee assessing the complaint to understand the issues complained about? If insufficient information is provided, the Sub-Committee will not normally proceed with assessment of the complaint.

### **3. Seriousness of the Complaint and proportionality**

- 3.1 Does the complaint appear, on the available information, to be trivial, vexatious, malicious, politically motivated or 'tit for tat'?
- 3.2 Other than in particularly serious cases a complaint will not generally be referred for investigation if the Councillor has offered an apology, or if the view is taken that the complaint can reasonably be addressed by other means.
- 3.3 Given the public interest in financial and other resources being used efficiently referral for investigation is generally reserved for more serious complaints where alternative options for resolution are not considered by the Sub-Committee to be appropriate. A complaint may be regarded as serious in its own right or when considered in conjunction with a serious of incidents/complaints.

### **4. Length of Time Elapsed**

Except in exceptional circumstances a complaint will not be referred for investigation when it is made more than 20 working days from the date upon which the event giving rise to the complaint took place.

### **5. Multiple Complaints**

A single event may give rise to similar complaints from a number of complainants. These will generally be treated as a single complaint with multiple complainants.

## **APPENDIX B: GUIDANCE ON THE EXCLUSION OF THE PRESS AND PUBLIC AT HEARINGS**

### **1 Initial Considerations**

The purpose of publicity in the determination of complaints that a Councillor has breached the code of conduct is to:

- (a) promote the public interest;
- (b) maintain public confidence in local government;
- (c) maintain proper standards of conduct; and
- (d) is consistent with the proper discharge of the Council's functions in accordance with the Human Rights Act 1998 which provide for a public hearing.

### **2 Presumption in favour of openness**

Given the purpose of publicity, there is a presumption that the Audit and Governance (Hearings) Sub-Committee will proceed with the hearing in public.

### **3 Exceptional circumstances**

The Sub-Committee may however override the presumption in favour of openness if it is satisfied that there are exceptional circumstances which outweigh the public interest in the hearing being open to the public before excluding the press and public and proceeding in private for all or part of the hearing. Common examples of exceptional circumstances include the following (the list is not exhaustive):

- (a) health;
- (b) sexual allegations;
- (c) vulnerable third parties;
- (d) public order;
- (e) the protection of the private life of the parties requires; or
- (f) where the complainant is an employee of the authority to which the councillor complained about is a member.

### **4 Announcement of decision**

Even if the whole or part of a hearing has been held in the absence of the press and public, the Sub-Committee will normally announce its decision in public. If necessary, there may be a public and a private record of the decision made



## COUNCILLOR AND OFFICER PROTOCOL

### Introduction

The conduct of both Councillors and officers is governed by the [Codes of Conduct](#). The purpose of this Protocol is to guide Councillors and Officers of the Council in their relations with one another in such a way that ensures that the Council runs smoothly

## COUNCILLOR AND OFFICER PROTOCOL

### 1. General principles

- 1.1. The relationship between Councillors and Officers is based on the following principles:
  - (a) the Council is a democratically-elected local authority delivering a range of services to the people of the South Hams;
  - (b) the Council is a single entity;
  - (c) the separate functions of the Council are part of the Council as a corporate body;
  - (d) in everything they do, Councillors and officers of the Council must act within the law and comply with relevant codes of conduct;
  - (e) dealings between Councillors and officers are based on mutual trust and respect;
  - (f) the relationship must exist on a professional basis only so that the ability of an officer to deal impartially with Councillors or political groups cannot be questioned;
  - (g) officers should not approach Councillors on matters to do with employment matters except as agreed by the Head of Paid Service.

1.2 Officers and Councillors each have their own roles to play in the work of the Council and care should be taken to avoid one encroaching upon the other.

### 1.3 **The role of Councillors**

- (a) To provide the political direction and leadership of the Council. Councillors are accountable through the ballot box for their actions as Councillors.
- (b) To see that services are delivered by officers in accordance with the policies and plans approved by the Council.
- (c) To receive appropriate professional advice from officers and to have that advice recorded, so that all Councillors are fully aware of the implications of their decisions and have the assurance that their decisions comply with the law.
- (d) To make reasonable comment and ask questions about the Council's decisions and performance both at formal meetings and informally.

### 1.4 **The role of Officers**

- (a) To serve the whole Council as a single corporate body while recognising the differences between the Council's functions.
- (b) To provide wherever practicable, support to all Councillors in their representational role and act to uphold the rights of Councillors in law and under this Constitution.
- (c) To take decisions within their area of responsibility which have been delegated and/or nominated to them but recognising that, where functions have not been delegated/nominated to officers, it is the right of Councillors to take the final decisions in the light of officers' advice.
- (d) To provide factual, honest and objective advice. The advice and the actions officers take should be politically neutral and should serve the interests of the Council as a whole. Officers do not give advice on party political matters.

