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Date: 25 September 2020

FULL COUNCIL MEETING

On:	Monday 5 October 2020	At:	6.30 pm
Venue:	Remote meeting via Zoom		

ADDENDUM

PART I - (OPEN SESSION)

8.	Review of Constitution (Pages 3 - 150) Constitution with track changes attached
	Meeting Organiser: Democratic Services

Agenda Item 8

PART 1

Summary and Explanation

Torrige District Council occupies an area of 380 square miles in the north of the County of Devon bordering North Devon District Council to the East, the County of Cornwall to the South West, and West Devon Borough Council to the South East. It is named after the River that flows through the District reaching the sea at Bideford. The Office for National Statistics estimates that ~~the 2011 Census~~ Torrige has a total population of ~~69,0368,839~~, with a recorded ~~32,99230,579~~ households on the Council Tax Register in ~~202042~~.

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In accordance with the provisions of the Local Government Act 2000, the Council reviewed the four models available for alternative democratic delivery in line with the Government Guidance and carried out ~~an~~ extensive and wide-ranging consultation ~~during 2004~~. The consultation reflected all four alternatives available without bias, and the outcome was a clear preference for the fourth option, a non-executive form of Constitution with a modernised ~~C~~committee structure involving a maximum of five main committees.

Climate Change

Torrige District Council has taken action to reduce its own carbon footprint and the wider collaborative activities that we are involved with in at the current time.

Torrige has declared a Climate Emergency and has committed to making the Council carbon neutral by 2030 as part of a Devon-Wide Carbon Reduction Plan.

GDPR/Data Protection

For GDPR/Data Protection matters please visit The Torrige District Council Website at www.torrige.gov.uk/article/11553/Data-Controller-and-Data-Protection-Officer or email dpo@torridge.gov.uk

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~~The Council formally agreed this approach at its meeting 23rd July 2001, and submitted its proposal to the Secretary of State immediately thereafter.~~

~~In 2007 the Council acknowledged that the operation of five main committees was cumbersome and no longer appropriate. The Council streamlined its Committee structure and adopted two main committees: a Policy Performance and Resources Committee and a Community Development Committee. The operation of these two committees was further reviewed in 2009/2010 and in the interests of efficiency and economy, the decision was taken in 2010 to replace the current system of two committees with one main decision-making Committee for the Council.~~

~~With effect from the 2010/11~~ The Council has established the **Community & Resources Committee** as its main decision making committee. This ~~C~~committee acts as a parent to a number of sub-groups.

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May 2020~~August 2016~~

In addition, the Council operates the following committees:-

~~Two~~ Overview & Scrutiny Committees (one internal and one external);
Audit & Governance Committee;
Plans Committee; Licensing
Committee; Standards
Committee; ~~and~~ Joint
Crematorium Committee
Harbour Board

Overview & Scrutiny Committees

The Council has appointed two Overview & Scrutiny Committees, an Internal Overview & Scrutiny Committee and an External Overview & Scrutiny Committee.

The Internal Overview & Scrutiny Committee has the power to review the policies of the Council and its objectives, and is entitled to 'call in' decisions made by the Community & Resources Committee which are not yet implemented. They can also recommend that the Community & Resources Committee reconsider such a decision. Issues that remain unresolved will be referred to the Full Council for determination.

The External Overview & Scrutiny Committee has the same terms of reference as the Internal Overview & Scrutiny Committee, but scrutinises the performance of external public sector bodies operating within Torridge.

The Council remains committed to its current policy of involving the community in its decision making process and includes community representation on both Overview & Scrutiny Committees.

Audit & Governance Committee

The Council has appointed an Audit & Governance Committee. Amongst other things, this Committee monitors and reviews the Council's risk management framework and provides independent scrutiny of the Council's financial and non-financial performance.

Plans Committee

The Council's planning function is supported by a Plans Committee responsible for the regulatory responsibilities of the Council including development control and enforcement.

Licensing Committee

The Council's licensing function is supported by a Licensing Committee who meet every 6 weeks, to carry out the functions of the Council as Licensing Authority. ~~as and when required.~~

Standards Committee

The Council operates a robust and effective complaints procedure and there is an opportunity to complain to the Standards Committee, where appropriate.

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Joint Crematorium Committee

This Committee operates jointly with North Devon Council and manages the operation of the North Devon Crematorium in Barnstaple.

All of the Council's committees carry out their business in public except where the items to be discussed are properly confidential under the provisions of the Local Government Act 1972.

~~The Council approved the committee structure in 2010.~~

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~~May 2020~~ August 2016

PART 2 Articles

Article 1 - The Constitution

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1.1 Powers of the Council

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

1.2 The Constitution

This Constitution, including all its annexes and appendices, is the Constitution of Torridge District Council.

1.3 Purpose

The purpose of the Constitution is to:

- a) Enable the Council to provide clear leadership to the community in partnership with its citizens, business and other organisations;
- b) Support the active involvement of the community in the process of local authority decision-making;
- c) Enable decisions to be taken efficiently and effectively;
- d) Help Members represent their constituents effectively;
- e) Create a powerful and effective means of holding decision makers to public account;
- f) Ensure that no one member or officer exercising delegated authority will review or scrutinise a decision in which they were directly involved;
- g) Ensure that those responsible for decision making are clearly identifiable to local people and that the decision makers explain the reasons for the decisions;
- h) Provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

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

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

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Article 2 - Members of the Council

Composition.

The Council will comprise 36 members, otherwise called eCouncillors. One or more Ceouncillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.

Eligibility.

Only registered voters of the District or those living or working there-within Torridge will be eligible to hold the office of Ceouncillor according to prevailing statutory provisions.

2.1 Election and Terms of Councillors

The regular election of councillors will be held on the first Thursday in May every four years. The terms of office of Ceouncillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.2 Key Roles of Members

- a) Collectively be the policy-makers for the Council and carry out a number of strategic and corporate decision making functions;
- b) Act as leaders of their communities and represent their communities and bring their views into the Council's decision making process, i.e. become the advocate of and for their communities which includes responsibility for the whole area and are collectively "The Council";
- c) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- d) Balance different interests identified within the ward and represent the ward as a whole;
- e) Be involved in decision making;
- f) Be available to represent the Council on other bodies;
- g) Maintain the highest standards of conduct and ethics.

2.3 Rights and Duties of Members

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

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Members will not make public, information that is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than to a Member or Officer entitled to know it.

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

2.4 Conduct

Councillors will at all times observe the Members Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution (pages):-

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members Allowances Scheme set out in Part 6 of this Constitution (pages):-

2.6 Non-Elected/Independent Members

Non-Elected/Independent Members will be co-opted on to the Overview and Scrutiny Committees, and Audit Committee. Independent Persons will be appointed by the Council to assist the Standards Committee, ~~The~~the Senior Solicitor & Monitoring Officer, and individual Councillors. The term of office of each Non-Elected Member shall be 4 years from appointment. Such Members wishing to continue may be considered for further terms.

Article 3 - Citizens and the Council

3.1 Citizens Rights

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

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a) Voting and Petitions

Citizens on the electoral roll for the area have the right to vote in the elections of members, and to sign a petition to request a referendum for an elected mayor form of Constitution

b) Petition Scheme

In accordance with the Local Democracy, Economic Development and Construction Act 2009, the Council has adopted a Petition Scheme in which Citizens are encouraged to participate in order for the Council to actively engage the local community and raise awareness of local issues.

The Petition Scheme sets out the way in which Citizens can collect and submit petitions and the way in which these will be considered and responded to by the Council.

The operation of this scheme is set out in Part 8 of this Constitution.

c) Information

Citizens have the right to:

- (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) see reports and background papers except where confidential or exempt information is likely to be disclosed, and any records of decisions made by the Council; and
- (iii) inspect the Council's accounts and make their views known to the external auditor in accordance with the Accounts and Audit Regulations 2003.

d) Community Call for Action

The Council has adopted section 21A of the Local Government Act 2000 which provides an avenue for any Councillor to refer a matter which affects the local area (whether or not the matter is the responsibility of the Council) to the relevant Overview & Scrutiny Committee. The relevant Overview & Scrutiny Committee can then report and make recommendations on such matters.

Citizens have the right to contact any Councillor to raise a matter that they believe should be put before the relevant Overview & Scrutiny Committee under the Community Call for Action powers.

In deciding whether or not to refer a matter brought to him/her to the relevant Overview & Scrutiny Committee, the Member shall have regard to the Council's adopted policy and procedure for dealing with Community Calls for Action which includes advice on dealing with the matter informally before referring it to the relevant Overview & Scrutiny Committee.

e) Participation:

Citizens have the right to contribute to investigations by the Overview & Scrutiny Committees and to approach Councillors in order to suggest items for discussion by Committees and Full Council. Citizens also have the right to participate at Full Council and certain Committees and Working Groups.

f) Complaints:

Citizens have the right to complain to:

- (i) the Council itself, under its Complaints Scheme;
- (ii) the Ombudsman, after the Council's complaints process has been exhausted; **and**

3.2 Citizens' Responsibilities

Citizens must not be violent, abusive or threatening to Members or Officers, and must not wilfully harm property owned by the Council, Members or Officers.

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Article 4 - Full Council

4.1 Functions of the Council

Only the Council will have the following functions:

- a) adopting and changing the Constitution;
- b) approving or adopting the Policy Framework and the ~~B~~udget;
- c) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them (the appointment of individuals may be delegated by the Council);
- d) appointing representatives to outside bodies (which may be delegated by the Council);
- e) adopting an allowances scheme under Article 2;
- f) confirming the appointment of the ~~Head of Paid Service~~ Chief Executive and other Chief Officers as defined within Article 11;
- g) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- h) all other matters which by law must be reserved to Council;
and
- i) Approving Lead Members.

4.2 Council Meetings

There will be two types of Council meetings that will be conducted in accordance with the Council Procedure Rules in Part 4 of the Constitution which are:-

- (i) Full Council Meetings; and
- (ii) Committee Meetings

4.3 Definitions

For the purpose of this Article 4, the following words have the following meaning:

“Policy Framework” means the following Policies, Plans and Strategies:-

- Sustainable Community Strategy
- Crime & Disorder Reduction Strategy
- ~~Plans & Strategies which together comprise the Local Development Framework~~
- Strategic Plan

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| **“Budget”** includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council’s borrowing requirement, the control of its capital expenditure and the setting of virement limits.
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Article 5 - Chairing the Council

5.1 The Role and function of the Chair

The Council will elect the Chair annually. The Chair of Council and in his/her absence, the Vice Chair, will have the following roles and functions:

a) Ceremonial Role

The Chair of Council will represent Torridge District Council as the Civic Head of the District at informal and formal gatherings and at official functions. The Chair is the figurehead of the District Council and of its community and will be responsible for the hospitality functions of the District.

b) Presiding Role

- (i) To uphold and promote the purposes of The Constitution and to interpret the Constitution upon advice from the Senior Solicitor & Monitoring Officer or Legal Officer.
- (ii) To preside over the meetings of the Council so that its business can be carried out efficiently and with full regard to the rights of Councillors and the interests of the community
- (iii) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and a place at which members are able to hold other members and committee chairmen to account
- (iv) To promote public involvement in the Council's activities
- (v) To attend such civic and ceremonial functions as he/she and the Council deem appropriate

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Article 6 – Overview and Scrutiny Committees

6.1 Terms of Reference

The Council will appoint two Overview & Scrutiny Committees (an Internal and an External Overview & Scrutiny Committee) to discharge the functions conferred by Sections 21 & 21A of the Local Government Act 2000. The terms of reference, functions and responsibilities of each Overview & Scrutiny Committee are set out in Part 3 but the general role of the Committees areis as follows:-

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- b) make reports and/or recommendations to the Full Council and/or any committees in connection with the discharge of any functions;
- c) consider any matter affecting the area or its inhabitants;
- d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Council and/or any committees of the Council;
- e) hear any matter brought to it as a Community Call for Action under powers adopted under section 21A Local Government Act 2000 and make any necessary reports or recommendations on the same; and
- f) review matters previously decided by the Council's established Committees under the Referral Procedure set out in Article 12.6 and Part 4 of this Constitution.

6.2 Specific functions

The External Overview & Scrutiny Committee is also appointed to act as the Crime and Disorder Scrutiny Committee appointed under section 19 of the Police & Justice Act 2006

6.3 Proceedings of the Overview & Scrutiny Committees

The Overview & Scrutiny Committees will conduct their proceedings in accordance with the Overview & Scrutiny Committee Rules of Procedure set out in Part 4 of this Constitution and the Council's Voting Scheme set out in Part 8 of this Constitution.

6.4 Membership

Each Overview and Scrutiny Committee will have a maximum of 3 Non-elected Members appointed. The appointment of the Non-Elected Members will be a function for Full Council and the term of office shall be 4 years from appointment. The termination of an appointment prior to that date will be a matter for Full Council. At the end of the 4 year terms, each Member may re-apply to be appointed for a further term with no restriction on the number of terms that may be served.

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Article 7 – Community & Resources Committee and Other Committees

7.1 Council Committees

The Council will appoint the Committees shown in Part 3 of this Constitution to include their Terms of Reference, Areas of Responsibility for Functions, and their ability to discharge the functions described.

7.2 Appointment of Sub-Groups

The Council's Committees may appoint Sub-Committees for particular functions or may appoint Working Groups in order to undertake particular tasks.

7.3 Members Serving on Licensing, Plans and/or Standards Committees

~~Members sitting on Licensing, Plans Committees and/or The Standards Committee will receive appropriate No Member may serve on the Licensing, Plans and/or Standards Committees who has not been agreed by the Head of Paid Service to be competent by training or qualification to take part in that Committee's work. The decision as to whether a Member is competent to sit on the Committees lies with the Group Leader.~~

7.4 Members Serving on Audit Committee

Members serving on the Audit Committee will receive training on issues to be dealt with by that Committee.

7.5 Reports to Community & Resources Committee

No reports may be presented to the Council's Community & Resources Committee unless that item has first been considered by the Leadership Team provided that urgent items may be presented with the consent of the Chair of the Committee and the ~~Head of Paid Service~~ Chief Executive.

7.6 Leadership Team

The Leadership Team shall consist of:

- a) the Leader and Deputy Leader of the Council;
- b) the Chair and Vice Chair of Community & Resources Committee;
- c) the Chair of the Audit Committee;
- d) Lead Members
- e) Group Leaders; and
- f) such other persons as the Council may consider necessary to ensure political inclusiveness.

Article 8 - The Standards Committee

8.1 Establishment

The Council will establish a Standards Committee.

8.2 Composition

Standards Committees do not have to comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

8.3 Membership

a) The Standards Committee will be composed of not more than Nine (9) members comprising:

- (i) Seven (7) elected Members;
- (ii) Two (2) Town/Parish Council Representatives, wholly or mainly in the Council's area.

b) Additionally, the Council shall appoint up to Two (2) Independent Persons to assist the Standards Committee, the Senior Solicitor & Monitoring Officer, and individual Councillors in accordance with the Localism Act 2011.

~~c) All elected and Non-Elected Members wishing to sit on the Standards Committee will be subject to a selection process carried out by the Head of Paid ServiceChief Executive~~

~~e)d) All Elected Members wishing to sit on the Standards Committee will be subject to a selection process carried out by the Group Leader.~~

d) The quorum shall be Five (5)

8.4 Voting rights

The Town/Parish representatives shall not be entitled to vote at Standards Committee meetings but shall be able to take part in the discussions.

The Independent Persons will be invited to attend meetings of the Standards Committee and take part in the discussions, but shall not be entitled to vote.

8.5 The Role of the Standards Committee

The Standards Committee will have the following roles and functions:

1. Promote and maintain high standards of conduct by the Members and co-opted Members of the Council;

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2. Assist Members and ~~Ceo-Opted~~ ~~M~~members of the Council to observe the Members' Code of Conduct;
3. Advise ~~F~~ull Council on the adoption or revision of the Members' Code of Conduct;
4. Monitor the operation of the Members' Code of Conduct;
5. Advise, train or arrange training for ~~M~~members and ~~Ceo-Opted~~ ~~M~~members on matters relating to the Members' Code of Conduct;
6. Grant dispensations to District Council Members and ~~Ceo-Opted~~ Members from the requirements relating to interests set out in the Members' Code of Conduct;
7. Deal with any reports relating to ~~Member~~ complaints ~~from-received by~~ the Monitoring Officer;
8. Provide the same functions (other than the grant of dispensations) in relation to ~~P~~arish ~~C~~ouncils and ~~M~~members of the ~~P~~arish ~~C~~ouncils as in relation to Torridge District Council and ~~M~~members of Torridge District Council;

Powers to Impose Sanctions

1. The standards Committee shall have the following powers when dealing with and deciding upon a complaint:-
 - (a) To issue a censure to a Councillor;
 - (b) To request that a Councillor issue a written apology;
 - (c) To recommend that a Councillor undergo appropriate training;
 - (d) To recommend to the relevant Group Leader and to Full Council and/or a Parish/Town Council that other action be taken against a Councillor;
 - (e) Publication of the findings of the Standards Committee including media statements or press releases, publication on the Council's website and inclusion of details in the Members Bulletin;
 - (f) Report the findings of the Standards Committee to ~~f~~ull Council;
 - (g) Recommend to the Councillor's ~~G~~roup ~~L~~eaders (or in the case of ungrouped Councillors, recommend directly to ~~f~~ull Council) that he/she be removed from any or all ~~C~~ommittees or ~~S~~ub-~~C~~ommittees of the Council;
 - (h) Recommend to ~~F~~ull Council that the Councillor be removed from their role as Lead Member if applicable;
 - (i) Recommend to ~~F~~ull Council that the Councillor be removed from all outside bodies to which they have been appointed or nominated by ~~f~~ull Council;
 - (j) Recommend to ~~F~~ull Council the withdrawal of certain facilities provided to the Councillor by the Council as may be reasonable in the circumstances;
 - (k) Recommend to ~~F~~ull Council that the Councillor be excluded from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending ~~F~~ull Council, ~~C~~ommittee and ~~S~~ub-~~C~~ommittee meetings or put in place such restrictions on access to staff as may be reasonable in the circumstances;

- (l) Recommend to **F**ull Council the suspension, withdrawal or reduction of a Councillor's Voluntary Grant Budget for a period of time following the finding of breach.

Article 9 – Consultative Groups

The Council will from time to time appoint consultative groups to ensure that issues of concern may be raised with the Council. Such groups may consist of members of the public, Parish/Town Councils or any other bodies or persons considered appropriate.

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Article 10 - Joint Arrangements

10.1 Arrangements to Promote Well-Being

The Council, in order to promote the economic, social or environmental well-being of its area may:

- a) enter into arrangements, agreements or strategic partnerships with any person or body;
- b) co-operate with or facilitate or co-ordinate the activities of, any person or body; and
- c) exercise on behalf of that person or body any functions of that person or body.

10.2 Joint arrangements

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

Details of any joint arrangements including any delegations to joint committees will be found in Part 3 of this Constitution.

10.3 Access to information

The Access to Information Rules in Part 4 of this Constitution apply.

10.4 Delegation to and from other local authorities

The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.

The decision whether or not to accept such a delegation from another local authority or whether to delegate any function to another local authority shall be reserved to Full Council

10.5 Contracting Out

The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 11 – Officers

11.1 Management Structure

a) General.

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

b) Chief Officers.