## 2. **Officer advice to Councillors and Party Groups**

2.1 For the proper functioning of the Council as a whole, officers will normally be permitted to share information freely between them.

2.2 Where the information has been given based on party political confidentiality:

- (a) officers will respect that confidentiality unless they believe that any action appears to be in conflict with the law, or would amount to an abuse of the processes of the Council and in those circumstances may share that information with other officers where they believe it to be necessary to check the legality, financial probity or procedural regularity of any action disclosed by that information.



- (b) The request for party political confidentiality will be honoured by any officers with whom the information is shared.
- 2.3 Where party political confidentiality has been requested, officers may invite those Councillors requesting confidentiality to agree to the information being shared with the other political groups on the grounds that it would assist the more effective functioning of the Council; however, in the absence of any such agreement to waive confidentiality, officers will continue to respect it.
- 2.4 Where there is a change in the controlling party, officers will act in relation to the new controlling party and opposition parties in the same way as they did for the old and will continue to respect any continuing party political confidentiality.
- 2.5 Officers are not required to attend political party group meetings. They will only do so by invitation, with the express authority of the Chief Executive or Chief Officer. The Chief Executive, and the Chief Officers will have the right to nominate other officers to attend at their sole discretion.
- 2.6 Where it is possible that persons other than Councillors will be present at a political party group meeting to which an officer has been invited, the Chief Executive, Executive Director and/or Corporate Director will be informed before the meeting, and they will take this into account in arriving at their decision.

### **3. Support services to Councillors and Party Groups**

Support services and resources must only be used on Council business and should never be used in connection with any political or campaigning activity or for private purposes.

### **4. Councillors' access to information and to Council documents**

- 4.1 Councillors have various statutory and common law rights to access information. Councillors may ask the Head of Paid Service or other officers nominated by them for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Councillor. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.
- 4.2 A Councillor does not have a right to "a roving commission" to examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be decided by Officer holding the document in question. In the event of dispute, the matter shall be decided by the Head of Paid Service.,
- 4.3 In addition to the above, a Councillor may request information under the Freedom of Information Act 2000, and various other legislative provisions including the Local Government Acts of 1972 and 2000 provide a statutory right of access to documents. Any document that is in the Council's

possession and contains material relating to any business to be considered at a meeting of the Council, a Committee or Sub-Committee is to be open to inspection by any Councillor. However, there is no right of inspection where it appears to the Head of Paid Service that a document discloses certain classes of exempt information as set out in Access to Information Procedure Rules.

- 4.4 The Code of Conduct limits the ability of a Councillor to disclose confidential information. Further information of rights of access can be found in the Access to Information Procedure Rules – Part 2 of the Constitution.

5. **Correspondence**

- 5.1 Openness and transparency should underpin the work of the Council. Accordingly, blind copies ie correspondence where some of the intended recipients are deliberately hidden from others, should not be sent.
- 5.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Councillor. It may be appropriate in certain circumstances (eg, representations to a Government Minister) for a letter to appear in the name of a Councillor, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Councillor.

6. **Involvement of Ward Councillors**

Whenever a public meeting is organised by the Council to consider a local issue, all the Councillors representing the Ward or Wards affected shall normally, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, all the Ward Councillors shall normally be notified at the outset of the exercise



## **PROTOCOL FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING APPLICATIONS**

### **Introduction**

Planning affects land and property interests, including the financial value of land and the quality of their settings. It is not an exact science. It is often highly contentious because decisions affect the daily lives of everyone and the private interests of Councillors of the public, landowners and developers. Opposing views are often strongly held by those involved. A key role of the planning process is balancing the needs and interests of individuals and the interests of the whole District.

Public confidence in the planning system is essential and planning system can only function effectively if there is trust among those involved. There must be trust between Councillors and Officers and between the public and the Council. The Committee on Standards in Public Life recommends that each local authority's practices and procedures should be set out in a local code of planning conduct to avoid allegations of malpractice in the operation of the planning system

This Protocol sets out practices and procedures that Councillors, whether or not they are on Development Management Committee, and Officers shall follow when involved in planning applications. The guidance applies equally to the preparation of development plans and other planning policy and the enforcement of planning control.

## **PROTOCOL FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING APPLICATIONS**

1. **General**
- 1.1. Deciding planning applications is a formal administrative process involving rules of procedure, rights of appeal and an expectation that decision makers

will act reasonably and fairly. Procedural unfairness can leave planning decisions vulnerable to legal challenge in the High Court.

- 1.2. This Protocol applies to every Councillor irrespective of whether or not they are a member of the Development Management Committee and to all Officers. It supports the Councillors' Code of Conduct.

## 2. **Pre-determination**

- 2.1. Since any planning application must be decided on its merits, taking into account all material planning considerations, Councillors who are members of the Development Management Committee must not make up their minds on a planning application before they all have all the relevant information. Decisions can only be taken after full consideration of the officer's report and information and discussion at the Development Management Committee meeting.
- 2.2 This does not mean that Councillors on the Development Management Committee cannot hold strong views about an application. However, if a Councillor fully commits themselves to a particular view on a planning application, such that their mind is no longer open to the consideration of the merits of the case, that Councillor should not take part in the debate or vote on an application.

## 3. **Pre-application discussions**

- 3.1 All Councillors have an important part to play in community engagement. Councillors who take part in pre-application discussions either with applicants or objectors need to be aware of the:
  - (a) need to remain impartial;
  - (b) danger of giving inconsistent or inappropriate advice particularly when not all the facts are known so advice should be limited to matters of process;
  - (c) need for an officer to be present during any such discussions where practicable; and
  - (d) the fact that they are not negotiators.
- 3.2 On the basis of "no surprises" where potential issues are brought to Councillors' attention during any pre-application discussion at which it was not practicable for an Officer to be present they should alert Officers to the issue as soon as possible and not leave it to the Development Management Committee meeting.
- 3.3 The Council has adopted a [Pre-application Advice Policy](#)

## 4 **Lobbying of Councillors**

- 4.1 Lobbying, whether by applicants, objectors or those in support of an application, is a normal part of the political process and can take the form of

meetings, both private and public, formal presentations or correspondence. It is an essential part of the process that local concerns can be expressed. However, care must be taken to ensure that lobbying does not call into question the integrity and fairness of the planning process or an individual Councillor.

- 4.2 When lobbied, members of the Development Management Committee should take care about expressing an opinion which could be taken as an indication that they have already made up their mind on the issue and are no longer open to consideration of the merits of the application. Instead they should give procedural advice including suggesting that contact is made with the Planning Officer.
- 4.3 If members of the Development Management Committee do express an opinion, care should be taken to state that this is a preliminary view only and the final decision will be reached when all the facts are available at the Development Management Committee meeting.
- 4.4 Any written or electronic correspondence received should be passed by the Councillor who is main addressee (if the e-mail is addressed to all Councillors of the Development Management Committee, this will be the Chairman of the Development Management Committee) immediately to the Planning Officer for recording on the file and for communication to all Development Management Committee members.
- 4.5 Members of the Development Management Committee should take care when attending meetings in connection with development proposals or submitted planning applications unless such meetings have been arranged as Councillor briefings as part of the formal process. Councillors should take advice from the Monitoring Officer before deciding whether to attend meetings that appear to have been organised for lobbying purposes.
- 4.6 Members of the Development Management Committee should consider whether any contact with an applicant, objector or landowner is significant, and if so, disclose such contact prior to any decision being taken on the application. This should be formally recorded in the record of the Development Management Committee meeting.

## **5 Lobbying by Councillors**

- 5.1 Ward Councillors have an important role to play as representatives of their communities and to bring local information to the decision-making process. Ward Councillors may therefore become involved in discussions with Officers about individual applications. However, they should remember that it is very easy to create the impression that they are using their position to influence the progress of the application. Any discussions with Officers should be seen to be open and transparent. Officers should make a note on the file of any such discussions.

- 5.2 Ward Councillors who are not members of the Development Management Committee can make representations on planning applications in their Ward and may attend meetings of the Development Management Committee and, with the Chairman of Development Management Committee's agreement, can address the Development Management Committee on such applications in accordance with the protocol on public speaking at Development Management Committee meetings. Any representations or address should relate to the planning merits of a planning application. This will not apply if the Councillor is also a Parish/Town Councillor and the Parish/Town Council is the Applicant.
- 5.3 When making representations on behalf of their constituents, Councillors should make it clear that it is their constituents' views and not their own that are being expressed. Also, Councillors should ensure that any representations on behalf of constituents are expressed in such a way that no individual or group feels that they have been unfairly represented.
- 5.4 Councillors should avoid lobbying Development Management Committee Councillors and exerting of undue pressure on planning officers for a particular recommendation.

## 6. **Membership of another local authority**

- 6.1. A Councillor who is also a Councillor of another tier of local government should have regard to the guidance on interests in this Code. If in doubt about the nature of their interest, Councillors are recommended to seek further advice from the Monitoring Officer.
- 6.2. Councillors of the Development Management Committee who are also Councillors of another tier of local government should adopt the practice of making it clear, when they participate in a debate on development proposals at a Parish/Town meeting, that the views they express are based upon information before them at that time, and might change in the light of further information at the Council's Development Management Committee Meeting.

## 7. **Political group meetings**

As a decision on a planning application cannot be made before the Development Management Committee meeting when all available information will be available and has been considered, any political group meeting prior to the meeting of the Development Management Committee should not be used to decide how Councillors should vote. Also, [the Ombudsman](#) takes the view that the use of political whips at group meetings in this way may be considered as maladministration.

## 8. **Scheme of delegation**

- 8.1 The detail of the delegations to officers is set out in the [Scheme of Delegation](#).