Full Council will engage persons for the following posts, who will be designated Chief Officers:

Post	Functions and Areas of Responsibility
<u>Head of Paid Service Chief Executive</u>	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision making process. Together, with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. Representing the Council on Partnership and external bodies (as required by statute or by the Council).
<u>Chief Officers and S151 Officers</u>	Financial Services Legal Services Corporate Services Internal Audit IT Property and Procurement Revenues and Benefits Operational services Culture and leisure

11.2 Designation of Posts

a) The Council will formally designate the posts of the following Statutory Officers:-

- (i) Head of Paid Service Chief Executive;
- (ii) Senior Solicitor & Monitoring Officer; and
- (iii) Chief Financial Officer and Deputy Chief Financial Officer.

- b) The posts referred to at 11.2 a) will have the functions described in Articles 11.4 to 11.6 below.

11.3 Structure

The ~~Head of Paid Service~~Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

11.4 Functions of the ~~Head of Paid Service~~Chief Executive

The ~~Head of Paid Service~~Chief Executive will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of Officers.

The ~~Head of Paid Service~~Chief Executive will not be the Monitoring Officer or the Chief Finance Officer.

11.5 Functions of the Monitoring Officer or his/her deputy

a) Maintaining The Constitution

The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for Members, the Council staff and public.

b) Ensuring lawfulness and fairness of decision making

The Monitoring Officer will, after consulting with the ~~Head of Paid Service~~Chief Executive, the Chief Finance Officer, and the Senior Solicitor (if different), where necessary, report to the Full Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

c) Supporting the Standards Committee

The ~~Senior Solicitor &~~ Monitoring Officer will support the work of the Standards Committee in all of its designated roles.

d) Receiving reports

The Monitoring Officer will receive and act on reports made by an external organisation or tribunal insofar as those reports relate to matters within the remit of the ~~Senior Solicitor &~~ Monitoring Officer.

e) Conducting Investigations

The Senior Solicitor & Monitoring Officer will conduct investigations into complaints relating to breaches of the Code of Conduct and will determine those complaints or refer them to the Standards Committee.

f) Proper Officer for Access of Information

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

g) Providing Advice

The Senior Solicitor & Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, and probity to all Councillors.

The Senior Solicitor & Monitoring Officer will be active in promoting and ensuring high standards of conduct and compliance with the Constitution. He/she will bring any matters causing him/her concern to the attention of the relevant Chair and/or the ~~Head of Paid Service~~Chief Executive and any other relevant officer or Councillor at the earliest opportunity.

h) Restrictions on Posts

The Senior Solicitor & Monitoring Officer will not be the Chief Finance Officer or the ~~Head of Paid Service~~Chief Executive.

11.6 Functions of the Chief Finance Officer or his/her Deputy

a) Ensuring lawfulness and financial prudence of decision making

After consulting with the ~~Head of Paid Service~~Chief Executive and the Senior Solicitor & Monitoring Officer, the Chief Finance Officer will report to Full Council and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

b) Administration of Financial Affairs

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

c) Contribution to Corporate Management

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

d) Providing Advice

The Chief Finance Officer will, in relation to material financial considerations, provide advice on the scope of powers and authorities to take decisions, maladministration, financial impropriety, and probity, to all Councillors and will support and advise Councillors and Officers in their respective roles.

e) Provide Financial Information

The Chief Finance Officer will provide financial information to the media, members of the public and to the community and to Managers/budget holders to enable them to effectively manage designated budgets.

11.7 Duty to provide sufficient resources to the Senior Solicitor & Monitoring Officer and Chief Finance Officer

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

11.8 Conduct

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

11.9 Employment

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

11.10 Disciplinary Action

No disciplinary action in respect of the ~~Head of Paid Service~~ Chief Executive, the Senior Solicitor & Monitoring Officer or the Statutory Finance Officer may be taken by the Council or any of its Committees other than in accordance with the procedure set out in Part 4 Chapter 7 of this Constitution.

Article 12 - Decision Making

12.1 Responsibility for Decision Making

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

12.2 Principles of Decision Making

The decisions of the Council will be made in accordance with the Nolan Principles and in accordance with the following specific principles:

- a) respect for Human Rights, equality and diversity;
- b) presumption of openness;
- c) impartiality, (i.e. the decision will be based only on relevant considerations, free of predetermination and bias);
- d) proportionality, (i.e. the action will be proportionate to the desired outcome);
- e) clarity of aims and desired outcomes; and
- f) due consultation and taking professional advice from Officers.

12.3 Forms of Decision Making

a) Decisions by Full Council

Decisions relating to the functions listed in Article 4.1 will be made by Full Council and may not be delegated save where provision for delegation has been made in the Constitution.

Subject to Article 15.1, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

b) Decisions by the Overview & Scrutiny Committees

The Overview & Scrutiny Committees will follow the Overview & Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter and those ~~Non-Elected/Ceo-Opted~~ Members of the Overview & Scrutiny Committees will comply with the Council's Voting Scheme in force from time to time.

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- e) ~~Decision making by the Plans Committee~~
~~In either case any decision taken under delegated authority by officers will be raised at the next meeting of the Plans Committee for information under urgent items of business.~~
- d) Decisions by other Committees established by the Council
- Subject to Article 7 other Council committees and ~~S~~sub-~~C~~ommittees will follow those parts of the Council Procedural Rules set out in Part 4 of this Constitution as apply to them.
- e) Decisions by Officers
- Decisions of the Council shall be taken by Full Council or one of the established Committees of the Council save as provided for within the Scheme of Officer Delegation contained at Part 3 of this Constitution which sets out the basis on which officers may make decisions on behalf of the Council.
- f) Decisions by Members
- Save as provided for in the Scheme of Member Delegation contained at Part 3 of this Constitution, members shall not, other than when sitting in Full Council or on one of the established Committees of the Council, make decisions on behalf of the Council.
- g) Urgency Procedure
- Where a decision which would, under the terms of Part 3 of this ~~C~~onstitution, ~~ordinarily falls~~ to be made by the Community & Resources Committee, ~~but~~ is so urgent that it should be made before the next available Community & Resources Committee, the decision may be made by ~~The~~ ~~Chief Executive~~ using the following procedure.
- 1) A ~~R~~report shall be prepared by the ~~person-Officer~~ requesting the decision ("~~the report writer~~~~Officer~~") and submitted to the ~~Head of Paid Service~~ ~~Chief Executive~~. The ~~report writer~~~~Officer~~ will ensure that any relevant Ward ~~M~~embers and Lead ~~M~~embers are notified on the proposed decision before submission to ~~T~~he ~~Head of Paid Service~~~~Chief Executive~~ and that their comments are incorporated into the report so far as possible under the time scales.
 - 2) The ~~R~~report must detail the reasons for the urgency. For clarity, if the reason for the Urgency ~~R~~report is that an ~~O~~fficer has not had chance to complete a normal Committee ~~R~~report because of holiday, work commitments or other such reasons, this is not likely to be treated as an Urgent decision under this procedure.
 - 3) The ~~Head of Paid Service~~~~Chief Executive~~ will consider the matter and will specify any further consultation that is necessary.

- 4) Once satisfied, the Chief Executive will consult with the Leader/Deputy Leader and Chair/Vice Chair of the Community & Resources Committee who will, if satisfied, endorse the Report with their signatures.
- 5) If the Head of Paid Service Chief Executive is satisfied that the matter is urgent and that the decision as proposed in the Rreport should be taken, the Head of Paid Service Chief Executive will take the appropriate decision.
- 6) The Report Writer Officer will ensure that a Full Rreport on the matter, explaining the reason for urgency, is prepared and presented to the next appropriate Committee.
- 7) The Report Writer Officer will also ensure that a copy of the decision is given to the Governance Manager for record purposes.

12.4 Decision making by Council Bbodies acting as Ttribunals

The Council or an Officer acting as a Tribunal or in a Quasi-Judicial manner or determining/considering (other than for the purpose of giving advice) the civil rights and obligations or the criminal responsibility of any person will ensure they follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

12.5 Voting by Non-Elected/Co-Opted Members

Where the composition of any of the Council's Committees includes any Non-Elected or Co-Opted member (which for these purposes means a Member of that Committee who is not a Member of this Council), then the Council's Voting Scheme shall apply to that Non-Elected or Co-Opted member. The Council's Voting Scheme is set out at Part 8 of this Constitution.

12.6 Referral Procedure

Under the Council's Rules of Procedure, set out at Part 4 of this Constitution, procedural rule A5.2 refers to 'Motions which can be moved without Notice' and gives Full Council the power to refer a decision of the Community & Resources Committee to the appropriate Overview & Scrutiny Committee for an independent determination of the matter in question ("The Referral Procedure").

The Referral Procedure shall operate as follows:-

- a) Full Council may, in accordance with Procedural Rule A5.2, refer a minute recording a decision taken by the Community & Resources Committee of the Council to the appropriate Overview & Scrutiny Committee for review;

- b) At the first meeting of the relevant Overview & Scrutiny Committee following the Full Council referral, the Overview & Scrutiny Committee shall consider the decision referred to it by Full Council and shall make such recommendations as it sees fit;
- c) The Overview & Scrutiny Committee shall present its recommendations to the next available Full Council for a decision to be made;
- c) Upon receiving the recommendations of the Overview & Scrutiny Committee, Full Council shall make a decision on the issue and shall not be entitled to refer the same issue back to either the Community & Resources Committee that made the original decision, either of the Council's Overview & Scrutiny Committees or any other Committee.

Article 13 - Finance, Contracts and Legal Matters

13.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.

13.2 Contracts

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

13.3 Legal Proceedings

The Senior Solicitor & Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Senior Solicitor & Monitoring Officer considers that such action is necessary to protect the Council's interests.

13.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council it will be signed by the Head of Paid Service Chief Executive or such other person authorised by him/her unless any enactment otherwise authorises or requires or the Council has given the requisite authority to some other person.

13.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Paid Service Chief Executive. A decision of the Council or of any part of it will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents, which in the opinion of the Head of Paid Service Chief Executive or the Senior Solicitor should be sealed. The affixing of the Common Seal will be attested by the Senior Solicitor & Monitoring Officer (or in his/her absence, the Head of Paid Service Chief Executive).

Article 14 - Review and Revision of The Constitution

14.1 Duty to monitor and review the Constitution

The Senior Solicitor & Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given effect.

14.2 Protocol for Monitoring and Review of The Constitution

A key role for the Senior Solicitor & Monitoring Officer is to be aware of the strengths and weaknesses of The Constitution and to make recommendations for ways it could be improved and enhanced in order better to achieve the purposes of the Constitution. He/she may:

- a) ~~observe meetings of different parts of the member and officer structure;~~
- d) receive recommendations made by the Standards Committee; and
- e) compare practices in this Council with those adopted by other Local Authorities, or national examples of best practice.

14.3 Changes to the Constitution

Only Full Council may approve changes to The Constitution, after the consideration of a proposal submitted by the Monitoring Officer.

Any proposed change to one of the other three models of local government will take place only after appropriate consultation with local electors and other interested persons in the area, and any change to a mayoral style of executive will take place only after a binding referendum.

Article 15 - Suspension, Interpretation and Publication of the Constitution

15.1 Suspension of The Constitution

a) Limit to Suspension

The Articles of the Constitution may not be suspended. The Rules specified in Article 15.1(c) below may be suspended by the Full Council to the extent permitted within the Rules and the Law.

b) Procedure to Suspend

Notice to suspend the Council's rules may be moved without notice.

c) Rules capable of Suspension

The Council's Procedure Rules (pages _____) ~~apart from excluding~~ Procedure Rule A18 and the further Rules referred to therein.

15.2 Interpretation

This Constitution shall be interpreted by the ~~Head of Paid Service Chief Executive, and the Senior Solicitor~~ Senior Solicitor & Monitoring Officer and the ~~Senior Solicitor~~ Monitoring Officer. Such interpretation will have regard to the purposes of the Constitution contained in Article 1

15.3 Ruling

The Chair for the time being of any meeting of the Council or Committee shall give rulings on any matters relating to this Constitution in respect of the conduct of proceedings. The Chair will receive any advice given by the ~~Senior Solicitor, Senior Solicitor & Monitoring Officer or the Head of Paid Service Chief Executive~~ Senior Solicitor & Monitoring Officer and in the event that ~~none~~ neither of those officers are present at the meeting, the Chair may adjourn to seek further advice. Such ruling shall be final and not open to challenge.

15.4 Publication

a) The Monitoring Officer will ~~ensure that give~~ ensure that a copy of the Constitution ~~to is available to~~ is available to each ~~Member~~ Member of the Council ~~and at the same time that upon delivery to him/her of that each~~ and at the same time that each individual ~~Member's Declaration of Acceptance of Office~~ Member's Declaration of Office on the member being first elected to the Council.

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

- c) The Senior Solicitor & Monitoring Officer will ensure that the ~~summary of the~~ Constitution is made ~~widely~~ available within the area and is updated as necessary by publication on the Council's website.

Description of Arrangements

The following parts of this Constitution constitute the alternative arrangements adopted by Torridge District Council:-

- | | | |
|-----------|---|--|
| Article 6 | - | Overview & Scrutiny Committees |
| Article 7 | - | Community & Resources Committee and Other Committees |

The terms of reference of the Council's Committee structure are detailed in part 3 of this Constitution and the Council Procedure Rules applicable to the procedures to be adopted by those Committees are detailed in Part 4 of this Constitution.

PART 3

Responsibility for Functions

Full Council may exercise all of the functions exercisable by a District Council.

Full Council may also, where permitted by law and authorised by this Constitution, delegate the exercise of any of its functions to its established Committees, Officers and Members. (See Article 4 of Part 2 of the Constitution).

This Part of the Constitution sets out the extent of the delegations made by Full Council.

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PART 3 - Chapter 1

Delegations to Committees

~~The Full~~ Council has ~~allocated~~ delegated elements of its responsibilities to ~~its~~ the Community & Resources Committee as set out in the following table. The table shows the Terms of Reference, Functions, Responsibilities and Composition of the Committee.

This Chapter also includes tables containing the same information in respect of the other established Committees of the Council.

Principles applicable to all Committees within this Chapter

The Committees referred to in this Chapter will:-

- a) have regard to all relevant factors, including the following in their operation and when reaching decisions:-
 - (i) Diversity and Equality
The requirement for equal access to all services for all people, regardless of the presence of any protected characteristics as defined within the Equality Act 2010.
 - (ii) Sustainability
Taking actions that meet the needs of the present without compromising the needs of the future.
 - (iii) Risk Management
The requirement to take account of the likelihood and impact of potential occurrences.
- b) have access to a library of Council policies and the necessary officer support.

COMMUNITY & RESOURCES COMMITTEE

Terms of Reference and Function

The Council's Community and Resources Committee shall take decisions relating to:-

1. The formulation (but not the adoption or approval) of:-
 - a) ~~the~~ the Policy Framework,
 - b) the budget; and
 - c) the Council's objectives and priorities.
2. The control and management of resources including land, finance and staff to further the Council's objectives.
3. Ensuring compliance with the Council's budget including ~~the~~'s R revenue and ~~C~~apital budgets and the management of the Council's assets.
4. Overall responsibility for the performance framework of the Council.
5. The adoption and approval of strategies and policies not forming part of the Policy Framework apart from those policies for which delegated power is given to the ~~Head of Paid Service~~Chief Executive to approve under Part 3 Chapter 2.
6. The setting of fees and charges in relation to any of the Council's functions with the exception of any such fees and charges that must be determined by full Council.

Responsibility

The Council's Community and Resources Committee shall be responsible for managing and/or making decisions relating to any function, duty or power of the Council which is not delegated to an ~~O~~fficer, ~~M~~ember or Committee, or reserved for decision by Full Council under this Constitution or by law.

Composition

1. The number of seats shall be Twelve (12) councillors.
2. The quorum shall be Seven (7).

OVERVIEW & SCRUTINY COMMITTEES

Statement of Purpose

The Council's Overview & Scrutiny Committees have been appointed to discharge the functions conferred by Section 21 and 21A of the Local Government Act 2000, the Police & Justice Act 2006 and the Crime and Disorder Act 1998 in relation to the work of Full Council, Council's established Committees and other external bodies.

The Council has appointed two Overview & Scrutiny Committees: an Internal Overview & Scrutiny Committee and an External Overview & Scrutiny Committee. As a guide:-

Internal Overview & Scrutiny Committee

The Internal Overview & Scrutiny Committee will exercise its functions in respect of the Council's policies, decisions, performance framework and actions with an "inward facing" emphasis.

External Overview & Scrutiny Committee

The External Overview & Scrutiny Committee will exercise its functions in respect of the performance of partners and external public sector bodies and council services with an "*outward facing*" emphasis on the area of Torridge and its inhabitants.

The Council's Overview & Scrutiny Committees will conduct their functions in accordance with the following principles:-

- a) ~~they will~~ provide a "*critical friend*" challenge to decision makers and external bodies and agencies;
- b) ~~they will~~ reflect the voice and concerns of the public and the community;
- c) ~~they will~~ take the lead and own the scrutiny process on behalf of the public; and
- d) ~~they will~~ endeavour to make an impact to improve the delivery of public services.

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Terms of Reference, Function and Responsibilities – Applicable to Both Overview & Scrutiny Committees

The following terms of reference, functions and responsibilities shall apply equally to both **The** Internal and External Overview **and** Scrutiny Committees. Either of the Council's Overview & Scrutiny Committees shall:-

- a) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Council and/or any committees of the Council in accordance with the Overview and Scrutiny Procedure Rules and to recommend that either the decision be reconsidered or that the decision be exercised/implemented by the Council;
- b) hear any matter brought to it as a Community Call for Action under powers adopted under section 21A Local Government Act 2000 and make any necessary reports and/or recommendations on the same;
- c) make reports and/or recommendations to Full Council and/or any Committees in connection with the discharge of any of its functions;
- d) assist the Council and its Community & Resources Committee in the development of its budget and policy framework by in-depth analysis of policy issues;
- e) question members of the Council's Committees and in particular, as appropriate, the Chairman, Vice Chairman and Chief Officer regarding their views on issues and proposals affecting the District;
- f) make recommendations to the Council's Committees and/or Full Council arising from the outcome of the scrutiny process;
- g) question and gather evidence from any person (with their consent); and
- h) call officers to account under the relevant Petition Scheme from time to time in force and contained at Part **7, Chapter 18** of the Constitution.

Finance

The Overview & Scrutiny Committees may exercise overall responsibility for any budgets made available to them.

Annual Report

Each Overview & Scrutiny Committee will report annually to Full Council on its workings, and make recommendations for future work programmes and amended working methods as necessary.

Officers

The Overview & Scrutiny Committees may exercise overall responsibility for the work programme of the **O**fficers employed to support their work.

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Internal Overview & Scrutiny Committee - Terms of Reference, Function and Responsibilities

The following terms of reference, functions and responsibilities shall apply to the Council's Internal Overview & Scrutiny Committee only. The Council's Internal Overview & Scrutiny Committee shall:-

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions including decisions taken by the Community & Resources Committee or by an Officer;
- b) review matters previously decided by the Community and Resources Committee of the Council and matters referred to it by Full Council under the Referral Procedure set out in Article 12.6 and Part 4 Chapter 4 of this Constitution;
- c) exercise any of its functions in respect of decisions relating to the overall resource of the Council, both land and finance;
- d) monitor the overall budget of the Council and ensure compliance with that budget (both revenue and capital) and the Council's assets, including arrangements for audit and review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- e) monitor compliance with the Council's overall policy framework;
- f) monitor the efficient administration of the Council's trading responsibilities;
- g) question members of the Community & Resources Committee and Chief Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- h) consider Ombudsman reports as relevant to the Community & Resources Committee.

External Overview & Scrutiny Committee - Terms of Reference, Function and Responsibilities

The following terms of reference, functions and responsibilities shall apply to the Council's External Overview and Scrutiny Committee only. The Council's External Overview and Scrutiny Committee shall:-

- a) consider any matter affecting the area or its inhabitants;
- b) conduct research and reviews in relation to matters which are not the responsibility of the Council but which affect the Council's area or its inhabitants and submit reports and/or recommendations to the Council, its Committees or other relevant organisations;
- c) conduct research of the community and other consultation in the analysis of policy issues and possible options;

- d) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- f) review and scrutinise the performance of other public bodies and bodies with whom the Council works in the area and invite reports from them by requesting them to address the External Overview & Scrutiny Committee and local people about their activities and performance;
- g) act as Crime & Disorder Scrutiny Committee under section 19 of the Police & Justice Act 2006, ie, to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions.

Composition of both Internal and External Overview & Scrutiny Committees

1. The Council's Overview & Scrutiny Committees shall be made up of up to ~~12~~ twelve (12) ~~M~~members.
2. Membership of the Council's Overview & Scrutiny Committee shall be made up as follows:-
 - a) Nine (9) District Councillors; and
 - b) Up to three (3) Non-Elected Representatives.
3. The quorum shall be six (6).
4. Non-Elected Representatives are entitled to vote at Committee meetings in accordance with the Council's adopted Voting Scheme.

AUDIT & GOVERNANCE COMMITTEE

Statement of Purpose

The purpose of ~~an~~The ~~A~~udit & ~~G~~overnance ~~C~~ommittee is to provide assurance of the adequacy of the risk management framework and the associated control environment, scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and to oversee the financial reporting process.

Terms of Reference, Function and Responsibilities

The Council's Audit & Governance Committee shall be responsible for:-

1. Audit Activity

- a) To consider the Internal Audit Manager's ~~A~~nnual ~~R~~eport and opinion, and ~~receive~~ a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements;
- b) To consider summaries of specific internal audit reports as requested;
- c) To consider reports dealing with the management and performance of the providers of internal audit services;
- d) To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale;
- e) To consider the external auditor's annual letter, other relevant reports, and the report to those charged with governance;
- f) To consider specific reports as agreed with the external auditor;
- g) To comment on the scope and depth of external audit work and to ensure it gives value for money;
- h) To liaise with Public Sector Audit Appointments Limited over the appointment of the council's external auditor;
- i) To commission work from internal and external audit.

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2. Regulatory Framework

- a) To maintain an overview of the Council's Constitution in respect of ~~C~~ontract ~~P~~rocedure ~~R~~ules, ~~F~~inancial ~~P~~rocedure ~~R~~ules and ~~C~~odes of ~~C~~onduct and ~~B~~ehaviour;
- b) To review any issue referred to it by the ~~Head of Paid Service~~Chief Executive ~~or a Strategic Manager, or the Senior Solicitor~~Senior Solicitor and Monitoring Officer, or any Council body;
- c) To monitor the effective development and operation of risk management and corporate governance in the council;
- d) To monitor council policies on *"Raising Concerns at Work"*, ~~and the~~ ~~A~~nti-~~F~~raud and ~~A~~nti-~~C~~orruption ~~S~~strategy and the ~~C~~council's complaints process;

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- e) To approve and adopt the Council's Annual Governance Statement or Statement on Internal Control.
- g) To consider the Council's compliance with its own and other published standards and controls.

3. Accounts

- a) To review and approve the Annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council;
- b) To consider the external auditor's report to those charged with governance on issues arising from the audit of accounts.

Composition & Administration

Composition

1. The Council's Audit & Governance Committee shall be made up of Seven (7) Members.
2. Membership of the Council's Audit & Governance Committee shall be made up as follows:-
 - a) Six (6) District Councillors; and
 - b) One (1) Independent/Non-Elected Representative.
3. The quorum shall be Four (4)

Administration

The Council's Audit & Governance Committee and its members shall:-

- a) Be independent of the Council's scrutiny function and Overview and Scrutiny Committees;
- b) Have clear reporting lines and rights of access to other committees/functions, for example Scrutiny and Service Committees, incorporate risk management and other strategic groups;
- c) Meet regularly — ~~about five times a year~~, and have a clear policy on those items to be considered in private and those to be considered in public;
- d) Meet privately and separately with the External Auditor and Audit Manager;
- e) Include as regular attendees, the ~~Statutory Finance Officer~~ S151 Officer or Finance Manager, ~~the audit manager and and~~ appointed external auditor ~~and relationship manager~~. Other attendees may include the Monitoring Officer and ~~Head of Paid Service~~ Chief Executive.. These Officers should also have access to the committee, or chair, as required;
- f) Have the right to call any other Officers or agencies as required;
- g) Be properly trained to fulfil their ~~role~~ role.-

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PLANS COMMITTEE

Terms of Reference, Function and Responsibility

The Council's Plans Committee shall:-

- 1. Be responsible for making decisions in respect of the Council's regulatory responsibilities in connection with the Council's Planning function to include decisions on:-
 - a) development control;
 - b) enforcement obligations; and
 - c) the Council's tree preservation system.
- 2. Provide assistance to constituents where appropriate, by advising them to seek pre-application advice and/or guidance from the Council's Development Control and Policy Sections.
- 3. Discuss and clarify with Officers what is "good" development for the District.
- 4. Where applications are in the District's interests but against the Local Plan, the Plans Committee shall discuss these applications as "test cases" and have informed discussion at the Plans Committee meetings.

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Decision Making by and Public Participation at Plans Committee

- 1. All decisions of the Plans Committee will be made having due regard to the Local Development Framework and supporting policies which together form the Council's Local Plan unless there are any overriding considerations.
- 2. In the event that the Plans Committee is minded to approve or refuse a Major ~~(10 dwellings or more)~~ or otherwise strategically significant planning application contrary to the recommendation of the Development Manager or the Planning and Economy Manager - Council's Head of Service with responsibility for planning, the application shall stand deferred for a further report to be presented at a subsequent meeting of the Plans Committee at which the implications, process and risk issues for the Council shall be considered by Members before reaching a decision. A Major Planning Application is considered to be 10 dwellings or more.
- 3. Members of the public will be allowed to speak at a Plans Committee Meeting for a maximum time of three minutes per person and subject to the approved Guide to Public Participation and Code of Conduct which can be found at Part 5 of the Constitution.

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- ~~4.~~ 4. The final determination of every application by the Plans Committee shall be subject to a recorded vote whereby the names for and against the Motion or abstaining from voting will be recorded and entered into the minutes.

Composition of the Plans Committee

1. The Council's Plans Committee shall be made up of up to ~~n~~ⁿine (9) qualified ~~Members~~^{councillors}.
2. The quorum shall be ~~s~~^six (6).

LICENSING COMMITTEE

Terms of Reference, Function and Responsibility

V2.0

~~August 2018~~^{May 2020}

The Council's Licensing Committee shall:-

1. Carry out the functions of the Council as Licensing Authority so far as required or permitted by the Licensing Act 2003 in accordance with sections 6,7,9 and 10 of that Act and ~~R~~regulations thereunder.
2. Carry out the functions of the Council as Licensing Authority under the Gambling Act 2005.
3. -Be responsible for the following licensing and associated issues (excluding the fixing of fees and charges and other financial issues which fall to the Council's Community and Resources Committee):
 - a) ~~Food Premises;~~
 - b) ~~Body Piercing, Acupuncture, etc;~~
 - e) ~~a) Hackney Carriage and Hire Cars; Private Hire Vehicles, Drivers and Operators~~
 - e) ~~a) Boats and Boatmen;~~
 - e) ~~b) Street Collections;~~
 - f) ~~c) House to House Collections;~~
 - g) ~~d) Animal Welfare;~~
 - h) ~~e) Sex Establishments~~
 - Caravan Sites;
 - i) ~~f) Entertainment, etc;~~
 - j) ~~g) Consumption of Alcohol in Public Places;~~
 - k) ~~h) Loudspeakers in the Street;~~
 - l) ~~i) Scrap Metal Dealers & Motor Salvage Operators and;~~
 - m) ~~j) Vessels;~~
 - n) ~~k) Amusements with Prizes, Betting, Gaming and Gambling; and~~
 - o) ~~l) such other licensing and associated issues that are not dealt with by any other Committee.~~

Composition

1. The Council's Licensing Committee shall be made up of up to ~~t~~en (10) qualified ~~Members~~councillors.
2. The quorum shall be Six (6).
3. The functions of the Council's Licensing Committee may be discharged by up to ~~t~~Three (3) ~~Members sitting on a~~ sub-committees subject to approval at Annual Council.
4. Membership of the Council's Licensing Committee shall be cross-party and non-political.

STANDARDS COMMITTEE

Terms of Reference, Function and Responsibility

The Council's Standards Committee shall:-

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1. Promote and maintain high standards of conduct by the Members and Co-Opted Members of the Council;
2. Assist Members and co-opted Members of the Council to observe the Members' Code of Conduct;
3. Advise full Council on the adoption or revision of the Members' Code of Conduct;
4. Monitor the operation of the Members' Code of Conduct;
5. Advise, train or arrange training for members and co-opted Members on matters relating to the Members' Code of Conduct;
6. Grant dispensations to District Council Members and Co-Opted Members from requirements relating to interests set out in the Members' Code of Conduct;
7. Deal with any reports relating to complaints from the Monitoring Officer;
8. Provide the same functions (other than the grant of dispensations) in relation to Parish Councils and Members of the Parish Councils as in relation to Torridge District Council and Members of Torridge District Council;

Powers to Impose Sanctions

1. The Standards Committee shall have the following powers when dealing with and deciding upon a complaint:-
 - a) To issue a censure to a Member/Councillor;
 - b) To request that a Councillor/Member issue a written apology;
 - c) To recommend that a Councillor/Member undergo appropriate training;
 - d) To recommend to the relevant Group Leader and to Full Council and/or a Parish/Town Council that other action be taken against a Councillor/Member;
 - e) Publication of the findings of the Standards Committee including media statements or press releases, publication on the Council's website and inclusion of details in the Members Bulletin;
 - f) Report the findings of the Standards Committee to Full Council;
 - g) Recommend to the ~~Councillor's~~ Member's ~~Group~~ Leader (or in the case of ungrouped Councillors/Members, recommend ~~directly~~ to Full Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - h) Recommend to Full Council that the Member be removed from their role as Lead Member if applicable;
 - i) Recommend to Full Council that the Councillor/Member be removed from all outside bodies to which they have been appointed or nominated by Full Council;
 - j) Recommend to ~~Full~~ Full Council the withdrawal of certain facilities provided to the Councillor by the Council as may be reasonable in the circumstances;
 - k) Recommend to Full Council that the Councillor be excluded from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Full Council, committee and sub-committee meetings or put in place such restrictions on access to staff as may be reasonable in the circumstances;
 - l) Recommend to Full Council the suspension, withdrawal or reduction of a Councillor's Voluntary Grant Budget for a period of time following the finding of breach.

Composition

1. The Council's Standards Committee shall be made up of up to ~~n~~Nine (9) members.
2. Membership of the Council's Standards Committee shall be made up as follows:-
 - a) Seven (7) District Councillors; and
 - b) Two (2) Town/Parish Representatives:of whom the quorum shall be Five (5).
3. The Council shall appoint up to two (2) Independent Persons to assist the Standards Committee, the Monitoring Officer, and individual Councillors in accordance with the Localism Act 2011.
4. The functions of the Council's Standards Committee may be discharged by sub-committees appointed by the Standards Committee.
5. The Town/Parish representatives shall not be entitled to vote at Standards Committee meetings but shall be able to take part in the discussions.
6. The Independent Persons will be invited to attend meetings of the Standards Committee and take part in the discussions, but shall not be entitled to vote.

LOCAL DEVELOPMENT FRAMEWORK GROUP

Terms of Reference, Function and Responsibility

PROPERTY AND MAJOR PROJECTS WORKING GROUP **PROGRAMME BOARD**

Terms of Reference and Function

The ~~Programme Board~~[Property and Major Projects Working Group](#) was established by Community and Resources Committee as a forum for discussing the Council's current and proposed major projects, and for resolving day-to-day issues arising from those projects (within the parameters of the approved project) so as not to impede progress.

The ~~Programme Board~~[Property and Major Projects Working Group](#) shall:-

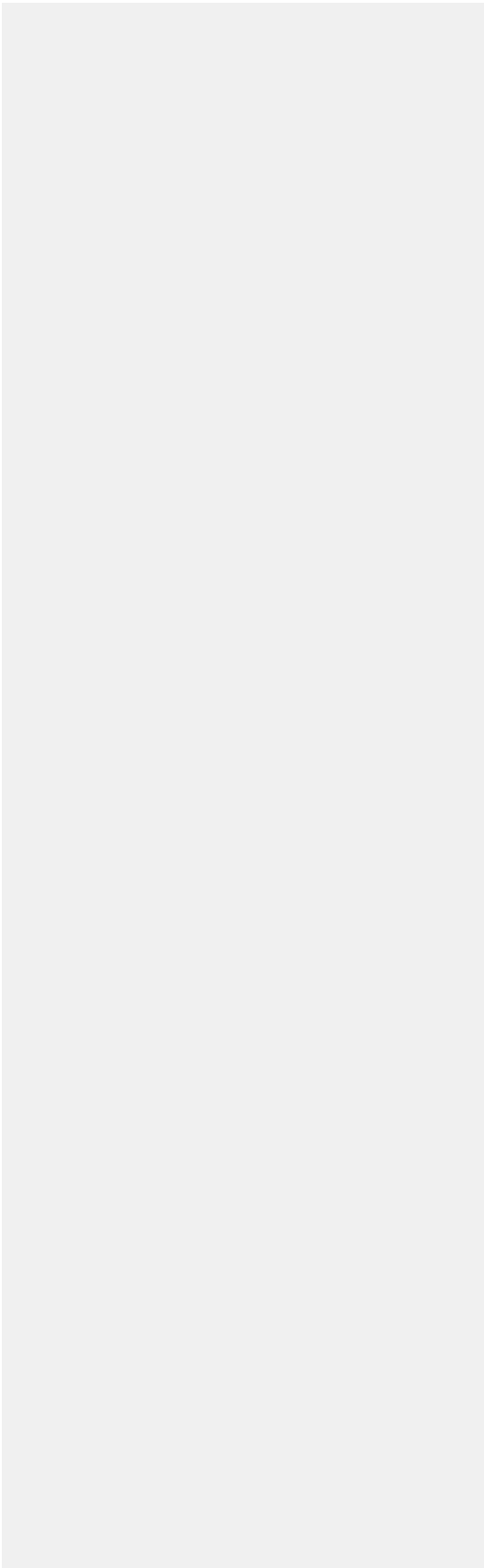
1. Monitor and receive updates in relation to current major projects;
2. Provide guidance in relation to matters arising from current projects which may impede progress, such guidance to be exercised within the parameters of the formal approval for the project.
3. Consider proposals for new major projects while in the formative stages to assist officers in determining the approach to be taken in relation to those proposals.

Composition

1. The number of seats shall be four (4) ~~Memberseouncillors~~ comprising:
 - a. The Leader of the Council (Chair)
 - b. The Deputy Leader of the Council (Vice Chair)
 - c. The Chair of Community & Resources Committee
 - d. Another Member appointed annually by ~~F~~ull Council

In the event that the Leader or Deputy Leader of the Council is also the Chair of the Community & Resources Committee, the Chair of the Audit & Governance Committee shall take their place on the ~~Programme Board~~[Property and Major Projects Working Group](#).

2. The quorum shall be two (2).



PART 3 – Chapter 2

Delegations to Officers

A: INTERPRETATION AND GENERAL

1. For the avoidance of doubt unless the context otherwise requires the following words and expressions have the following meaning:
 - a) “**the Constitution**” shall be deemed to be the Torridge District Council Constitution as adopted from time to time including the published Rules of Procedure, Financial Procedure Rules, Contract Procedure Rules and all delegations;
 - b) “**the Planning Acts**” shall mean the Town and Country Planning Act 1990, the Town and Country Planning Act 2008, the Town and Country Planning (Listed Building and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 the Caravan Sites and Control of Development Act 1960 (and in respect of them all any amendments as may be made from time to time) and any regulations and orders made pursuant to the same including in particular, but without prejudice to the generality of the foregoing the General Permitted Development Order 1995, the Hedgerow Regulations 1997, Town and Country Planning (Control of Advertisements) Regulations 1992 and the Town and Country Planning General Regulations 1992 (including in respect of them any amendments as may be made from time to time);
 - c) Policies of the Council shall be deemed to be such policies as adopted from time to time and as amended from time to time including the Financial Procedure Rules and the Contract Procedure Rules,
 - d) Legislation shall be deemed to include reference to any amendment, extension, application or re-enactment of it and includes any subordinate laws for the time being in force made under it and all orders, regulations, notices, codes of practice and guidance made under it.
 - e) A formal caution shall include reference to a simple and conditional caution.
2. Where a power is delegated to more than one Officer then all Officers to whom the power is delegated shall be able to exercise that power.
3. In the absence of the Senior Solicitor and Monitoring Officer or the Statutory Finance Officer, any officer duly appointed by them to act as their deputy may exercise any powers or duties delegated to them in their capacity as Senior Solicitor and Monitoring Officer or Statutory Finance Officer (as the case may be), or any role or responsibility allocated to them within any part of the Constitution.
4. Any post specifically referred to below shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

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V3.1 ~~August 2018~~ September 2020

5. All Delegated Powers shall be exercised and be subject to the content of all relevant policies adopted by the Council from time to time. In the event of any conflict between these Delegated Powers and any such policy, the policy shall prevail.
6. In the absence of the ~~Head of Paid Service~~Chief Executive, powers delegated to the ~~Head of Paid Service~~Chief Executive under the Scheme of Delegation shall be exercisable by the Senior Solicitor and Monitoring Officer and the Statutory Finance Officer.

B: DELEGATIONS

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B1 ALL OFFICERS

1. To act as a witness;
 - a) on behalf of the Council in any proceeding in which the Council is directly involved;
 - b) where so directed by a court, tribunal or other formal inquiry with power so to do; or
 - c) in any other circumstance with the prior written approval of the Senior Solicitor and Monitoring Officer.

B2 ~~HEAD OF PAID SERVICE~~CHIEF EXECUTIVE (ESTABLISHMENT, GENERAL MEMBERS, DEVELOPMENT CONTROL ETC)

Policies

1. To adopt and approve policies made by the Council which relate to the operational requirements of the Council, its equipment or staff and to implement all policies adopted by the Council.

Establishment

2. To consider, amend and revise the manpower establishment **provided** any such amendments or revision is in accordance with any approved establishment plan and budgetary framework of the Council (as may be amended from time to time).
3. To appoint temporary staff or authorise the appointment of external resources to undertake work normally undertaken by a Service subject to the costs thereof not exceeding the available budget of that Service.
4. To act as the ~~Head of Paid Service~~Chief Executive for the purposes of the Local Government and Housing Act 1989.
5. To consider and determine pursuant to Part V of the Local Government Discretionary Payments Regulations 1996 (or any statutory provision replacing or re-enacting the same) including any amendments thereto:
 - a) the amount of any injury allowance payable to an Officer; and
 - b) any time period(s) associated therewith or to any death benefit payments referred to in those provisions.
6. To consider, and approve or refuse (with or without modification) any application by the ~~Head of Paid Service~~Chief Executive, Senior Solicitor and Monitoring Officer, Statutory Finance Officer or, where appropriate, Senior

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V3.1 _____ August 2018September

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Solicitor and Monitoring Officer or ~~Strategic Manager~~ to carry forward annual leave from one leave year to the next **provided** that any such approval or refusal shall be in accordance with any approved Council policies as have been adopted, and relate to the same.