## 8.2 Applications by the Council or in respect of Council-owned land

Applications submitted by the Council or made by any person in respect of Council-owned land will be decided by the Development Management Committee.

## 8.3 Applications by Councillors and Officers

While it is perfectly legitimate for any Councillor or Officer to submit a planning application, it can easily give rise to suspicions of impropriety unless handled properly. Accordingly:

- (a) all applications falling within paragraph \* of the Officer Scheme of Delegation will be reported to and decided by the Development Management Committee.
- (b) while any application from a Councillor or Officer should usually be identified as part of the registration process, Councillors and Officers are encouraged to draw the fact that such an application has been submitted to the attention to both the Head of Development Management (or any other Officer nominated by them) in writing and also the relevant Planning Officer within 21 days of the date of the application being submitted to help ensure its identification.
- (c) where an application is submitted by someone other than a Councillor, but in relation to land or a building in which the Councillor has a registered legal interest (which for the purpose of this code means a legal interest registered at HM Land Registry in the name of the Councillor), the Councillor is also encouraged to provide such notification as identified above. This is in addition to any duty the Councillor may have regarding the disclosure of any interest including any Disclosable Pecuniary Interest for the purposes of the Councillor Code of Conduct.
- (d) any Councillor or Officer who submits a planning application must not take part in or seek to influence the decision-making process relating to that application.
- (e) any Councillor or Officer who acts as an agent for people pursuing a planning matter with the Council must not take part in the decision-making process for that proposal, nor seek in any way to influence it.

## 9. Decision-making

### 9.1 The legal framework

The Town and Country Planning Act 1990 requires the Council to have regard to the provisions of the development plan, so far as material to the application and to any other material consideration. Also, the application is to be decided

in accordance with provisions of the development plan unless material considerations suggest otherwise.

## **9.2 Reports to the Development Management Committee**

- (a) All planning applications that are to be decided by the Development Management Committee will be the subject of a written report from the Planning Officer. The report should aim to be as accurate as possible and include a summary of the substance of representations received, the relevant policies, identify any other material considerations, contain an appraisal of the application and give a recommendation. Where the recommendation is contrary to policy or is a departure from the development plan, the report will identify this and provide reasoned justification.
- (b) Officers may report additional information received after the publication of the Development Management Committee report at the meeting.

## **9.3 Determination of applications contrary to Officer's advice**

- (a) Although decisions should be based on any written report prepared by the Planning Officer, Councillors are not obliged to accept and follow the professional advice given by Officers. Nevertheless, when Councillors are minded to decide an application contrary to the Planning Officer's recommendation, they should ensure that they have sound and convincing planning-based reasons for doing so, with evidence to support those reasons whether they are reasons to refuse an application, or to grant planning permission as a departure from the development plan.
- (b) The mover of the motion must set out their reasons as part of the motion and if seconded; it may be appropriate for the Development Management Committee to adjourn for a few minutes to allow Officers to consider the reasons. Where officers have doubts about the validity of the reasons given, then consideration should normally be given to the deferral of the application to the next meeting so that the reasons may be considered and tested further.
- (c) Before a vote is taken or consideration is given to deferral, the Chairman of the Development Management Committee should ensure that the Officers are given the opportunity to explain the likely implications of any subsequent decision.
- (d) When Councillors determine an application contrary to the Planning Officer's recommendation, the minute will state the reasons for the decision and if those reasons are to be based on development plan policies, identify the relevant policies and state in what way the application supports or infringes those policies. A copy of the minute will be placed on the planning application file.



## 10. **Site visits**

- 10.1 It is the responsibility of each Councillor to familiarize himself/herself with the location of any proposed development. This might well include seeking to view the site from areas that are accessible to the public. In no circumstance should a Councillor enter onto private land without the permission of the owner and occupier.
- 10.2 Exceptionally, where the impact of the proposed development is difficult to visualise both from the submitted plans and other supporting material a committee site visit may be agreed. The site visit will be carried out in accordance with arrangements that will ensure that it is conducted fairly and without risk of bias or predetermination. Site visits are about observing the site and getting a better understanding of the issues. They are not an opportunity for lobbying by the Applicant or objectors.
- 10.2 Site visits may be attended by all members of the Development Management Committee, Ward Members, the Applicant/Agent and a representative of the Town or Parish Council. The Planning Officer and a Democratic Services Officer will also attend. Objectors and supporters will not be invited to a site visit.
- 10.3 On arrival the Chairman will explain the purpose and procedures of the site visit so that all are aware that it is a fact finding exercise only and that no decision will be taken until the committee meeting. The Planning Officer, will then explain the application as it relates to the site and relevant viewpoints. Following any questions from the members of the Development Management Committee to the Planning Officer, or clarification on matters that are relevant to the site inspection, the Chairman will end the site visit.
- 10.4 The role of the Applicant during a site visit shall only be to secure access to the site in accordance with health and safety provisions. The Applicant shall not participate in any discussions on site, but may be asked to provide information.
- 10.5 Ideally, it is desirable that all members of the Development Management Committee should have attended the site visit. This will avoid giving the impression that Councillors voting on a planning application without having attended the visit to the particular site have not taken the opportunity to be fully informed about the application. It is accepted however that attendance at a site visit may not always be possible. Accordingly, the Planning Officer should report information gained from the site visit to the Development Management Committee, so that all Councillors have the same information.

## 11. **Interests**

- 11.1 It is a fundamental principle that those who have a significant interest in the outcome of a particular planning application or enforcement matter should not make decisions in relation to that application or matter. This applies to both Councillors and Officers.

- 11.2 The [Code of Conduct for Councillors](#) provides guidance as to Disclosable Pecuniary Interests and Other Registrable Interests that may affect a Councillor's ability to take part in the decision-making process. Councillors should declare and register those interests as required by the Code of Conduct for Councillors. Councillors with a Disclosable Pecuniary Interest in a planning application or enforcement matter should not take part in any discussions about the application or matter and leave the room during any discussions.
- 11.3 However, Councillors may have other interests which may influence their decision which will not amount to interests for the purposes of the Code. To maintain the integrity of the planning system, Councillors should be careful to ensure that such interests do not unduly influence their decisions. Interests can arise from:
- (a) ward concerns;
  - (b) membership of other Committees of the Council;
  - (c) membership of a County, Town or Parish Council;
  - (d) membership of other public or community bodies;
  - (e) membership of voluntary associations and trusts (including where appointed by the Council);
  - (f) a connection with a particular policy initiative of the Council;
  - (g) membership of clubs, societies and groups; and
  - (h) hobbies and other leisure interests.
- 11.4 Such interests do not mean that a member of Development Management Committee is automatically prevented from taking part in the decision-making process. The Councillor should however think whether the interest is significant enough that it would lead a fair-minded and informed observer to conclude that there was a real possibility that the Councillor was biased or was likely to have pre-determined the planning application.
- 11.5 Officers who discover that they have an interest in a planning matter should, cease to act and report the interest to their immediate manager who will reallocate the matter to an Officer without an interest in it. The Officer having an interest will not take part in any part of the decision-making process in respect of that application.
- 11.6 Councillors and Officers who are unsure whether to declare an interest should seek advice from the Monitoring Officer, before the Development Management Committee meeting. In the case of Councillors, the final decision whether to make a declaration and/or to withdraw from the meeting will always be one for them.

## 12. **Councillor training**

- 12.1 Town and Country Planning is a specialised field and both the Local Government Association and the Royal Town Planning Institute (RTPI) place particular emphasis on the need for Councillors to have an adequate knowledge of the planning process. Councillors have a responsibility to ensure that they understand the fundamental principles and keep up-to-date with developments.
- 12.2 The Council will provide training that all members of the Development Management Committee must undertake before taking part in any Development Management Committee meetings.
- 12.3 Training will be arranged for Councillors when there is a change in the composition of the Development Management Committee or when there are material changes in legislation, policy guidance or practice.

## 13. **Officers' professional obligations**

Many Planning Officers are Chartered Town Planners and are bound by the Code of Professional Conduct of the RTPI which imposes certain professional obligations including conflicts of interest and continuing training. Breaches of that Code may be subject to disciplinary action by the RTPI.

## 14. **Breach of this Protocol**

- 14.1 Failure to follow this Protocol without good reason, could be taken into account in investigations into possible maladministration against the Council, or have implications for the position of individual Councillors and Officers.
- 14.2 Breaches of this Code may also be breaches of the Council's Code of Conduct for Councillors. If anybody wishes to make an allegation that a Councillor has breached this Protocol, such allegation should be made to the Monitoring Officer.

# CHAPTER 7 – COUNCILLORS’ ALLOWANCE SCHEME

The Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) (England) Regulations 2003, hereby makes the following scheme:-

This scheme may be cited as the South Hams District Council Scheme of Members' Allowances, and shall have effect from 1 April 2022.

## 1 Basic Allowance

Subject to paragraph 9, for the period 1 April 2022 to 31 March 2023, a Basic Allowance of £5,492 per annum shall be paid to each Councillor. This is intended to recognise the time commitment of Members to Council and constituency duties and costs relating to the use of the Members’ home, postage, stationery and minor office equipment.