7. To recruit, select and appoint any Officer of Senior Solicitor and Monitoring Officer or Strategic Manager level or below provided that such appointment is in accordance with Council policies and all relevant legislation.
8. With the exception of any matter which directly relates to the ~~Head of Paid Service~~Chief Executive, in relation to an Officer to hear, consider and determine:
 - a) any grievance and / or harassment matter;
 - b) any disciplinary matter provided the Officer is of Senior Solicitor and Monitoring Officer or Strategic Manager level or below; and
 - c) any appeal in relation to a decision resulting from a grievance, harassment and / or disciplinary matter other a decision taken by the ~~Head of Paid Service~~Chief Executive, Committee or a Sub-Committee;

including in all cases, power:

- (i) to authorise such action as the ~~Head of Paid Service~~Chief Executive deems appropriate in relation to any determination that is made (whether formal or informal) including the suspension and / or dismissal of any Officer of Senior Solicitor and Monitoring Officer or Strategic Manager level or below, provided that this shall be in accordance with all relevant legislation, and
- (ii) to nominate any other Officer to exercise on his/her behalf all or any the powers contained in this delegation.

Notwithstanding anything contained in this provision 8, the ~~Head of Paid Service~~Chief Executive shall have the power to suspend any Officer pending an investigation in relation to that Officer provided that such suspension shall be in accordance with the Council policies and all relevant legislation.

9. To arrange for, and where appropriate undertake, an investigation into any disciplinary matter relating to the Senior Solicitor and Monitoring Officer, Strategic Manager, ~~Monitoring Officer~~, Statutory Finance Officer or any other Officer exercising the role of Monitoring Officer or Statutory Finance Officer where the disciplinary action relates to their performance of such a role.
10. Power to consider and approve or refuse requests to fill staff vacancies and authorise any other Officer to exercise such a power.
11. To authorise and sign identity cards on behalf of any Officer within their Service Area as may be necessary for the proper performance of their duties.
12. To authorise officers and/or other persons to undertake those matters identified within the identity cards and to issue and sign the same where in the opinion of the ~~Head of Paid Service~~Chief Executive this is necessary for the proper performance of their duties.
13. To consider and refuse or approve (with or without modification):

V3.1 ~~August 2018~~September 2020

- a) ~~essential car user allowances;~~
- b) essential telephone user payments;
- c) applications for car loans; and
- d) applications under the Cycle to work scheme adopted by the Council,

provided that if the Council has approved policies (as amended from time to time) relating to the same, then any approval that is given shall be in accordance with such policies.

14. ~~To consider and determine whether to designate posts as casual car users or essential car users.~~
15. To determine a reasonable charge for sale of documents or copies of documents which are not subject to any statutory scales.

General

16. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the ~~Head of Paid Service~~Chief Executive within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
17. For the purposes of any budget or manpower resource within the control of the ~~Head of Paid Service~~Chief Executives, the power to exercise all those delegated powers as are delegated to the Senior Solicitor and Monitoring Officer or Strategic Managers.
18. To exercise all the powers referred or delegated to any other Officer.
19. In consultation with either the Leader or person presiding at a meeting, to consider whether television and sound recordings, – broadcastings or other reporting of all or any part of a meeting is disruptive to the extent that it should cease, each case being considered on its merits.
20. In consultation with either the Leader and/or any other Member that the ~~Head of Paid Service~~ Chief Executive at his/her discretion deems appropriate, to respond to consultation papers.
21. To attest the Council seal and sign any document necessary to give effect to:
 - a) a resolution of the Council (as the case may be); and/or
 - b) the exercise of a power or function delegated by the Council, (as the case may be),

provided that any such attestation or signing accords with the provisions of Article 13 of the Constitution (as may be amended from time to time).

22. To act as "Proper Officer" for all functions detailed in:
 - a) Local Government Act 1972;
 - b) Local Authorities (Referendum) (Petitions and Directions) (England) Regulations 2000; and
 - c) the Constitution not otherwise specifically delegated to another Officer, including the power:

V3.1 ~~August 2018~~September 2020

- (i) to consider and nominate in writing any other Officer to act as a proper officer where this is permitted by law; and
- (ii) in consultation with the Human Resources Manager to negotiate and approve variations to an Officers terms and conditions of employment, in order to facilitate the same

provided that any such appointment or variations do not exceed any budget allocated for such a purpose.

23. For the purpose of surveillance operations to which the Regulation of Investigatory Powers Act 2000 apply (or any statutory provision modifying, replacing or re-enacting the same), the power:

- a) to provisionally authorise a surveillance operation; and
- b) to further delegate the power to provisionally authorise surveillance operations to other Officers

provided that such provisional authorisation is only given in accordance with the Council's adopted policy.

24. To authorise the making of an application under the Crime and Disorder Act of Anti-Social Behaviour Orders in consultation with the Senior Solicitor and Monitoring Officer.

25. In consultation with the Environmental Health and Community Safety Manager, the power to authorise the giving of an authorisation under section 30 of the Anti Social Behaviour Act 2003.

26. In consultation with the Leader, to consider and approve or refuse (with or without modification) any policy document produced for the purposes of the Planning Acts which in the opinion of the ~~Head of Paid Service~~ Chief Executive is of a minor nature **provided** that any amendment shall be reported to the next available meeting of the Full Council.

27. Power to appoint and authorise officers to act under section 29(5)(a) and (b) of the Regulation of Investigatory Powers Act 2000.

28. Power to provisionally authorise covert surveillance and the use of covert human intelligence sources under the Regulation of Investigatory Powers Act 2000 provided the same is in accordance with the above legislation, any guidance and Codes of Practice and the Council's adopted policy.

29. Ombudsman Complaints

Power to authorise complaint/ombudsman compensation for up to £2,000, subject to prior consultation with the Leader or Deputy Leader.

Members

30. To receive Group nominations for relevant Committees and Sub-Committees subject to Council being notified of the Group appointments.

31. For the purposes of Members' Approved Duties, to consider and determine Members' claims for travelling allowances including the power to consider and determine whether to authorise meetings for such purposes:

- a) with Government Departments or their representatives;

V3.1 ~~August 2018~~ September 2020

- b) other Government Bodies or their representatives, and
- c) meetings involving Group Leaders, including meetings with external organisations.

- 32. To receive and consider notices and questions submitted by Members pursuant to the Constitution.
- 33. To approve, in conjunction with the relevant Committee Chairman and the Leader, any urgent decisions required under the procedure outlined in the Constitution.

Development Control

- 34. Subject to provision 35 below, to consider and determine any application submitted under the Planning Acts including:-
 - a) Applications for Planning Permission (Outline and Full) and for approval of Reserved Matters;
 - b) Applications for Advertisement Consent;
 - c) Applications for Listed Building Consent;
 - d) Applications for Conservation Area Consent;
 - e) Consultations by Devon County Council on County matters;
 - f) Applications and consultations by Statutory Undertakers-Consultees or their successors;
 - g) Applications for a grant of planning permission subject to a new time limit;
 - h) Applications for a non-material change to a planning permission;
 - i) Applications for Certificates of Lawful Use or Development; and
 - j) Applications to vary or revoke Planning Obligations or section 52/106 Agreements.
- 35. The exceptions to provision 34 above, which will be determined by the Plans Committee, are as follows:
 - a) Applications made by or relating to land owned by Torridge District Council;
 - b) Applications made by or relating to land owned by Members, Officers or any immediate family members of any Members or Officers which are recommended for approval;
 - c) Applications in respect of which the Development Manager receives within 21 days of notification of receipt of the application being first sent to Members a written representation from the Ward Member or a Member of the Plans Committee which in the opinion of the Development Manager contains planning reasons indicating why the matter should be determined by Committee. Ward Members do not need to provide reasons for referring a matter to Plans Committee ;
 - d) Upon the Development Manager or ~~Head of Paid Service~~Chief Executive exercising a discretion to refer the matter to the Plans Committee;

Note: For the purpose of provision 35(b) above, "immediate family" includes all or any f an Officer or a Member's:-

- (i) spouse or partner;
- (ii) brother or sister;
- (iii) son or daughter;

V3.1 August 2018September 2020

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- (iv) mother or father; or
- (v) grandparents

36. Applications for non-material changes to planning permissions shall be determined by the ~~Head of Paid Service~~ Chief Executive subject to prior consultation with the Chair and/or Vice Chair of Plans Committee.
37. To exercise and determine all functions of the Council arising from the Planning Acts or any ~~r~~Regulations made pursuant to them (as revoked and replaced or modified from time to time) which in the opinion of the ~~Head of Paid Service~~ Chief Executive can reasonably be regarded as ancillary to the process of determining applications made pursuant to the Planning Acts, including in particular (but without prejudice to the generality of the foregoing):
- a) the determination of whether an environmental impact assessment is required in relation to an application;
 - b) the determination of any scoping or screening opinion in relation to environmental impact assessments;
 - c) whether and what additional information is required in respect of an application;
 - d) whether any matters which would normally be reserved matters should be required as part of an outline application;
 - e) to determine when to place an application (whether previously deferred by any Committee or otherwise) on an agenda;
 - f) to determine whether to refer an application to the Secretary of State as a departure from the Development Plan;
 - g) to determine whether or not to decline to determine an application submitted within two years of a previous submission dismissed on appeal;
 - h) to seek the securing of - the withdrawal of applications outstanding for a period in excess of one calendar year;
 - i) to refuse requests for deferment by any party if the ~~Head of Paid Service~~ Chief Executive is satisfied that there is sufficient information available for the matter to be determined;
 - j) to approve requests for deferment of an application; and
 - k) to determine sign and issue decision notices.
38. To consider and determine any matter arising in respect of the Council's planning function (including the power to issue and serve any approval, consent, notice or other document relating to the same), including in particular, but without prejudice to the generality of the foregoing:
- a) the approval or refusal (with or without modification) of footpath diversions/extinguishments;
 - b) consultation responses to Forestry Authority matters;
 - c) whether to issue a Building Preservation Notice;
 - d) whether to make a direction for the purposes of Article 4 of the Town and Country Planning General Permitted Development Order 1995;
 - e) the exercise of all the Council's powers in relation to the Hedgerow Regulations 1997 (as may be amended from time to time);
 - f) determinations in respect of telecommunication applications pursuant to the Town and Country Planning General Permitted Development Order 1995 (as amended from time to time);
 - g) determinations in respect of agricultural and forestry buildings and operations Town and Country Planning General Permitted Development Order 1995 (as amended from time to time);

- h) the making of recommendations to a neighbouring planning authority when consulted on an application;
- i) the determination of circular 18/84 applications;
- j) whether to require and the content of a planning obligation for the purposes of an application under the Planning Acts;
- k) whether to approve an application for variation or revocation of a planning obligation;
- l) whether to approve demolitions pursuant to the Town and Country Planning General Permitted Development Order 1995 (as amended from time to time);
- m) whether to exercise such rights of entry as are available to Officers or others as the ~~Head of Paid Service~~Chief Executive may authorise so far as is permitted by the Planning Acts;
- n) the determination of whether or not to grant consent for overhead lines;
- o) the determination of the appropriate course of action, and to undertake all actions relating to, any appeal arising under the Planning Acts or otherwise in connection with Council's planning functions;
- p) to determine whether or not to issue notices, and arrange for the removal or obliteration of illegal advertisements, placards or posters (so far as permissible by law), including power to designate Officers as "authorised Officers" for such purposes.

39. To investigate and determine whether or not to issue and serve any notice which in the opinion of the ~~Head of Paid Service~~Chief Executive is appropriate in order to regulate planning breaches (including conditions attached to any permissions or consents) pursuant to the Planning Acts, including in particular but without prejudice to the generality of the foregoing:

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

40. To authorise the instigation of prosecution proceedings or such other action as in the opinion of the ~~Head of Paid Service~~Chief Executive is appropriate in order to regulate planning breaches pursuant to the Planning Acts, including in particular but without prejudice to the generality of the foregoing:

- a) non-compliance with any notices issued pursuant to provision 29 above;
- b) unauthorised advertisements;
- c) unauthorised works to listed buildings; and
- d) unauthorised works to trees.

41. To respond to notifications from the Forestry Commission in respect of Woodland Grant Schemes and similar programmes and applications for tree felling licences.

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

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V3.1 ~~August 2018~~September 2020

43. Granting of permission for the erection of temporary direction signs by motoring organisations.
44. Determination of what constitutes a county matter.
45. Serving of notices under Sections 3 and 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of works for the preservation of listed buildings.
46. To determine whether to make a Tree Preservation Order.
47. Responding to notifications from the Caravan and Camping Club, or other certified organisations, under the provisions of the Control and Development of Caravan Site Acts 1960 in respect of (5 Caravan) Certified Sites.
48. Collection of Planning fees in accordance with the relevant regulations and Government Guidance.
49. Determination of applications for conservation grants to assist the enhancement/restoration of Listed Buildings, Conservation Areas or other buildings and areas of importance in accordance with approved initiatives.
50. Responding to consultations by Devon County Council relating to public footpaths.
51. Determination of applications for a Certificate of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961.
52. To accept and agree amendments to submitted applications.

Community Planning

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53. To prepare Planning Policy documents to meet the requirements of the Planning and Compulsory Purchase Act 2004 including:
 - a) The preparation and consultation on draft local development schemes or amendments to such schemes;
 - b) The identification, scoping and progression of evidence gathering requirements;
 - c) The agreement of briefs or project specifications for detailed study once the project is included in the approved work programme;
 - d) The preparation of draft options reports, development plan documents and supplementary planning documents and other planning policy guidance as required for consultation and to undertake the appropriate consultation necessary to commission strategic environmental assessment, sustainability appraisal and other similar exercises as appropriate on relevant local development documents and other supporting policy documents;
 - e) The preparation for public examination, including the engagement of specialist advice as required; and
 - f) The printing and publishing of adopted local development documents.
54. Subject to the limits imposed by the Council's Financial Procedure Rules and in consultation with the Chair of the Council's Community and Resources Committee to negotiate and authorise the release of funds from the affordable housing capital fund to enable the delivery of approved affordable housing schemes across the District.

V3.1 August 2018September

B3 HEAD OF PAID SERVICE CHIEF EXECUTIVE (REGULATORY, BUILDING CONTROL, WASTE, PARKING, HARBOUR, ECONOMIC DEVELOPMENT ETC)

1. To appoint Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors of the Council necessary for the discharge of the functions, powers and duties contained or referred to in the legislation specified below.
2. To authorise all duly appointed Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors to carry out inspections and to exercise powers of entry and other powers necessary for the effective discharge of the said functions, powers and duties, on being satisfied on matters upon which the Council is obliged to be satisfied and that all statutory requirements are fulfilled.
3. To take whatever action s/he deems appropriate, including the power of entry, taking such action as may be permitted or required, service of notices, issuing, granting, refusing, varying, cancelling, suspending and revoking of consents, permits, authorisations, approvals, licences and registrations and carrying out works in default and issue requests and service of requisitions for information in respect of all functions, powers and duties specified under the following legislation.

To consider representations in relation to 'minded to' notices and to review 'deferred action' notices.
- 4.
5. To consider and determine whether to issue a formal caution in relation to any criminal matter for which the Head of Paid Service Chief Executive has an express or implied delegated power.
6. For the avoidance of doubt where provided for by the legislation specified below the Head of Paid Service Chief Executive and any other Officer(s) appointed by him/her shall be appointed as an authorised officer and/or Inspector for the purposes of that legislation.

To manage and administer the Northam Burrows Country Park.
7. Where the Chief Executive Strategic Manager (Resources Services) considers it appropriate and after consultation with the Senior Solicitor and Monitoring Officer to prosecute any offences under the said legislation.
- 8.
9. Power to authorise covert surveillance and the use of covert human intelligence sources under the Regulation of Investigatory Powers Act 2000 provided the same is in accordance with the above legislation, any relevant guidance and Code of Practice and the Council's adopted policy.
10. In the absence of the Head of Paid Service Chief Executive, the Senior Solicitor and Monitoring Officer and Statutory Finance Officer may exercise the power to execute the Exclusive Right of Burials.

Legislation

Animal Boarding Establishments Act 1963
Animal Welfare Act 2006
Animals Act 1971
Anti Social Behaviour Act 2003
Bovine and Bovine Products (Trade) Regulations 1998

V3.1

August 2018 September

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Breeding of Dogs Act 1973
Breeding of Dogs Act 1991
Building Act 1984
Caravan Sites and Control of Development Act 1960
Caravan Sites Act 1968
Cinemas Act 1985
Civil Contingencies Act 2004
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Control of Pollution Act 1974
Crime and Disorder Act 1998
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Deer Act 1991
Dogs (Fouling of Land) Act 1996
European Communities Act 1972
Environment Act 1995
Environmental Protection Act 1990
Food and Environmental Protection Act 1985
Food Safety Act 1990
Gambling Act 2005
Health Act 2006
Health and Safety at Work etc Act 1974
House to House Collections Act 1939
Hypnotism Act 1952
Landlord and Tenant Act 1985
Licensing Act 2003
Live Music Act 2012
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1993 – 2000
Mobile Homes Act 1983
Motor Salvage Operators Regulations 2002
Noise Act 1996
Offices Shops and Railway Premises Act 1963
Pet Animals Act 1951
Police Act 1997
Police Factories etc (Miscellaneous Provisions) Act 1916
Police Reform and Social Responsibility Act 2011
Pollution Prevention and Control (England and Wales) Regulations 2000
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Private Water Supplies Regulations 1991
Protection of Freedoms Act 2012
Public Health (Control of Disease) Act 1984
Public Health (Infectious Diseases) Regulations 1988
Public Health Act 1936 – 1961
Public Health Acts Amendment Act 1907
Road Safety Act 2006
Riding Establishments Act 1964 and 1971
Safeguarding Vulnerable Groups Act 2006
Scrap Metal Dealers Act 2013
Sunday Entertainments Act 1932
Sunday Trading Act 1994

Town Police Clauses Act 1847
Vehicles (Crime) Act 2001
Water Industry Act 1991
Water Industry Act 1991
Zoo Licensing Act 1981

Building Control

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11. To consider, determine and issue all Decisions and Notices arising under the Building Act 1984 and any building regulations insofar as they relate to the function of Building Control.
12. To serve such Notices or take such action as is considered appropriate under the Highways Act 1980 in so far as such provisions relate to public safety or the condition of buildings or land.
13. To relax or dispense with Building Regulations approvals and to sign and issue such decisions.
14. To withdraw Building Regulation approvals not exercised within three years. To refer to the Magistrates' Court, Notices under Section 77 of the Building Act 1984 requiring dangerous buildings to be made safe, and to take, or instruct emergency action under the provisions of Section 78 of the Building Act 1984.
15. To carry out, or instruct contractors to carry out, works in default of a Court Order obtained pursuant to Section 77 of the Building Act 1984.
16. To instruct the Senior Solicitor and Monitoring Officer to institute proceedings for infringement of the Building Act 1984, Highways Act 1980 or any Regulations made thereunder.
17. To serve Notice requiring removal or alteration of work not conforming with the Building Regulations (Section 36 of the Building Act 1984).
18. To issue Demolition Notices in respect of works falling within Section 80 of the Building Act 1984 and to sign and issue such Notices.
19. To issue Notices under Sections 24, 71 and 72 of the Building Act 1984, requiring adequate entrances, exits and means of escape in case of fire in appropriate buildings.
20. To serve Notices under Section 79 of the Building Act 1984 relating to ruinous and dilapidated buildings.
21. To appoint Consulting Engineers in accordance with the Financial Procedure Rules and Contract Procedure Rules.
22. To set Building Regulation fees, in consultation with the Strategic Manager (Resources).
23. To serve requisitions for information under s16 Local Government (Miscellaneous Provisions) Act 1976 and to instruct the Senior Solicitor and Monitoring Officer to prosecute for any non-compliance with the same.
24. To exercise all rights of entry on to land or buildings given to the Council under any legislation for the purposes of exercising any functions under the Building Act 1984, the Highways Act 1980 and any regulation made under either.