## 2. Special Responsibility Allowances

(a) For each year a Special Responsibility Allowance shall be paid to those Councillors who hold the special responsibilities in relation to the authority that are specified below:-

	<b>Amount per annum (£)</b>
(i) Leader of the Council	16,476
(ii) Deputy Leader of the Council	8,238
Chairman of Development Management Committee	) each
(iii) Other Members of the Executive	5,492 each
(iv) Vice-Chairman of the Development Management Committee	2,746
(v) Chairman of the Overview & Scrutiny Panel	5,492
(vi) Vice-Chairman of the Overview & Scrutiny Panel	2,746
(vii) Chairman of the Audit Committee	4,119
(viii) Chairman of the Licensing Committee	2,746
(ix) Chairman of Salcombe Harbour Board (to be paid from Board finances)	2,746
(x) Minority Groups allowance	( <u>£10,984</u> ) x 31
(xi) Independent Persons	number in each group 500 each

(b) Allowances for Chairman and Vice-Chairman of Council:-

(i) Chairman of Council	5,492
(ii) Vice Chairman of Council	1,486

(c) Subject to paragraph 9, the amount of each such allowance shall be the amount specified against that special responsibility in sub-paragraph (a) above. Where a Councillor is entitled to more than one Special Responsibility Allowance, only one such Allowance, equivalent to the higher entitlement, shall be paid.

### 3. Travelling Allowances

Those duties as set out at Schedule 1 will attract the payment of a travelling allowance at the following rates:-

- (a) The rate of travel by public transport shall not normally exceed the cheapest fare available, subject to the Senior Specialist – Democratic Services exercising discretion in the case of special visits or where business needs to be transacted on the journey.
- (b) The rates of travel by a Member's motor cycle shall be 24 pence per mile.
- (c) The rates of travel by a Member's motor vehicle (other than a motor cycle) shall be 45 pence per mile.
- (d) A supplement of 5 pence per mile for each passenger carried will also be paid.
- (e) The actual amount incurred on any tolls, ferries or parking fees, including overnight garaging shall be reimbursed.
- (f) The rates of travel by a Member's bicycle shall be 20 pence per mile.
- (g) The rate of travel by taxi-cab shall not exceed:-
  - (i) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and
  - (ii) in any other case, the amount of the fare for travel by appropriate public transport.
- (h) The rate of travel by a hired motor vehicle other than a taxi-cab shall not exceed the rate which would have been applicable had the vehicle belonged to the Member, provided that the rate may be increased at the Senior Specialist – Democratic Services discretion (as in (a) above) to an amount not exceeding the actual cost of hiring.

- (i) Where travel by air is the only effective means of travel or produces sufficient savings in time and / or other allowances, the rate shall not exceed the cheapest fare available.

In addition, Co-opted Members on the Salcombe Harbour Board and the Independent Persons are entitled to claim their travel expenses.

#### **4. Subsistence Allowances**

- (a) Subsistence allowances may be claimed to meet the costs of meals, refreshments, accommodation etc, in connection with the performance of an approved duty as specified at Schedule 1. The rates shall not exceed:-

- (i) in the case of an absence, not involving an absence overnight, from the usual place of residence:-

- A. of more than 4 hours, £5.00 for breakfast;
- B. of more than 4 hours, £5.00 for lunch;
- C. of more than 4 hours, including the period 3.00 pm to 6.00 pm, £2.94 for tea;
- D. of more than 4 hours, ending after 7.00 pm, £5.00 for an evening meal;

provided that, for meetings such as Council, Committee or other Council body meetings, meals or refreshments may be provided by the Council, including on occasions where the absence from the residence may not exceed 4 hours.

Where such meals are provided or paid for separately by the Council, the appropriate subsistence allowance shall not be paid to a Member, unless the Member has specifically indicated that he or she is unable or does not wish to take the meal provided by the Council, or otherwise where other unforeseen commitments prohibit the taking of the meal.

- (ii) in the case of an absence overnight from the usual place of residence, £79.82, or, for such an absence overnight in London or an annual conference of the Local Government Association or such other association of bodies as the Secretary of State may designate, £91.04.
- (b) The actual reasonable costs of meals taken on trains may be reimbursed. (This would replace the subsistence allowance for the appropriate meal period).

#### **5 Dependants' Carers' Allowance**

A Councillor may claim a Carers' allowance in accordance with the provisions specified at Appendix A.

## **6. Renunciation**

A Councillor may by notice in writing given to the Senior Specialist – Democratic Services elect to forego any part of his entitlement to an allowance under this scheme.

## **7. Part-Year Entitlements**

- (a) The provisions of this paragraph shall have effect to regulate the entitlements of a Councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- (b) If an amendment to this scheme changes the amount to which a Councillor is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods:-
  - (i) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
  - (ii) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year, the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year (ie a pro-rata calculation will be made).
- (c) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his term of office subsists bears to the number of days in that year.
- (d) Where this scheme is amended as mentioned in sub-paragraph (b), and the term of office of a period Councillor does not subsist throughout the period mentioned in sub-paragraph (b)(i), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days

during which his term of office as a Councillor subsists bears to the number of days in that period.

- (e) Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (f) Where a Councillor has been appointed on a temporary basis to a position which attracts a special responsibility allowance, that Councillor's entitlement shall, following a 3 month period in that position, be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year. Payment to the Councillor previously entitled to the special responsibility allowance shall, at the same point, cease.
- (g) Where this scheme is amended as mentioned in sub-paragraph (b), and a Councillor has during part, but does not have throughout the whole, or any period mentioned in sub-paragraph (b)(i) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

## **8. Claims and Payments**

- (a) No payment will be made of any travel and subsistence claim received by Democratic Services more than three months after the meeting for which the claim is made, unless authorised by the Senior Specialist – Democratic Services in exceptional circumstances. Members are encouraged to submit a claim every month with any such claims being accompanied by receipts.
- (b) Payments shall be made on a monthly basis along with payments for the basic and any special responsibility allowances. Such payments will be made direct to the bank or building society account of the Member's choice.
- (c) Where a payment under 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, by virtue of paragraph 8, he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.

## **9. Suspension**

If a Member is suspended or partially suspended from his responsibilities or duties as member of an authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the proportion of the basic



allowance, any special responsibility allowance and travelling and subsistence allowance payable to him/her in respect of the period for which he is suspended or partially suspended may be withheld by the authority.

## **SCHEDULE 1**

### **APPROVED DUTIES**

There is specified as an approved duty for the purpose of the payment of travelling and subsistence allowances, attendance at:-

- (a) meetings of the Council, its Committees, the Executive and Overview & Scrutiny Committee, subject, in each case of attendance at any bodies of which a Councillor is not a Member, to the prior invitation of the relevant Chairman;
- (b) meetings of other bodies to which the authority makes appointments, or of any committee or sub-committee of such a body;
- (c) any other meeting the holding of which is authorised by the authority, or a committee, group of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such a joint committee, provided that:-
  - (i) where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited, or
  - (ii) if the authority is not so divided, it is a meeting to which the authority is a member;
- (d) the following types of meetings, provided that where the authority is divided into two or more political groups, Members of at least two such groups have been invited:-
  - (i) briefing and other meetings relating to activities of the Council or matters affecting the District;
  - (ii) meetings relating to future change in local government;
- (e) the opening of tenders in accordance with Standing Orders by the relevant nominated Members;
- (f) a meeting of any association of authorities of which the authority is a member.
- (g) a meeting of any town or parish council within their electoral ward, and of which they are not already a member.

In addition, Members may claim travelling and subsistence allowances for meetings or events not otherwise provided for in this scheme when asked in writing to attend by a member of the Senior Management Team, when such attendance is in the interests of the Council or in pursuance of its policies.

Duties excluded by these provisions are those in respect of which the Member receives remuneration otherwise than under this scheme.

For further information, please contact:-

Anna Gribble  
Democratic Services  
e-mail: [Anna.Gribble@swdevon.gov.uk](mailto:Anna.Gribble@swdevon.gov.uk)  
Tel: (01803) 861113

Darryl White  
Senior Specialist – Democratic Services  
e-mail: [Darryl.White@swdevon.gov.uk](mailto:Darryl.White@swdevon.gov.uk)  
Tel: (01803) 861247

**South Hams District Council**

**Dependants' Carers' Allowance**

An allowance in line with the National Living Wage (£8.21 per hour) may be claimed when a carer for a dependent has been engaged to enable a councillor to carry out an approved duty (as specified in Schedule 1).

A carer will be any responsible person who does not normally live with the councillor as part of that councillor's family.

An allowance will be payable if the dependent being cared for:-

- (a) is a child under the age of 14
- (b) is an elderly person; or
- (c) has a recognised physical or mental disability

who normally lives with the councillor as part of that councillor's family and should not be left unsupervised.

For meetings or duties within the Council's boundaries, the allowance will be paid for the duration of the meeting or otherwise approved duty plus an allowance for up to one hour's total travelling time before and after the meeting.

The actual cost of care will be reimbursed, up to a maximum of £8.21 per hour.

The level of allowance will be adjusted automatically in line with any adjustments made to the National Living Wage.

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# **APPENDIX 1 – DEFINITIONS**

## DEFINITIONS

Budget	The 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 the capital expenditure and the setting of virement limits.
Budget and Policy Framework	The plans and strategies, which have to be adopted by the Council and within which the Cabinet have to operate.
Call-in	The process by which the Scrutiny Committee consider whether a decision is properly taken or is the right decision.
Capital Expenditure	Spending, usually on major assets like a building, where the benefit of the asset lasts for more than one year.
Casting or Second Vote	A vote made by the Mayor, or Chair of a committee to decide a matter when there is a tied vote.
Chair/Vice Chair	The person (man or woman) who chairs a body of the Council, e.g. committee etc./the deputy to the Chair. The Chair of the full Council civic head of the Council.
Chief Executive	The most senior officer, with overall responsibility for the management and operation of the Council. Also known as the Head of Paid Service.
Code of Practice	A set of rules, usually of expected behaviour.
Committee	A formal decision-making body consisting of elected councillors.
Constitution	A document setting out how the Council operates, how decisions are made and all the procedures that have to be followed.
Co-opted Member	A non-voting, non-councillor appointed to serve on a committee in an advisory capacity.