V3.1 August 2018September

Housing

25. To appoint Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors of the Council necessary for the discharge of the functions, powers and duties contained or referred to in the legislation specified below.
26. To authorise all duly appointed Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors to carry out inspections and to exercise powers of entry and other powers necessary for the effective discharge of the said functions, powers and duties, on being satisfied on matters upon which the Council is obliged to be satisfied and that all statutory requirements are fulfilled.
27. To take whatever action s/he deems appropriate, including the power of entry, taking such action as may be permitted or required, service of notices, issuing, granting, varying, revoking, cancelling, refusing, and suspending of consents, permits, authorisations, approvals, licences and registrations and carrying out works in default and issue requests and service of requisitions for information in respect of all functions, powers and duties specified under the following legislation.

Legislation

Title of Act	Relevant Part
Building Act 1984	Sections 59, 76, 79, 95, 96, 97 and 99
Energy Act 2012	
Environmental Protection Act 1990	Sections. 79, 80 and 81 Schedule 3, para 2
Home Energy Conservation Act 1995	
Housing Grants Construction and Regeneration Act 1996	Chapters I, II, III and IV
Regulatory Reform Order 2002	Paragraphs 1 to 12 and Schedules 1 to 6
Housing Acts 1985 and 1996	
Housing Act 2004	Parts 1 to 6
Housing and Regeneration Act 2008	Parts 1 to 3 and Schedules
Homelessness Act 2002	
Landlord and Tenant Act 1985	Sections 4, 5, 6 and 34
Law of Property Act 1925	Part 3
Local Government (Miscellaneous Provisions) Act 1976	Sections 15, 16 and 33
Local Government (Miscellaneous Provisions) Act 1982	Sections 17 and 29
Prevention of Damage by Pests Act 1949	Sections 4, 5 and 22
Public Health Act 1936	Sections 48, 83, 84, 275, 287, 290 and 291
Public Health Act 1961	Sections 17 and 74

28. To manage and administer the giving of grants under the Housing Grants, Construction and Regeneration Act 1996, the regulatory reform (Housing assistance) (England and Wales) Order 2002 and the Council's policies made thereunder.
29. To approve such grants up to the maximum values specified within the Council's policy from time to time.

V3.1 August 2018 September

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30. To serve such notices and take such action as the ~~Head of Paid Service~~Chief Executive shall deem appropriate to enforce the provisions of the Housing Act 2004, including instructing the Senior Solicitor and Monitoring Officer to take such legal action as s/he shall deem appropriate.
31. To manage and administer a licensing system for Houses in Multiple Occupation as required by Part 2 of the Housing Act 2004, including the power:
- a) to approve or refuse applications for licences subject to such conditions as the ~~Head of Paid Service~~Chief Executive shall deem appropriate;
 - b) to revoke or vary any licence granted; and
 - c) to take such action, including the service of Notices or the instigation of legal proceedings, to enforce the provisions of the licence and/or the Housing Act 2004.
32. To investigate any allegations of illegal eviction and to instruct the Senior Solicitor and Monitoring Officer to take such action as s/he shall deem appropriate.

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Waste

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3340. The power to manage, administer and operate a waste collection service in order to carry out the functions of the Council as Waste Collection Authority under the Environmental Protection Act 1990, the functions or powers of the Council under the Refuse Disposal (Amenity) Act 1978, Public Health Act 1961 and the Civic Amenities Act 1967 and any other such legislation giving powers to or imposing duties on the Council to collect waste or refuse.

3441. The power to manage, administer and operate a litter collection service in order to carry out the duties and powers under the Environmental Protection Act 1990 and any other such legislation giving powers to or imposing duties on the Council to collect litter.

3542. Without prejudice to the generality of the above, the power:-

- a) to determine whether a place at which waste is situated is so isolated as to make the cost of collection unreasonably high;
- b) to set charges for the collection of waste where ~~rether~~ permitted by legislation;
- c) to determine whether to collect industrial waste or other waste which the Council has the discretion to collect under any legislation;
- d) to dispose of any waste collected in accordance with legislation;
- e) to require the use of specific receptacles for storage and collection of waste;
- f) to prepare a waste collection plan in accordance with legislation;
- g) to serve litter clearing notices; and
- h) to serve all notices, including Fixed Penalty Notices, and make all such determinations as permitted by the legislation referred to in provision 40 and 41 above.

Abandoned Vehicles

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3643. To exercise all powers and duties given to the Council to remove and dispose of abandoned and other vehicles under the Refuse Disposal (Amenity) Act

~~V3.1~~ ~~August 2018~~September

1978: Road Traffic Regulation Act 1984 and the Clean Neighbourhoods and Environment Act 2005.

Road Traffic and Car Parking

4437. The power to manage, administer and operate the Council off-street car parks in accordance with the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 and any other relevant legislation.

3845. The power, in consultation with the appointed Lead Member with responsibility for Parking or the appropriate Committee Chairman, to decide whether to waive the requirement to pay for parking in any parking place where an organised event is taking place.

3946. Without prejudice to the generality of provisions 44 and 45 above:

- a) the power to issue Penalty Charge Notices;
- b) the power to deal with representations and appeals;
- c) the power to commence proceedings for recovery of sums due;
- d) the power to prosecute for breaches of the Off Street Parking Places Order;
- e) the power to carry out any works to the off street parking places as are considered necessary provided such works are within existing budgets and comply with all relevant Council Rules; and
- f) the power to request information under the Road Traffic Regulation Act 1984.

Street Scene

40.47. The power to serve such notices and take such other action as are deemed appropriate under the Anti Social Behaviour Act 2003 and the Clean Neighbourhoods and Environment Act 2005, including the power to serve fixed penalty notices.

418. The power to appoint authorised officers under the Anti-Social Behaviour, Crime and Policing Act 2014 following consultation with the Lead Member or Member Champion.

429. To serve Community Protection Notices pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014.

4350. To issue Fixed Penalty Notices for non-compliance with Public Spaces Protection Orders and Community Protection Notices pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014.

4454. Authority to establish the local threshold and procedures for the purposes of the Community Trigger, consistent with those established by the Safer North Devon Partnership or any equivalent successor body, pursuant to the Anti-Social Behaviour, Crime and Policing Act 2014.

Harbour Undertaking

4552. The power to manage, operate and administer the Council's harbour undertaking in accordance with the all local and national legislation and guidance.

4653. Without prejudice to the generality of the above, the power:-

V3.1 [August 2018](#)[September 2020](#)

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- a) to admit ships and boats to the harbour;
- b) to levy such charges as the Council shall deem appropriate;
- c) to enforce the provisions of Local and National Legislation and Byelaws with regard to the use of the harbour;
- d) where the ~~Head of Paid Service~~Chief Executive deems it appropriate, to liaise with the Maritime and Coastguard Agency and all other statutory bodies with regard to management of the harbour and the vessels using the same; and
- e) to manage and operate a pilotage service within the Taw Torridge estuary.

within the scope of policies and procedures agreed by the Harbour Board.

Economic Development

~~4754.~~ ~~To enter into and manage contracts with external suppliers, service providers and professional consultants provided that the Contract Procedure Rules and the Financial Procedure Rules are complied with.~~

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~~55.~~ ~~Not used.~~

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~~4856.~~ Agree Councillor Community Grant awards and Town and Parish awards under the Devon County Council scheme in accordance with the Grant schemes criteria in consultation with the ~~Head of Paid Service~~Leader.

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~~4957.~~ In consultation with the Strategic Manager (Resources), to dispose of plant and equipment used within the Service Area provided that the Financial and Contract Procedure Rules are complied with.

Culture and Leisure Services

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~~508.~~ To manage the Council's leisure and arts facilities.

~~519.~~ To agree or refuse requests for the holding of events on Council leisure facilities and to instruct the Senior Solicitor- and Monitoring Officer to prepare temporary event licences for such purposes.

~~6529.~~ To undertake initiatives and promotions seeking to encourage the use of the Council's leisure facilities or the promotion of sport, arts, culture and leisure within the Council's District provided such promotions and initiatives fall within existing budgets.

B4 STATUTORY FINANCE OFFICER

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General

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1. ~~To act as the officer appointed under Section 151 of the Local Government Act 1972 and to maintain and enforce the Financial Procedure Rules and Contract Procedure Rules.~~

2. For the purposes of any budget or establishment resource within the control of the Statutory Finance Officer, the power to exercise all those delegated powers as are delegated to the Senior Solicitor and Monitoring Office or Strategic Manager.

~~V3.1~~ ~~August 2018~~September 2020

3. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Statutory Finance Officer within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
4. In respect of any proceedings and in consultation with the Senior Solicitor and Monitoring Officer, to consider and determine whether the Council should lodge a formal offer with the Court the amount of any such offer and whether, and upon what grounds, it may be appropriate for such amount to be varied.
5. To administer and implement the Council Tax Support Scheme and Exceptional Hardship Policy adopted from time to time by the Council including the power to approve or refuse claims and make decisions and consider appeals as required or allowed by the Scheme and Policy, in accordance with the relevant primary and secondary legislation applicable at the time.
6. The power to review a decision as to whether compensation is payable and amount of any compensation so payable under relevant legislation.
7. Consultation with the Lead Members for Revenues and Benefits to make amendments to the Council Tax Reduction Policy to take account of typographical issues and further changes in law, Government guidance or policy.

Financial

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8. In consultation with the Senior Solicitor and Monitoring Officer, to consider and determine whether to authorise:
 - a) the instigation of bankruptcy proceedings against an individual(s); and/or
 - b) the winding up of an organisation.
9. To write off Council Tax debts, National Non-Domestic Rates, sundry debts and overpayments of Housing Benefits to the limits set out in the Financial Procedure Rules.
10. In consultation with the member(s) in whose ward the debtor is located and/or the debt originated, to write off Council Tax debts, National Non-Domestic Rates, sundry debts and overpayments of Housing Benefits.

Accountancy

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11. To be responsible for the preparation of the Council's Statement of Accounts in accordance with proper practices.
12. To implement annual awards affecting wages, salaries and conditions of service.
13. The investment and re-investment of Council monies provided the same is undertaken in accordance with the Financial Procedure Rules and any other relevant policies as may be adopted by the Council in respect of the same (as amended from time to time).
14. To borrow and raise loans on behalf of the Council provided the same is undertaken in accordance with the Financial Procedure Rules and any other relevant policies as may be adopted by the Council in respect of the same (as amended from time to time).

V3.1 August 2018September 2020

15. To make a determination on the amount of useable capital receipts to be used to finance capital expenditure or for such other purpose as allowed by Regulations made under the Local Government Act 2003 as amended by the Local Government and Public Involvement in Health Act 2007:
16. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Strategic Manager (Resources) within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
17. To plan and manage the Council's cash flow requirements within approved borrowing limits and in accordance with the Council's policies on treasury management and to manage the budgets of the Council in accordance with accepted practice and professional guidance.
18. To consider and determine whether the Council should opt to tax any property for the purposes of VAT to preserve the interests of the Council and manage and account for the VAT implications of the Council's activities.
19. To authorise payments of precepts to precepting bodies within the area of the Council.
20. To authorise payment of levies properly issued on the Council by levying bodies.
21. To monitor and administer ongoing requirements for insurance provision in the light of changing services and assets, ensuring provision of adequate cover directly or via contractors' cover.
22. To liaise with the Council's insurers and their properly nominated representatives in respect of any claims brought against the Council under any of the Council's insurance policies and to undertake those activities necessary, in conjunction with the insurers and/or their representatives to resolve or settle those claims, including the signature of any documents incidental to the resolution or resettlement of any claim.
23. To advance duly authorised loans to third parties.
24. To take action to recover loan repayments due to the Council.
- ~~25. To commence repossession action proceedings, in consultation with the Senior Solicitor.~~
26. To declare Interest rates under the Housing Act 1985 or any statute replacing it and other interest rates appropriate to a class of loan.

Exchequer

27. To administer the provision of car loans and associated financial procedures in accordance with the Council's car loan scheme.
28. Administer the processing of authorised instructions and make payments in respect of payroll costs and allowances to staff and Members.
29. Process authorised instruction and make payment in respect of supplies of goods services etc., and refunds of sums due to customers.

~~V3.1~~ ~~August 2018~~ September 2020

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B5 SENIOR SOLICITOR & MONITORING OFFICER

General

1. For the purposes of any budget or establishment resource within the control of the Senior Solicitor and Monitoring Officer, the power to exercise all those delegated powers as are delegated to the Senior Solicitor and Monitoring Officer or Strategic Manager.
2. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Monitoring Officer within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
3. Power to deal with, consider and determine complaints regarding the conduct of District and Parish Councillors, including the power to make recommendations to Committees and Full Council, the power to consult with an Independent Person and the power to refer a complaint to the Standards Committee.
4. To authorise in writing any Officer:
 - a) to act as a witness; or
 - b) to represent the Council;

in any actual or potential legal proceedings whether instigated by or on behalf of the Council or otherwise, in relation to any matter in which the Council is, has been, or may become involved, whether directly or indirectly.
5. To act as the qualified person for the purposes of the Freedom of Information Act 2000 and any instrument made thereunder.
6. To act as the Council's Data Protection Officer under the Data Protection Act 1998.

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Establishment

7. In consultation with the Human Resources Manager to negotiate and approve variations to an Officers terms and conditions of employment for the purposes of appointing one or more Deputy Monitoring Officers, subject to any such variations not exceeding any budget allocated for such a purpose.

Dispensations

8. Following consultation with the Chair and/or Vice Chair of the Standards Committee and an Independent Person, to determine requests for dispensations under section 33 of the Localism Act 2011, if the requests are justified by reference to one of the following conditions:
 - a) that so many members of the decision-making body have an interest preventing participation that it would 'impede the transaction of the business'; or
 - b) that without the dispensation, the representation of different political groups on the decision-making body would be so upset as to alter the outcome of any vote on the matter.

B6 SENIOR SOLICITOR & MONITORING OFFICER AND STRATEGIC MANAGER

General

1. The responsibility for:-
 - a) ensuring that any duty placed on the Senior Solicitor and Monitoring Officer or the Strategic Manager in any policy adopted by the Council is implemented in respect of their Service Area and the functions undertaken by it;
 - b) for the accountability and control of staff and security, custody and control of all other resources including plant, buildings, materials, cash and stores appertaining to their Service Area; and
 - c) the day to day management of the Service Area of the Senior Solicitor & Monitoring Officer or the Strategic Manager and its personnel in accordance with any approved Council policies as have been adopted, and relate to the same.
2. To generate reports relating to the functions undertaken by the Service Area of the Senior Solicitor & Monitoring Officer or Strategic Manager, in consultation with such other units / Officers as the Senior Solicitor & Monitoring Officer or Strategic Manager deems appropriate and ensuring compliance with any Council policies in this regard.
3. The power for the Senior Solicitor & Monitoring Officer or Strategic Manager, to act on behalf of any Service Area and the Council, including the exercise of any powers delegated to them, when instructed to do so in connection with any matter for which that Service Area has power, including engaging in correspondence, negotiations or any other action that is necessary to fulfil that instruction.
4. To investigate and resolve complaints (whether made through the formal Council complaint procedure or otherwise) relating to the functions of the Service Area, provided that:
 - a) details of the complaint and any resolution are recorded on a central record in accordance with the Council's complaints procedure;
 - b) where a resolution of a complaint outside of the Council's formal complaint procedure (as amended from time to time) involves the payment or waiving of money then the same can be met without any increase to Service Area's existing budget and the prior consent of the Statutory Finance Officer is secured; and
 - c) where a complaint is received using the Council's complaint's procedure (as amended from time to time), then all relevant provisions contained therein are complied with.
5. To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Senior Solicitor & Monitoring Officer or Strategic Manager within the Constitution whether specifically identified in the delegated powers to Officers or otherwise.
6. To consider and determine whether to issue a formal caution in respect of any matter for which the Strategic Manager has a delegated power to consider, authorise or approve the taking of criminal proceedings (or an alternative to the instigation of such proceedings), provided that prior to any such determination full regard must be had to any guidance that may be issued for the benefit of

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crown prosecutors in relation to the same, and that in the event of any doubt the Strategic Manager consults with the Senior Solicitor & Monitoring Officer.

7. The responsibility for the monitoring, storage, archiving and destruction of Council documentation resulting from or held by their Service Area provided the same is in accordance with Council policies.

Financial

8. To authorise the ordering of goods and services and payment in respect of the same in relation to the functions administered by the Service Area, **provided** the same does not exceed overall budgetary provisions for the Service Area and is in accordance with any policies adopted by the Council relating to the same.
9. Provided that it is in accordance with the Financial Procedure Rules, authorise instructions for
 - a) the raising of customer accounts;
 - b) to cancel customer accounts; and
 - c) to make recommendations to the Statutory Finance Officer regarding the write off of customer accounts in respect of any functions of the Service Area.

Establishment

10. To authorise any other Officer within the Service Area of the Senior Solicitor & Monitoring Officer or the Strategic Manager to discharge a power delegated to the Senior Solicitor & Monitoring Officer or the Strategic Manager on his/her behalf, subject to such authorisations being in writing and registered with the Senior Solicitor & Monitoring Officer **unless** it is specifically stated that the power may not be delegated.
11. To authorise Officers and any other persons (including inspectors appointed on behalf of the Council) to carry out inspections and to exercise powers of entry for any purpose which in the opinion of the Senior Solicitor & Monitoring Officer or the Strategic Manager is reasonably necessary for the performance of a delegated or referred power or duty.

B7 STRATEGIC MANAGER (RESOURCES)

Revenues and Benefits

1. To administer, operate and collect the Council Tax and National Non-Domestic rates schemes, including the granting of exemptions, discounts, disabled banding reductions in accordance with current legislation and guidelines.
2. To administer and implement the Housing Benefit and Council Tax benefit schemes, including the exercise of any discretion on behalf of the Council in respect of the same, all in accordance with relevant primary and secondary legislation applicable at the time and such Council policies and strategies as may be in place from time to time.
3. To represent the Council at meetings called to discuss the potential bankruptcy of an individual third party or the liquidation of a company/limited partnership etc.

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V3.1 August 2018 ~~September 2020~~

4. To approve or refuse applications for mandatory rate relief under Section 43(6) of the Local Government Finance Act 1988 (as may be amended or re-enacted from time to time), subject to details of approvals being reported to the appropriate Area Committee for information only.
5. To approve or refuse claims for a reduction in Council Tax due as a consequence of the statutory provisions of the Local Government Finance Act 1992 (or as may be amended or re-enacted from time to time).
6. To determine rate relief applications from district wide organisations under the statutory provisions of the Local Government Finance Act 1988, and the Local Government and Rating Act 1997 and to determine rate relief applications under the Rating (Former Agricultural Premises and Rural Shops) Act 2001.
7. To represent the Council in the Magistrates Court on all applications associated with debt recovery to include Liability Orders and Committal proceedings in respect of Council tax and Non Domestic Rates.
8. To administer the Discretionary Housing Payment Scheme and to make decisions in respect of applications.
9. To administer formal cautions for offences relating to housing benefit and council tax benefit fraud, in consultation with the [Senior Solicitor & Monitoring Officer](#).
10. To offer administrative penalties as an alternative to prosecution for housing benefit and council tax fraud cases.
11. To instigate, defend, attend at, represent and take further action as deemed appropriate in respect of housing benefit and/or council tax benefit appeal.
12. To select and appoint bailiffs for recovery of debt in accordance with the Financial and Contract Procedure Rules.
13. To sign, issue and serve completion notices under section 17 Local Government Act 1992 or any statutory amendment or re-enactment thereof.
14. To administer the invoicing of customers and recovery of sums due.
15. To authorise writing-off customer invoices, subject to the amount to be written off in respect of one customer not exceeding the limits set under the Financial Procedure Rules.
16. To take any applicable recovery action in respect of outstanding sums due to the Council including, subject to approval of the Senior Solicitor [& Monitoring Officer](#), appearing in the County Court before a District Judge.
17. The power to agree valuations and arrangements for payment for the purposes of the clawback agreement contained within the contract/transfer of the Council Housing stock to Westward Housing subject to consultation with the Asset Management Working Group or any replacement thereof.
18. Subject to consultation with the Leader/Deputy Leader the power to take a decision as to whether an asset is an asset of community value and a decision on whether compensation is payable and the amount of any compensation so payable under relevant legislation.