Council	This can be used either: As the term used for the organisation; or in respect of the meeting of all of the councillors.
Councillor	An elected member of the Council and representative of the local community.
Code of Conduct for Councillors	Agreed Code of Conduct governing how councillors must conduct themselves whilst carrying out Council business or acting as a representative of the Council.
Councillors' Allowance Scheme	The scheme of payments made to councillors.
Council Tax	The money raised by the Council from residents of South Hams.
Deputy Chief Executive	This is not a statutory position. The Deputy Chief Executive performs such functions as are delegated to him/her by the Chief Executive or the Council
Director	A Senior Officer responsible for a collection of services.
Disclosable Pecuniary Interest (DPI)	A category of interest established under the Localism Act 2011 and subsequent regulations. It is a criminal offence for a Councillor to fail to register a DPI or to take part in decision making on matters affected by a Councillor's DPIs.
Excluded Matter	For the purposes of the <a href="#">Overview and Scrutiny Procedure Rules</a> this means any matter: <ul style="list-style-type: none"> <li>(a) outside those functions set out in the Local Government Act 2000;</li> <li>(b) relating to a licensing or planning decision;</li> <li>(c) relating to an individual body where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman); or</li> <li>(d) which is vexatious, discriminatory or not reasonable to be included on the Overview and Scrutiny Committee agenda.</li> </ul>
Executive	The councillors who together with the Leader form the Cabinet, each usually having a specific responsibility for a number of services provided by the Council.

Exempt Information	Information falling into one of 7 categories which usually cannot be publicly disclosed – see the <a href="#">Access to Information Procedure Rules</a> in Chapter 3 of the Constitution.
Group Leader	In respect of any political group means the person whom the group has identified as its leader by notice in writing to the Chief Executive.
Key Decision	A decision which is likely either to incur significant expenditure/make significant savings (over £500,000 for income or £1,000,000 for <a href="#">Capital Expenditure</a> ) or to have a significant impact on those living or working in 2 or more Wards.
Laws	Acts of Parliament or Regulations.
Leader of the Council	The Leader shall be a councillor elected to that office by a simple majority of the Council, usually at the first meeting for the Council following District Council elections..
Local Government and Social Care Ombudsman.	Appointed nationally to look into complaints by the public about the way they have been treated by or the service they have received from councils.
Minutes	The formal record of the proceedings of a meeting.
Monitoring Officer	The officer appointed under the Local Government and Housing Act 1989 to oversee the legality of the Council's actions and the ethical behaviour of councillors and employees. This is a statutory proper officer role.
Officer	A paid employee of the Council.
Overview and Scrutiny	A <a href="#">committee</a> of the Council with responsibility for scrutinising decisions made in the name of the Council, making reports and recommendations on policy and the discharge of functions and considering matters which affect the well-being of the residents.
Parish Meeting	A meeting at which every local government elector has a vote. Every parish must have a Parish Meeting which must meet at least annually. Parish Meetings discuss local affairs and have power to exercise certain limited functions. They are not Parish Councils.
Petitions	A formal written request, signed by more than one person, appealing to the Council in respect of a particular cause or question.



Policy	A plan of action or approach to an issue.
Policy Framework	The policy framework means the key policies and strategies which must be decided and followed by the Council.
Policy Review	An examination of Policy in relation to a Council function. To establish whether a policy reflects the Council's current obligations, both in law and in relation to the decision-making process. Where no policy exists a review may examine all aspects and formulate a policy for the future decision-making processes.
Proper Officer	A senior officer of the Council who is given a set of responsibilities by statute.
Protocols	Codes of Practice which set out how, for example, various elements of the Council are expected to interact with each other.
Quorum	The minimum number of people who have to be present before a meeting can take place.
Regulatory	The functions of the Council which "regulate" e.g. licensing, planning etc.
Responsibility for Functions	<a href="#">Chapter Two</a> of the Constitution sets out which committee, councillor or officer is responsible for particular functions of the Council.
Section 151 Officer	The officer responsible for the administration of the financial affairs of the Council. Also known as the Chief Finance Officer.
Summons	The term used to inform date, time and place of a meeting and specify business to be considered.
Statutory	The process of interpreting and applying legislation.
Terms of Reference	A written definition setting out the responsibilities and boundaries of a committee.
Town Council/ Parish Council/Parish Meeting	A corporate body (in the same way in which the Council is a corporate body) having precepting powers in its area, and empowerment by statute to undertake certain functions
Virement	Moving funds from one area of expenditure to another within a financial year.
Ward	An area of South Hams for which elections are conducted.