V3.1 [August 2018](#) [September 2020](#)

19. Power to authorise covert surveillance and the use of covert human intelligence sources under the Regulation of Investigatory Powers Act 2000 provided the same is in accordance with the above legislation, any relevant guidance and Code of Practice and the Council's adopted policy.
20. To consider and determine all matters arising under Part VI and Part VII of the Housing Act 1996 including in particular, but without prejudice to the generality of the foregoing the determination:
 - a) as to whether a person is a qualifying tenant;
 - b) under any housing allocation scheme adopted by the Council from time to time;
 - c) as to whether a person should be removed from the Housing Waiting list;
 - d) of allocations (including nominations) of residential properties to persons; and
 - e) of homelessness applications, reviews and other determinations to be made in relation to persons purporting to be homeless.
21. To negotiate private sector leasing schemes with private landlords and to instruct the Senior Solicitor and Monitoring Officer to prepare such documentation as may be necessary to give effect to those agreed schemes.
22. The power to execute on behalf of the Council agreements relating to occupation of Council homeless accommodation
23. The power to award grants and loans for the purpose of preventing homelessness and for providing local welfare support up to and including a value of £3,000 subject to the same being within budget and being in compliance with adopted policies.
24. The power to award grants and loans for the purpose of preventing homelessness and for providing local welfare support for a value of between £3,000 and up to and including a value of £5,000 subject to the same being within budget and in compliance with adopted policies and subject also to prior consultation with the Statutory Finance Officer and the appropriate Lead Member.
25. To consider and accept or refuse offers of re-purchase and determine applications for consent pursuant to covenants imposed on right to buy sales under the Housing Act 1985 (as amended).
26. To consider and determine applications for postponement of the council's discount charge on properties purchased under the right to buy scheme contained in the Housing Act 1985 (as amended).

Corporate Property and Procurement

27. To carry out the Council's statutory functions as Street Naming and Numbering Authority in accordance with section 19 of the Public Health Act 1925 and sections 21, 64 and 65 of the Town Improvement Clauses Act 1847.
28. To authorise assignments of Leases where such assignments, under the terms of the existing Lease, might not be unreasonably withheld.
29. To refuse applications to purchase Council land and/or buildings if the application is contrary to an adopted Council policy.

V3.1 ~~August 2018~~ September 2020

30. To agree the change of use of shops owned by the Council (subject always to compliance with planning legislation) where for the purposes of good management such a change is justified.
31. To determine applications and set charges for temporary access over Council land and to determine applications for temporary licences for use of Council land.
32. To determine applications for Wayleave Agreements, licences and Easements across Council land.
33. To acquire areas of land where the consideration is less than £3,000 and provided a budget exists for the purchase.
34. To issue and renew annual Licences.
35. To set charges for new and existing Licences.
36. To dispose of land, whether on a freehold or leasehold interest, up to a value of £5,000 consideration or £1,000 per annum rental except where in the opinion of the Statutory Finance Officer the land is considered to be of significance to the Council's land holding portfolio or appears to be a key piece of land in relation to any adjoining development potential.
37. To consider and determine all rent reviews and lease renewals.
38. To refer rent reviews to third party determination if no agreement is made.
39. To serve such Notices as are necessary to be served under Landlord and Tenant legislation or otherwise in accordance with the property management function.
40. To undertake the roles in relation to asset management as may be identified in the Asset Management Plan (as may be amended from time to time).
41. To accept surrenders of interests in Council owned land and or buildings.
42. For the avoidance of doubt, the above powers shall be exercisable by the Statutory Finance Officer in respect of land even if delegated power in respect of that land has been given to another officer.
43. To carry out the Council's functions as Land Drainage Authority in accordance with the Land Drainage Act 1991 and subsequent amendments.
44. To carry out the Council's functions as Maritime District Council in accordance with the Coast Protection Act 1949 and subsequent amendments.
45. To manage and administer the Council's procurement systems.
46. To manage and administer the Caddsdawn Business Park including:-
 - a) Instructing the Senior Solicitor & Monitoring Officer to prepare tenancy agreements in respect of the same;
 - b) Taking such action to regain possession of any part of the Business Park as shall be deemed appropriate by the Property and Procurement Manager in consultation with the Senior Solicitor & Monitoring Officer;

V3.1 August 2018 September 2020

- c) Authorising assignments of leases at the Business Park where such assignments, under the terms of the existing lease, might not be unreasonably withheld;
- d) Serving such Notices as are necessary to be served under Landlord and Tenant legislation or otherwise in accordance with the property management function above; and
- e) To accept surrenders of interests in Council owned land and or buildings at Caddsdawn Business Park.

B8 SENIOR SOLICITOR & MONITORING OFFICER

1. In consultation with the Strategic Manager and/or ~~Head of Paid Service~~ Chief Executive as the Senior Solicitor & Monitoring Officer deems appropriate, to instruct and use Counsel and other external professionals / experts / advisors in respect of any legal issues relating to the Council provided the same is in accordance with the Financial and Contract Procedure Rules.
2. To instigate, prosecute, defend, and appear in any legal proceedings (including tribunals, hearings and inquiries) on behalf of the Council, together with the undertaking of such preliminary or further work in relation to the same as the Senior Solicitor deems appropriate, including in particular but without prejudice to the generality of the foregoing, proceedings in relation to:
 - a) prosecutions,
 - b) injunctions,
 - c) possessions,
 - d) appeals; and
 - e) complaints

subject to the Senior Solicitor & Monitoring Officer applying any Council policy or other guidance in deciding whether to commence or defend an action.
3. To prepare, issue and serve any Notices, Orders, Requisitions or other documents arising from or relating to the carrying out of any function of the Council (including the power to withdraw, vary or revoke the same (as the case may be)) which by virtue of any primary and/or secondary legislation the Council is empowered to issue and serve.
4. To take such further action as the Senior Solicitor & Monitoring Officer at his absolute discretion deems necessary for the purposes of implementing, enforcing in respect of breaches of, or regulating any decisions, Notices, Orders, Requisitions or other documents (including any conditions relating thereto) issued by or on behalf of the Council, including authority to authorise direct action, **provided** any costs in respect of the same can be met from existing budget provision.
5. To consider applications for, any representations received (within any time period specified in respect of the same, or if none, then prior to the date when a determination is made) in respect of, and determine whether to grant or refuse (with or without modification) a road closure pursuant to the Town Police Clauses Act 1847, **provided** that where any objection is received within the representation period as identified above then such power shall only be exercised after consultation with the Member(s) within whose ward(s) the road closure lies.

6. To make and determine whether or not to confirm (with or without modification) a Tree Preservation Order pursuant to the Town and Country Planning Act 1990.
 7. To consider and determine whether to vary and/or revoke a Tree Preservation Order pursuant to the Town and Country Planning Act 1990.
 8. To make, and where no objections have been received, determine whether or not to confirm any bylaw for which the Council has the statutory power to issue, **provided** that where an objection has been received in respect of the matters herein, then determination by the Senior Solicitor can still be made, but only if:
 - a) in the opinion of the Senior Solicitor & Monitoring Officer there is an urgent need for a decision; and
 - b) there is prior consultation as to the reason for the urgency with ~~Chairman~~ of the Committee (or ~~Vice-Chairman~~ if the ~~Chairman~~ is unavailable) that incorporates the function directly affected by the proposed decision.
 9. To attest the Council seal and sign any document necessary to give effect to:
 - a) a resolution of the Council (as the case may be); and/or
 - b) the exercise of a power or function delegated by the Council, (as the case may be), **provided** that any such attestation or signing accords with the provisions of Article 13 of the Constitution (as may be amended from time to time).
 10. Power to amend and update the Council's corporate policy and procedures document on the Regulation of Investigatory powers Act 2000.
 11. To act as the Senior Responsible Officer under the Regulation of Investigatory Powers Act 2000.
 12. Power to authorise covert surveillance and the use of covert human intelligence sources under the Regulation of Investigatory Powers Act 2000 provided the same is in accordance with the above legislation, any relevant guidance and Code of Practice and the Council's adopted policy.
 13. Power to amend, update and vary the Council's Freedom of Information Act 2000 publication schedule and charging policy.
 14. The power to review a decision as to whether an asset is an asset of community value.
- Ombudsman Complaints
15. Power to authorise complaint/ombudsman compensation for up to £2,000, subject to prior consultation with the Leader or Deputy Leader.
- Human Resources
16. To deliver advice and guidance to officers in relation to terms and conditions of employment.
 17. To interpret employment policies, custom and practice and implement processes and/or decisions based on either the policy or the custom and practice of the Council.

V3.1 August 2018 ~~September 2020~~

18. To act on the advice of medical practitioners with regard to retiring employees on grounds of ill health.
19. To negotiate revised terms and conditions of employment with recognised trades unions.
20. To develop employment policies and negotiate with recognised trades unions prior to adoption by Council.
21. To purchase procurement of Personnel consultants/training providers as necessary within the Financial Procedure Rules and Contract Procedure Rules.
22. To apply employment legislation/EC Directives as appropriate which may impact on staff terms and conditions, including pay.
23. To implement procedures in relation to training and development activities.
24. To act as the lead countersignatory for the Council and nominate other countersignatories for the Council in respect of the Disclosure and Barring Service.
25. To negotiate compromise agreements subject to consultation with the ~~Head of Paid Service~~ Chief Executive and Senior Solicitor & Monitoring Officer as appropriate, with the final agreement to be signed off by the Senior Solicitor & Monitoring Officer.
26. To seek external employment advice within budget as necessary.
27. To place job adverts in appropriate publications.
28. To approve relocation expenses as appropriate.
29. To approve interview expenses.
30. To advise the Council and act on behalf of the Council on all matters relating to the recruitment and termination of employees.
31. To execute the agreements for the engagement of Officers.

Audit

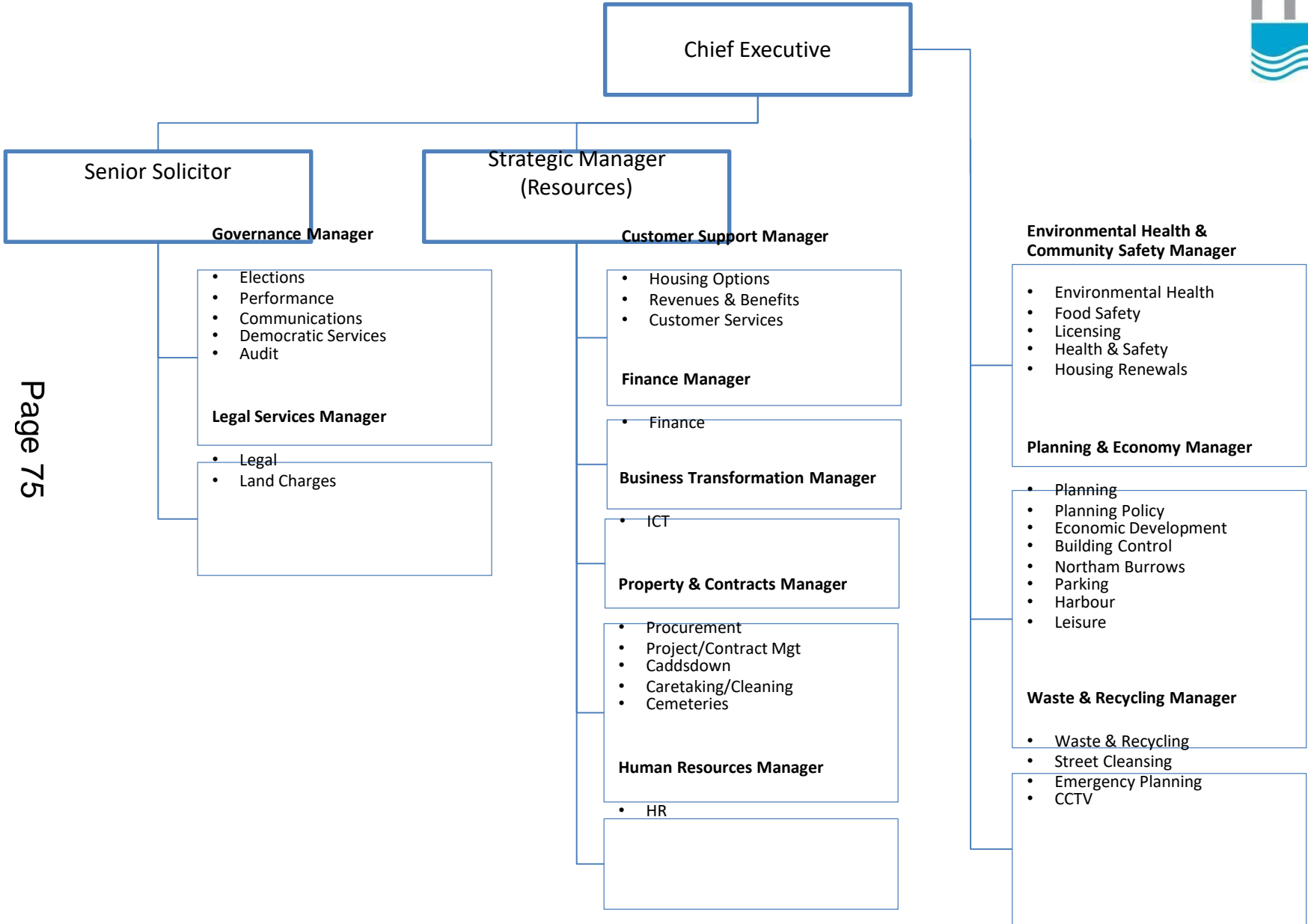
32. The maintenance of an effective internal audit function
33. To provide an independent and objective opinion on the internal control environment put in place by the Council in accordance with the Accounts and Audit Regulations 2011 and the relevant CIPFA guidance.
34. Authority to enter any Council premises at all reasonable times, to have access to all records, assets, personnel and documents relating to financial and other transactions of the Council and require any Council employee to produce such documentation or property under their control for the purpose of carrying out the Audit function
35. To conduct an independent investigation into any referrals of suggested or potential irregularities and to take such steps as are necessary by way of investigation and report.

V3.1 ~~August 2018~~ September 2020

- 36. To provide an annual audit opinion on the effectiveness of the Council's system of internal control.
- 37. To provide an independent and objective Annual Audit opinion on the effectiveness of the Council's internal control environment in accordance with the Accounts and Audit Regulations 2011 and the relevant CIPFA guidance.
- 38. To report to all senior management, the ~~Head of Paid Service~~ Chief Executive and the Audit Governance Committee on all aspects of risk management, control and governance processes and to deliver an audit opinion on those matters.
- ~~39. Not used.~~
- ~~40. Not used.~~

V3.1 ~~August 2018~~ September 2020

Operational Management Team (OMT)



PART 3 – Chapter 3

Member Delegations

A: INTERPRETATION AND GENERAL

1. For the avoidance of doubt unless the context otherwise requires the following words and expressions have the following meaning:
 - a) **“the Constitution”** shall be deemed to be the Torridge District Council Constitution as adopted from time to time including all Delegated Powers.
 - b) **“Delegated Powers”** shall be deemed to be the delegations made to Member’s as referred to in this part of the Constitution;
 - c) **“Policies of the Council”** shall be deemed to be such policies as adopted from time to time and as amended from time to time;
 - d) Legislation shall be deemed to include reference to any amendments, replacement or re-enactments and any Regulations or orders made thereunder.
2. All Delegated Powers shall be exercised and be subject to the content of all relevant Policies of the Council. In the event of any conflict between these Delegated Powers and Policies of the Council, then the policy shall prevail.

B: MEMBER DELEGATIONS

Under Section 236 of the Local Government and Public Involvement in Health Act 2007, the Council awards the following Delegated Powers subject to the proviso that the Delegated Power may only be exercised to the extent that the subject matter of the Delegated Power relates to the ward that the Member represents.

1. The power to award community grants of up to £1,000 to organisations based within a Member’s Ward, subject to:-
 - a) the awarding of the grant complying with the Policies of the Council and specifically, the Council’s adopted policy relating to Councillor Community Grants and to any other relevant Council policy; and
 - b) the decision to award such grant being recorded in writing and forwarded to the Monitoring Officer immediately upon the decision being made

PROVIDED THAT this Delegated Power shall not be exercised by a Member to award a community grant to an organisation in which he/she has a disclosable pecuniary interest a registerable interest or a prejudicial interest as defined within the current Code of Conduct adopted by the Council.

PART 4 - Chapter 1

Rules of Procedure

There are various aspects of the Council's business that require rules governing the procedure applied to ensure that decisions taken are lawful and transparent.

This Part of the Constitution sets out the Rules of Procedure that apply to Council meetings (both Full Council and Committee meetings), the conduct of Councillors and Officers, the entering into of contracts and financial arrangements and other matters.

Meetings of the Council

This Chapter sets out the rules of procedure to be followed at meetings of Full Council and Committee.

Contents

A1	Annual Meeting of the Full Council
A2	Extraordinary Meetings of the Full Council
A3	Meetings of the Full Council
A4	Committee Meetings
A5	Motions
A6	Rules of Debate – Full Council
A7	Rules of Debate – Committee Meetings
A8	Oral Questions by Members
A9	Written Questions by Members
A10	Proposals to change the Constitution
A11	Petitions
A12	Voting
A13	Minutes
A14	Record of Attendance
A15	Exclusion of Public
A16	Members' conduct
A17	Disturbance by public
A18	Suspension of Council Procedure Rules
A19	Attendance by Members at Committees
A20	Declarations of Interest

A1 Annual Meeting of the Full Council

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- a) elect a person to preside if the ~~CChairman~~ and vice ~~CChairman~~ are not present;
- b) elect the ~~eChairman~~ of Council, who shall not, during his period of office be proposed as ~~Chairman~~ or ~~Vice Chairman~~ of any of the Council's committees;
- c) elect the ~~Vice Chairman~~ of Council who shall not, during his/~~her~~ period of office be ~~Chairman~~ or ~~Vice Chairman~~ of any of the Council's committees;
- d) approve the minutes of the last meeting;
- e) receive any announcements from the ~~Chairman~~ and/or ~~Head of Paid Service~~~~The Chief Executive~~;
- f) elect the Leader of the Council who must not be the ~~Chairman~~ or ~~Vice Chairman~~ of Council;
- g) elect the Deputy Leader of the Council who must not be the ~~Chairman~~ or ~~Vice Chairman~~ of Council;
- h) confirm the size of committees and their terms of reference for the ensuing municipal year, including at least one Overview & Scrutiny Committee, a Standards Committee and such other committees as the Council considers appropriate;
- i) agree the numbers of seats on each of the committees allocated to each of the political groups (or non-aligned Councillors);
- j) agree (or delegate to Group Leaders to agree) the members serving on Committee;
- k) select the ~~Chairman~~ and ~~Vice Chairman~~ of all Committees; l) agree the Scheme of Delegation as set out in Part 3 of this Constitution; m) confirm appointments to those committees and outside bodies except where appointment to those bodies has been delegated by the Council
- n) Approving Lead Members;

A2 Extraordinary Meetings of the Full Council

An Extraordinary Meeting may be called by:

- a) the Full Council by resolution;
- b) the ~~Chairman~~ of Council;
- c) the Council's ~~Senior Solicitor and~~ Monitoring Officer;
- d) on receipt of a requisition signed by five members presented to ~~the Head of Paid Service~~~~The Chief Executive~~. Such a requisition shall state the precise nature of the business to be discussed and any resolution in the exact terms in which it is to appear on the agenda. No other business shall be transacted at that meeting.

A3 Meetings of the Full Council

A3.1 Location

Meetings of the Council shall be held in the Town Hall, Bideford, or at such other place as may from time to time be determined by the Council.

A3.2 Times

The Annual Meeting and other meetings of the Council shall be held at 6.30pm on Mondays, or at such other times and on such days as the Council shall from time to time determine. When any meeting of the Council has continued until 9.30pm in the evening, and its business then remains unfinished, it shall stand adjourned until 6.30pm in the evening on the Wednesday following, unless a majority of the Members present determine to continue the meeting or to adjourn to some other day and time.

A3.3 Proper Officer

The Proper Officer for the purpose of the application of the Twelfth Schedule of the Local Government Act 1972 (which relates to the meetings of Local Authorities) is the Council's ~~Head of Paid Service/Chief Executive~~ and in the event of his/her absence the ~~Senior Solicitor &~~ Monitoring Officer.

A3.4 Notice and Summons to Meetings

The Proper Officer will give notice to the public in accordance with the Access to Information Rules. At least five clear days before a meeting, the proper officer will send a summons signed by him or her by post or by email to every member of the Council or leave it at their usual place of residence. The summons will specify the business to be transacted and will be accompanied by such reports as are available. Members have a constitutional right to defer a decision on reports tabled on the day where it is felt inadequate time has been allowed for consideration. (The decision to defer will be taken by majority vote).

A3.5 Quorum

The quorum for a meeting of the Full Council shall be one half of the total number of seats on the Council.

A3.6 Order of Business

Declarations of Interest – any declarations of interest will be declared, together with the nature of the interest, before the relevant agenda item is debated or as soon as the interest is apparent.

Full Council meetings will:

- a) in the absence of the Chair ~~person~~ or Vice Chair ~~person~~ elect a person to preside at the meeting;

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- b) e) _____ approve the minutes of the last Council meeting and deal with any business from that meeting;
- e) f) _____ allow a period of 15 minutes for public participation;
- d) g) _____ receive any correspondence or communications or any other business especially brought forward by the Chair ~~person~~man of Council or the ~~Head of Paid Service~~Chief Executive
- e) h) _____ answer written questions asked under Procedural Rule A9;
- f) i) _____ receive and consider reports from the Chairs of the Council Committees and from Lead Members and appointed representatives on outside bodies;
- g) j) _____ receive reports;
- h) k) _____ consider Notices of Motion;
- i) l) _____ receive petitions in accordance with the Council's Petition Scheme;
- j) m) _____ in the autumn of each year approve a programme of meetings for the following municipal year;
- k) n) _____ from time to time hold public debates into issues of importance to the area, and
- h) o) _____ receive presentations from local organisations at the invitation of the Chair~~man~~

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A3.7 Public Questions

If a question has been submitted to the Council in five days in advance of the Full Council meeting in accordance with the Public Participation Scheme, a response will be provided to the member of the public immediately.

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A4 Committee Meetings

Committee meetings of the Council will take place in accordance with a programme decided at an autumn meeting of the Full Council. A cancellation of a meeting, or additional meetings may be called as and when appropriate as agreed by the Proper Officer and the Chair~~man~~ of Committee.

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A4.1 Time and Place of Meetings

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

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A4.2 Notice and Summons to Meetings

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Proper Officer will send a summons signed by him or her by post or email to every member of the Council and Committees or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. Members have a constitutional right to defer a decision on reports tabled on the day where it is felt inadequate time has been allowed for consideration. The decision to defer will be taken by majority vote.

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A4.3 Quorum

The quorum of the Council's Community & Resources Committee will be seven and the quorum for the other Committees will be as set out in Part 3 of the Constitution. During any meeting if the ~~C~~Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Unless a meeting is agreed by the majority present, the remaining business will be considered at the time and date fixed by the Chair~~man~~. If he/she does not fix a date, the remaining business will be considered at the next meeting.

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A4.4 Duration of Meeting

Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for 3 hours will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair~~man~~. If he/she does not fix a date, the remaining business will be considered at the next meeting.

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A4.5 Substitution Scheme

Any Member of the Council may act as a substitute for another Member at any meeting of a committee (or other body constituted by the Council or its committees), subject to the following rules:

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- a) Overview & Scrutiny Committee members may not substitute on the Community & Resources Committee.
- b) Community & Resources Committee members may not substitute on any Overview & Scrutiny Committee.
- c) Substitution can take place on to the Standards Committee provided the substitute Member has~~ed~~ undertaken the appropriate training.
- d) Audit and Governance members may not substitute on any Overview & Scrutiny Committee.
- e) A Member may act as a substitute at a meeting of any outside body to which the Council nominates or appoints Members (provided that the rules of that body so permit). In such a case the substitute need not be a member of the same political group as the member being replaced provided the substitution is agreed and notified by the political group to which the member being replaced belongs.
- f) In the case of all substitutions, responsibility to appoint a substitute falls in the first instance to the absent Member. If the absent Member is unable to or fails to appoint a substitute, responsibility for appointing a substitute then falls to the absent Member's political group leader.
- g) A substitute may only act when an appointed Member of the Council, committee or one of the bodies named above is not in attendance at the start of the meeting and the substitution shall last for that meeting only, not substitute midway through.

h) A substitute member will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable (for example a Chairman's responsibility) by the person they are substituting.

i) Before the start of any meeting at which a substitute is acting, the absent Member or their group leader shall notify the Committee Clerk of the substitution or, in the case of an outside body, shall arrange to conform with that body's requirements.

j) At the start of any meeting at which a substitution has been arranged in accordance with these rules, the Committee Clerk shall announce that the named substitute is acting to serve as a substitute for the named absent member.

k) If the absent Member is subsequently able to attend a meeting for which a substitute is acting, but arrives after the meeting has opened and the announcement has been made in paragraph i) above, he shall be treated as a non-member of the committee for that meeting only.

A4.6 Order of Business

Declarations of Interest – any declarations of interest will be declared, together with the nature of that interest before the relevant agenda item is debated, or as soon as the interest is apparent.

Committee Meetings will:

- a) in the absence of the Chairman and Vice Chairman elect a person to preside at the meeting;
- b) receive apologies for absence and details of any substitutions;
- c) approve and sign the minutes of the last meeting;
- d) consider motions;
- e) ~~agree the Agenda between Parts I & II and the order of business;~~
- f) receive any announcements at the discretion of the Chairman;
- g) deal with any business from the last meeting;
- h) receive any reports under the Urgency Procedure;
- i) receive relevant reports and recommendations and receive questions and answers on any of these reports, including reports of the Overview & Scrutiny Committees and make any decisions or recommendations thereon as the Committee, at its discretion, may decide;
- j) consider any other business specified in the summons to the meeting;
- k) move to receive Part II Agenda items in the absence of the public and press

A5 Motions – Committee Meetings and Full Council

A5.1 Motions for which notice is required

Except for motions which can be moved without notice under A5.2, written notice of every motion, signed by at least one Member, must be delivered to the ~~Head of Paid Service~~ ~~Chief Executive~~ ~~five~~ ~~5~~ clear days before the date of the meeting. These will be entered in a book open to public inspection.

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Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member(s) giving notice states, in writing, that he/she/they propose to move it to a meeting or withdraw it.

Motions must be about matters for which the Council has a responsibility or which affect the District.

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A5.2 Motions which can be moved without Notice

- a) to appoint a Chair~~man~~ of a meeting at which the motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer an item of business to an appropriate body, _individual or Committee - with clear guidance in the action required from referral;
- e) the reception and adoption of the reports of committees or officers and any consequent resolutions permitted under the Rules of Procedure;
- f) to implement the Referral Procedure contained at Article 12.6 of Part 2 of this Constitution in order to refer to the appropriate Overview & Scrutiny Committee for further consideration a minute recording a decision taken by any Committee with the exception of decisions made under the Town and Country Planning Act and Licensing Act or any subordinate legislations under those Acts;
- g) to withdraw a motion (subject to Rule A6.8);
- h) to proceed to the next business;
- i) that the question be now put;
- j) to adjourn a debate;
- k) to adjourn a meeting;
- l) to suspend a particular Council Procedure Rule (subject to restrictions in A18);
- m) to exclude the public and press in accordance with the Access to Information Rules;
- n) to not hear further a member named under Section A16.3 or to exclude them from the meeting under Section A16.4;
- o) the requirement for a ballot or recorded vote under Section A12.4 and A12.5;
- p) that the meeting continue beyond three hours in duration;
- q) to appoint a committee or member arising from an item on the summons for the meeting (Full Council only);
- r) to give the consent of the Council where its consent is required by this Constitution or the law (Full Council only).

A6 Rules of Debate – Full Council

All motions proposed must be restricted to the business under discussion. No other matter may be introduced.

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A6.1 Proposing and Seconding of Motions

A Member who has proposed a motion and explained its purpose must then defer to the Chair~~man~~ in order to establish whether the motion has a seconder. Only one motion may be moved at any one time.

A five minute discussion time will be allowed (at the discretion of the Chair) prior to going to the vote.

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Where the motion is one for which written notice has been given under A5.1 above, once the motion has been moved and seconded under this rule a vote shall be taken on whether the motion shall be referred to the appropriate committee, subject to Article 7 of the Constitution, with a five minute ~~no further~~ discussion time (at the Chair's discretion). , ~~other than~~ The only additional discussion will be to allow for an alteration to the motion or a withdrawal of the motion under rules A6.7 and A6.8 respectively.

For the sake of clarity, no amendments under rule A6.6 will be permitted.

If a motion for which written notice has been given under A5.1 is not seconded under this rule, or if the vote to refer the motion to the appropriate committee is lost, the notice shall lapse and the motion shall not be moved without further written notice.

A6.2 Right to require motions and amendments in writing

Unless notice of the motion has already been given, the Chair~~man~~ shall require it to be written down and handed to him/her before it is discussed.

A6.3 Seconders speech

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

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A6.4 Content and length of speeches

Speeches must be directed to the motion under discussion or to a personal explanation or point of order. No speech by the mover of a motion may exceed 3 minutes without the consent of the ~~chairman~~. No speech by the seconder of the motion or any other speaker may exceed 3 minutes without the consent of the chair~~man~~.

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A6.5 When a member may speak again

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

- a) to speak once on an amendment moved by another member;
- b) to move a further amendment if the motion has been amended since he/she last spoke;
- c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
- d) in exercise of a right of reply;
- e) on a point of order; and
- f) by way of personal explanation

A6.6 Amendments to motions

- a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add wordsas long as the effect of (ii) to (iv) is not to negate the motion.
- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- c) If an amendment is not carried, other amendments to the original motion may be moved.
- d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e) After an amendment has been carried, the ~~Chairman~~ will read out the amended motion before allowing any further speeches or amendments or if there are none, put it to the vote.

A6.7 Alteration of motion

- a) A member may not alter a motion of which he/she has given notice without the consent of the meeting. The meeting's consent will be signified without discussion.

- b) A member may not alter a motion which he/she has moved without notice without the consent of the seconder. The meeting's consent will be signified without discussion.
- c) Only alterations which could be made as an amendment may be made.

A6.8 Withdrawal of motion

A member may only withdraw a motion, which he/she has moved with the consent of the seconder and the withdrawal is put to the vote. Members may only speak on the withdrawal of the motion after the mover has asked permission to withdraw it.

A6.9 Right of reply

- a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c) The mover of the amendment has no right of reply to the debate on his or her amendment.

A6.10 Motions, which may be moved during debate

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

- a) to withdraw a motion (in accordance with Rule A6.8);
- b) to amend a motion;
- c) the meeting continue beyond three hours in duration;
- d) to exclude the public and press in accordance with the Access to Information Rules; and
- e) to not hear further a member named under Rule A16.3 or to exclude them from the meeting under Rule A16.4.

A6.11 Closure motions

- a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the motion be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.

- b) If a motion to proceed to the next business is seconded and the Chair~~man~~ thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c) If a motion that the motion be now put is seconded and the Chair~~man~~ thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

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A6.12 Point of Order

A member may raise a point of order at any time. The Chair~~man~~ will hear the point immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it relevant. The ruling of the chairman on the matter will be final.

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A6.13 Personal Explanation

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

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A7 Rules of Debate – Committee Meetings

A7.1 Proposing and Seconding of Motions

A Member who has proposed a motion and explained its purpose must then defer to the Chair~~man~~ in order to establish whether the motion has a seconder. Only one motion may be moved at any one time.

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A7.2 Right to require motions and amendments in writing

Unless notice of the motion has already been given, the Chair~~man~~ shall require it to be written down and handed to him/her before it is discussed.

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A7.3 Amendments to motions

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

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words

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

- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- c) If an amendment is not carried, other amendments to the original motion may be moved.
- d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e) After an amendment has been carried, the Chairman will read out the amended motion before allowing any further speeches or amendments, or if there are none, put it to the vote.

A7.4 Alteration of motion

- a) A member may not alter a motion of which he/she has given notice without the consent of the meeting. The meetings consent will be signified without discussion.
- b) A member may not alter a motion, which he/she has moved without notice without the consent of the seconder. The meetings consent will be signified without discussion.
- c) Only alterations, which could be made as an amendment may be made.

A7.5 Withdrawal of motion

A member may only withdraw a motion, which he/she has moved with the consent of the seconder and the withdrawal is put to the vote. Members may only speak on the withdrawal of the motion after the mover has asked permission to withdraw it.

A7.6 Motions which may be moved during debate

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

- a) to withdraw a motion (in accordance with A6.8);
- b) to amend a motion;
- c) that the meeting continue beyond 3 hours in duration;

- d) to exclude the public and press in accordance with the Access to Information Rules; and
- e) to not hear further a member named under Rule A16.3 and A16.4

A7.7 Closure motions

- a) A member may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- b) If a motion that the question be now put is seconded and the Chair~~man~~ thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will put the motion to the vote.
- c) If a motion to adjourn the debate or to adjourn the meeting is seconded and the chair~~man~~ thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote.

A7.8 Point of order

A member may raise a point of order at any time. The Chair~~man~~ will hear the point immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it relevant. The ruling of the Chair~~man~~ on the matter will be final.

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A7.9 Personal explanation

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

A8 Oral questions by members

A8.1 On reports to committees

A member of the Council may ask the chair~~man~~ of a committee an oral question without notice upon an item of the report to a committee when that agenda item is being received or under consideration by the committee.

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A8.2 Time Limits

Time shall be limited as follows:

- a) The questioner - two minutes
- b) The respondent - five minutes

A8.3 Response

An answer may take the form of:

- a) a direct oral answer;
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- c) where the reply cannot be given orally, a written answer circulated to the questioner within 5 working days, or before Full Council, whichever is the sooner.

A9 Written questions by Members

A9.1 Questions on notice at Full Council

Subject to Rule A9.3, a member of the Council may ask:

- a) the Chair~~man~~; or
 - b) the Chair~~man~~ of any committee or sub-committee
- a question on any matter in relation to which the Council has powers or duties or which affects the district.

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A9.2

Questions on notice at committees

Subject to Rule A9.3, a member of the Council may ask the committee a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that committee.

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A9.3

Notice of questions

A member may only ask a question under Rule A9.1 or A9.2 if either:

- a) they have given at least one clear working days' notice in writing of the question to ~~Chief Executive~~~~Head of Paid Service~~; or
- b) the question relates to urgent matters and they have the consent of the chairman to whom the question is to be put and the content of the question is given to the ~~Chief Executive~~~~Head of Paid Service~~ and/or Democratic Services on the day of the meeting

Questions received and written answers (see A8.3(c)) shall be printed in order of their receipt and circulated amongst Members at the commencement of the meeting and no discussion shall be allowed upon the question or on the answer.

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Written questions are to receive a written response.

A9.4

Supplementary question

A member asking a question under Rule A9.1 or A9.2 may ask one supplementary question without notice of the member to whom the first question was addressed. The supplementary question must arise directly out of the original question or the reply.

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A9.5

Time Limits

Time shall be limited as follows:

- a) The questioner – one minute supplementary;
- b) The respondent - two minutes supplementary.

A9.6 Response

An answer may take the form of:

- a) a written answer provided for the meeting;
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- c) where the reply cannot conveniently be provided for the meeting, a written answer circulated to the questioner within 5 working days.

A10 **Proposals to change the Constitution**

Any motion to add to, vary or revoke the Constitution (including Rules of Procedure) will, when proposed and seconded, stand adjourned without discussion to the next meeting of the Community & Resources Committee and Full Council.

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A11 **Petitions**

- a) A Petition may be presented at Full Council by any member of the Council but its presentation shall not be accompanied by any further speech, nor shall there be any debate in respect of the Petition until it has been considered by the Committee concerned, to whom, after its presentation it shall stand referred;
- b) Petitions may be presented at Full Council in accordance with the Council's Petition Scheme, set out at Part 7 of this Constitution.

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A12 Voting

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A12.1 Majority

Unless otherwise resolved, any matter will be decided by a simple majority of those entitled and choosing to vote and present in the room at the time the question is put.

A12.2 Chairman's Casting Vote

If there are an equal number of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise his/her casting vote.

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A12.3 Show of Hands

Unless a ballot or recorded vote is demanded under Procedural Rules, the vote will be signified by the holding up hands.

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A12.4 Ballots

The vote will take place by ballot if a majority of the Members present at the meeting demand it. The Chairman will announce the numerical result of the ballot immediately the result is known.

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A12.5 Recorded Vote

If five Members present at the meeting demand it, the names for and against the Motion or amendment or abstaining from voting will be recorded and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

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A.12.6 Right to Require Individual Vote to be Recorded

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

A12.7 Voting on appointments

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

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A12.8 Voting on Budget Decisions

1. Immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

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2. In paragraph 1—

(a) “budget decision” means a meeting of the authority at which it -

(i) makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992(6); or

(ii) issues a precept under Chapter 4 of Part 1 of that Act, and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;

(b) references to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case maybe.

A13 Minutes

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A13.1 Signing the Minutes

The Chair~~man~~ will sign the minutes of the proceedings at the next suitable meeting. The Chair~~man~~ will move that the minutes of the previous meeting be signed as a correct record. Only the accuracy of the Minutes may be discussed.

A13.2 No requirement to sign Minutes of Meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under Paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary meeting) then the next following meeting will be treated as a suitable meeting for the purposes of signing of minutes.

A13.3 Form of Minutes

Minutes will contain all motions and amendments in the exact form and order the ~~chairman~~ Chair put them, together with the numbers voting for, against or abstaining. The names of the proposer and seconder be routinely recorded in the Minutes together with the number voting for, against and abstaining.

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A14 Record of Attendance

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. Any Member leaving any meeting before it has concluded and not intending to return must inform the Chair~~man~~ of his/her departure for recording in the minutes.

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A15 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule – A17 (Disturbance by Public).

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A16 Members' Conduct

A16.1 Mobile phones and pagers

All mobile phones and pagers must be switched off or silenced whilst a meeting is in progress.

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A16.2 Speaking at Full Council

A member wishing to speak (except on a point of order, or a point of personal explanation) shall so indicate to the Chairman from a seated position and shall not rise unless called by the Chairman. When a Member speaks at Full Council they must stand and address the meeting through the Chairman. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

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A16.3 Chairman Standing

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

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A16.4 Member not to be heard further

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

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A16.5 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

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A16.6 General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

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A17 Disturbance by Public

A17.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

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A17.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

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A18 Suspension of Council Procedure Rules

All of these Council Rules of Procedure, except Rule A10 (Proposal to change the Constitution), Rule A12 (Voting), Rule A13.2 (No requirement to sign Minutes of Meeting at Extraordinary Meetings) and Rule A5 (Motions), may be suspended by motion on notice or without notice of at least one half of the whole number of members of the Council are present.

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Suspension can only be for the duration of the agenda item under discussion.

A19. Attendance by Members at Committees and other meetings

A member may attend any meeting of a Committee or any other meeting arranged or attended by members, even if he/she is not a member of that Committee or meeting group. He/she may not vote, but accepted protocol allows that he/she be allowed to speak at the meeting, (see. A.8), after giving notice to the Chairman but the Chairman has a residual discretion in the matter.

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An observing Member is not included in a resolution to exclude the public under the provisions of Section 100(a) of the Local Government Act 1972.

An observing Member who has an interest as defined in Rule A20 (below) must leave the meeting whilst that matter is being discussed.

A20 Declarations of Interest

A20.1 Members

- a) Members are required to disclose any specific interests as specified in the Members' Code of Conduct in the Register of Interests maintained by the

Monitoring Officer on a six monthly basis and are required to make a nil return in the event that he/she has no interests to declare. If there is a change to the Member's circumstances, the entry in the Register of Interests must be updated within 28 days.

- b) A Member having a personal, prejudicial or disclosable pecuniary interest in a matter to be discussed at any meeting must declare it and the nature of this interest, even if he/she has made a declaration in the Register of Interests and in previous meetings. In the case of a prejudicial or disclosable pecuniary interest he/she must leave the meeting while the matter is discussed unless a dispensation has been issued allowing the Member to take part in the decision making process. Any dispensations so allowed must also be declared by the Member.

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Observing Members must leave the meeting in accordance with A19 above.

- c) A Member who is known to have a personal, prejudicial or disclosable pecuniary interest in any matter being discussed by Full Council or in Committee, but has not declared it, may be challenged by the appropriate Chair or any other Member of the Committee. The Chairman shall have discretion to defer the item if he/she believes the item cannot reasonably be determined free of conflict of interest affecting a member or member's position at the meeting. The Chairman shall report the matter to the Senior Solicitor & Monitoring Officer at the earliest opportunity.

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- d) For the avoidance of doubt, it is not sufficient for a member to state that they have an interest, they must declare exactly the nature of that interest, e.g. the ownership of property which must be specified or the membership of a specified organisation or relationship to a specified individual

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A20.2 Officers

Any Officer must inform the Chief Executive~~Head of Paid Service~~ in writing if he/she has a financial or personal interest in any contract or any other matter in which the Council is a party whether or not the matter is to be discussed at any meeting. The Chief Executive~~Head of Paid Service~~ will record this in a register open to Members' inspection. An officer attending a meeting must disclose that interest at the meeting where the appropriate item is to be discussed even though the Chief Executive~~Head of Paid Service~~ has been informed previously.

The Code of Conduct and Additional Employment Regulations for staff is shown at Part 5 of this Constitution.

PART 4 - Chapter 2

Access to Information Procedure

1. Access to Information relating to Meetings

- a) These rules apply to all meetings of the council, whether Full Council, the Community & Resources Committees, the Overview & Scrutiny Committees, or Regulatory Committees and does not restrict any more specific rights to information contained elsewhere in the Constitution or the law.
- b) The Council will give at least five clear days notice of any meetings by posting details of the meetings at the reception area of the Council Offices.
- c) The Council will make copies of the agenda and reports available for public inspection at the Council Offices at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out the designated officer will make each such report available to the public as soon as it is completed and sent to the Members) will be open to inspection for the time the item was added to the agenda.
- d) The Council will supply copies of:-
- (i) any agenda and reports which are open to public inspection;
 - (ii) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - (iii) if the ~~Head of Paid Service~~ Chief Executive or Senior Solicitor & Monitoring Officer thinks fit, copies of any other documents supplied to any person on payment of a charge for postages, copying and any other costs.

2. Access to Minutes etc after Meetings

- a) For six years after a meeting the Council will make available copies of:
- (i) The minutes of the meeting, excluding any part of the meeting, which was not open to the public or which disclose exempt or confidential information;
 - (ii) A summary of all proceedings not open to the public where the minutes open to public inspection would not provide a reasonably fair and coherent record;
 - (iii) The agenda for the meeting; and
 - (iv) Reports relating to items discussed in the open part of the meeting
- b) The officer, the author of the report, will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:-

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- (i) disclose any facts or matters on which the report or an important part of the report is based; and
- (ii) which has been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined)

c) 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

3. Public Inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

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4. Summary of Public Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents will be available to the public at the Council Offices, Riverbank House, Bideford.

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5. Exclusion of Access by the Public to Meetings

If the Public is to be excluded the reason for exclusion will be stipulated in the Committee Report, for one of the following reasons:-

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a) Confidential Information - requirement to exclude public
The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

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b) Exempt Information - discretion to exclude public
The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed and it is in the public interest to exclude the press and public.

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Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Chapter 2 (5).

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c) Meaning of Confidential information
Confidential information includes 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.

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d) Meaning of Exempt information

Exempt information means information falling within the following categories (subject to any condition).

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Information falling within any of the following categories is not exempt by virtue of being within that category if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning (General Regulations) Act 1992.

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Categories of Exempt Information applicable to All Council Business

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
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.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Categories of Exempt Information applicable to the Business carried on by the Council's Standards Committee or Sub-Committees thereof

1. Information which is subject to any obligation of confidentiality.
2. Information which relates in any way to matters concerning national security.

e) Exclusion of Access by the Public to Reports

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If the ~~Head of Paid Service~~ Chief Executive or Senior Solicitor & Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with this Rule 5, 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.

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PART 4 - Chapter 3

Budget & Policy Framework Procedure Rules

Framework for Decision-making

The Full Council will be responsible for the adoption of its budget and policy framework as set out in Article 4, Part 2 of this Constitution. Once a budget or a policy framework is in place, it will be the responsibility of the Community & Resources Committee to implement it.

Process for developing the framework

- a) The Community & Resources Committee will undertake a review of the Council's financial resources, having regard to the priorities of the Corporate and Community Plans and will establish the budgetary and policy framework for the following year in a report to Full Council by **February** with proposals for the next Council year's budget.
- b) When the Community & Resources Committee publishes the framework for the following year, it will identify strategic policy or resource issues on which it wishes to request studies by the Overview & Scrutiny Committees.
- c) Within the overall programme, the Community & Resources Committee may identify a study it wishes to request the Overview & Scrutiny Committees to undertake on issues the Committee wish to make recommendations to Full Council as part of the policy framework.
- d) Policy studies undertaken by the Overview & Scrutiny Committees will engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. The results will be presented to the Community & Resources Committee, who will then draw on them in developing their proposal to Full Council.

Virement

The amounts approved by the Council in the annual estimates shall not be diverted to other purposes except as set out in paragraphs 4.12 and 4.13 of the Financial Procedure Rules as shown at Part 4 Chapter 5.

In year Changes to Policy Framework

- a) The responsibility for agreeing the budget and policy framework lies with Full Council, and decisions by the Community & Resources Committee or officers with delegated authority must be in line with it.
- b) No changes to any policy and strategy, which make up the policy framework may be made by a Committee or Officer with delegated authority except changes:

- (i) which result in the closure or discontinuance of a service or part of a service to meet a budgetary constraint;
- (ii) which are necessary to ensure compliance with the law, Ministerial direction or Government guidance; or
- (iii) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultations, but where the existing policy document is silent on the matter under consideration

PART 4 - Chapter 4

Overview & Scrutiny Committee Procedure Rules

Arrangements for Scrutiny of the Council

The Council will establish two Overview & Scrutiny Committees as detailed in Part 2 Article 6 and Part 3 of this Constitution and will appoint such Members to it as it considers appropriate from time to time. Each Overview & Scrutiny Committee will consist of 12 members and up to a maximum of three independent voting non-elected representatives who will be allowed to serve on the Overview & Scrutiny Committee subject to there being sufficient independent representatives willing to serve. The ~~Head of Paid Service~~ Chief Executive, the Leader and Chair ~~person~~ man of the relevant Overview & Scrutiny Committee will interview each independent applicant.

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The Terms of Reference of the Overview & Scrutiny Committees will be as set out in Part 3 of this Constitution and in order to meet their terms of reference, the Overview & Scrutiny Committees will:-

- a) approve an annual Scrutiny work programme and ensure that its time is effectively and efficiently utilised;
- b) receive requests from the Community & Resources Committee and/or Full Council for reports on specific issues;
- c) develop and maintain a system to ensure that referrals to the Community & Resources Committee, either by way of report or for reconsideration, are managed efficiently and do not exceed the limitations imposed in this Constitution;
- d) decide at the request of the Community & Resources Committees the priority of referrals made in the events of reports to Full Council exceeding the limitations set out in this Constitution, or if the volume of such reports creates difficulty for the management of Committee business, or jeopardises the efficient running of Council business;
- e) be responsible for the following issues in respect of the Community & Resources Committee:-
 - (i) Monitoring the service performance against the targets and standards contained in the relevant Business Plans or other documents; and
 - (ii) Assisting the Community & Resources Committee and the Council in developing new policies;
- f) review matters previously decided by a Committee of the Council and referred to it by Full Council under the Referral Procedure set out in Article 12.6 of this Constitution

Meetings of the Overview & Scrutiny Committees

- a) There shall be at least seven ordinary meetings of each Overview & Scrutiny Committee in each year within the programme cycle. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview & Scrutiny Committee meeting may be called by the Chair ~~person~~ of the relevant Overview & Scrutiny Committee or by any five Members of the Committee, giving appropriate notice to the [Head of Paid Service Chief Executive](#).
- b) No Members of the Council's Community & Resources Committee may be a member of an Overview & Scrutiny Committee during the same Council year.
- c) The general requirements for Committees apply to the arrangement and meeting of the Overview & Scrutiny Committees but the Overview & Scrutiny Committees may adopt informal or probing procedures as circumstances indicate.
- d) The ~~Chairmen~~ ~~Chair~~ ~~person~~ and Vice Chair ~~person's~~ ~~men~~ of the Overview & Scrutiny Committees will be elected at the Annual Meeting of Full Council.
- e) Any Member of the Overview & Scrutiny Committees may refer to the Committee any matter which is relevant to the functions of the Committee and any Member of the Council may refer to the Committee any local government matter, within the meaning of section 21A of the Local Government Act 2000, relevant to the functions of the Committee, provided that the referral complies with any policy or guidance adopted by the Council.

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Powers of the Overview & Scrutiny Committee

- a) The Overview & Scrutiny Committees may require other Committee Members and Officers of the Council to attend a meeting and to answer questions. They may also request, but cannot compel other persons and outside bodies to attend its meetings to answer questions on issues that it considers affect the Council or the community within the district.
- b) The Overview & Scrutiny Committees will monitor the implementation of the adopted Policy Framework and may recommend to the Community & Resources Committee or to Full Council new policy initiatives for consideration.
- c) The Overview & Scrutiny Committees may not discharge any functions other than those functions delegated to them by Full Council and contained in the Constitution.
- d) The non-elected representatives of the Overview & Scrutiny Committees can vote on any issue, which falls to be decided by the Overview & Scrutiny Committee in accordance with the Council's Voting Scheme at Part 8 of the Constitution.

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Call in of Community & Resources Committee Decision

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- a) When a decision is made by the Community & Resources Committee, that decision shall be published including, including the name of the Member that has called the decision in, together with the reason for the call-in (if a reason has been given) where possible, by electronic means, and shall be available at the main offices of the Council, normally within two days of being made. Copies of these records will be made available within the timescale to the Chair ~~person~~ and Members of the relevant Overview & Scrutiny Committee.
- b) That notice will bear the date of publication and will specify that the decision will come into force on the expiry of five working days after the publication of the decision unless the relevant Overview & Scrutiny Committee objects to it and calls it in.
- (c) During that period the ~~Head of Paid Service~~ Chief Executive shall call-in a decision for scrutiny by the relevant Overview & Scrutiny Committee if so requested by either:-
- (i) the Chair ~~person~~ of the relevant Overview & Scrutiny Committee: or
 - (ii) any three members of the relevant Overview & Scrutiny Committee: or
 - (iii) any four members of the Council

and shall then notify the Community & Resources Committee of the call in. He/she shall call a meeting of the Committee as soon as possible on such date as he/she may determine in consultation with the Chair of the relevant Overview & Scrutiny Committee. The names of the Members that have called the decision in, together with the reasons for the Call-in will be published.

- d) If, having considered the decision, the relevant Overview & Scrutiny Committee remains concerned about it, then it may refer the decision back to the Community & Resources Committee for reconsideration, setting out in writing the nature of its concerns, or refer the matter to the Full Council. If the matter is referred back to the Community & Resources Committee that Committee shall reconsider the matter as soon as possible, amending the decision or not, before adopting a final decision. The final decision adopted shall not be called in again on the same grounds as an earlier call in of the matter.
- e) If, following an objection to the decision, the Overview & Scrutiny Committee does not refer the matter back to the Community & Resources Committee, the decision shall take effect on the date of the Overview & Scrutiny meeting or the expiry of a further five working day period whichever is the earlier.
- f) In cases where the Community & Resources Committee changes its decision in line with Overview & Scrutiny Committee recommendations, the decision is then deemed to be made and will be implemented. Where there remains a difference between the Community & Resources Committee and the Overview & Scrutiny Committee, the matter will stand deferred to the next meeting of the Full Council where the matter will be determined in accordance with the Constitution rules.

Exceptions

The decisions called in must be key decisions, which will have an impact on the policy framework or adopted strategies, which is contrary to the intention of the Council.

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Procedure at Overview & Scrutiny Meetings

a) Subject to the overall Council procedure rules, the Overview & Scrutiny Committee shall consider the following business:-

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- (i) Minutes of the last meeting;
- (ii) Declarations of interest;
- (iii) Consideration of any matter referred to the Committee for decision in relation to call in of a decision;
- (iv) Responses of the Community & Resources Committee to reports of the Overview & Scrutiny Committee;
- (v) The Business otherwise set out on the agenda for the meeting.

b) Where the Overview & Scrutiny Committee conducts investigations (e.g. with a view to policy development) the Committee may ask people to attend to give evidence to the meeting and the meeting will then be conducted in accordance with the following principles:

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- (i) that the investigation be conducted fairly and that all Members of — the Committee be given the opportunity to ask questions of attendees, to contribute, and to speak;
- (ii) that those assisting the Committee by giving evidence, be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation and analysis.

PART 4 - Chapter 7

OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment and Appointment

(a) Declarations

All candidates for appointment will be required to state in writing whether they are related to either Councillors or Officers of the Council or the partners of such persons.

(b) Seeking Support for Appointment

The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

2. Recruitment of ~~Head of Paid Service~~ Chief Executive

(a) The Full Council will appoint the ~~Head of Paid Service~~ Chief Executive, and

(b) Will agree the detail of the appointment process on the basis of recommendations regarding the appointment by the Community and Resources Committee.

3. Appointment of Chief Officers.

The ~~F~~full Council will appoint Chief Officers having made specific arrangements for the appointment process through advice from the Community & Resources Committee.

4. Other Appointments

(a) Appointment of Officers below Chief Officer (or Deputy Chief Officer) is the responsibility of the ~~Head of the Paid Service~~ Chief Executive and his/her nominee and may not be made by Councillors.

(b) All permanent vacancies must be advertised publicly unless filled by internal promotion or transfer from another post, but the Council reserves the discretion to decide otherwise if it is in the justified interests of the Council.

5. Disciplinary Action

(a) The Councils ~~Head of Paid Service, Chief Executive,~~ Chief Finance Officer (the latter appointed for the purposes of s151 of the Local Government Finance Act 1972 or s6 of the Local Government and Housing Act 1989) or Monitoring Officer (the Statutory Officers) may not be dismissed unless the following procedure is complied with:

(i) The ~~F~~full Council must appoint a committee (the Panel) for the purposes of advising the ~~F~~full Council on matters relating to the dismissal of the Statutory Officers.

- (ii) The Council must invite Relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two such persons.
- (iii) Appointments to the Panel must be made at least 20 working days before the relevant meeting to which the Panel will report its findings. The Full Council is not required to appoint more than two Relevant Independent Persons to the Panel but may do so.
- (iv) 'Relevant Independent Person' means any independent person appointed by the Council under section 28(7) of the Localism Act 2011.
- (v) The Council should issue invitations to Relevant Independent Persons in accordance with the following priority order:
 - A Relevant Independent Person who has been appointed by the Council and who is a local government elector
 - Any other Relevant Independent Person who has been appointed by the Council; and
 - A Relevant Independent Person who has been appointed by another council or councils.
- (vi) Before voting on any dismissal, the Full Council must take into account the Panel's view, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer.
- (vii) These requirements allow local people to be involved in the disciplinary process for senior officers and makes councils more accountable to the community

(b) The disciplinary action in 5(a) above, may be suspension whilst an investigation takes place into alleged misconduct. Any such suspension shall be on full pay and terminate no later than the expiration of two months, beginning on the day in which the suspension takes effect.

6. **Dismissal**

Councillors will not be involved in the dismissal of any officer below Deputy Chief Officer except where such involvement is necessary for any investigation or enquiry into alleged misconduct, although the Council's disciplinary capability in related procedures as adopted from time to time, will allow a right of appeal to Members in respect of dismissals.

PART 5 – Chapter 1

Code of Conduct for Members

Introduction

This Code of Conduct applies to you as an elected or non-elected Member of Torridge District Council and it is your responsibility to understand this Code and to comply with its provisions.

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The Code is made up of three distinct parts; the Principles, the General Provisions and Interests. Although the General Provisions and Interests give details of specific requirements that must be met, you should realise and understand that conduct that is not referred to or covered by the General Provisions or Interests may still constitute a breach of the Principles and therefore may be a breach of this Code of Conduct.

Scope

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You must comply with this Code whenever you conduct the business of the Council (which in this Code includes the business of the office to which you are elected or appointed) or you act, claim to act or give the impression you are acting as a representative of the Council, and references to your official capacity are to be construed accordingly.

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Where you act as a representative of the Council on any other body, you must, when acting for that other body, comply with this Code of Conduct except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

Interpretation

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"the Council"	Torridge District Council
"director"	Includes a member of the committee of management of an industrial and provident society
"family"	Includes a Member's parent, parent in law, a son or daughter, a son in law or daughter in law, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of these.
"close associate"	Someone who you are in either regular or irregular contact with over a period of time who is more than just an acquaintance and who is someone a reasonable member of the public might think you would be prepared to favour or disadvantage.
"land"	Includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive an income

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"Member"	An elected or non-elected Member of the Council including an Independent Person appointed to assist in the ethics and standards functions of the Council
"meeting"	Any meeting of the Council, any of its Committees or sub-Committees, Joint Committees or Joint sub-Committees and any meeting of any Area Advisory Committee.
"Monitoring Officer"	The officer of Torridge District Council appointed under s 5 Local Government and Housing Act 1989
"relevant authority"	Means an authority defined by s27(6) of the
"relevant period"	Means the period of 12months ending with the day on which you provide notification of your interests under article 17 of this
"relevant person"	Means you or your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you were civil partners.
"securities"	Means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money
"sensitive interest"	An interest of such a nature that if information concerning the interest were to be available publicly you or a person connected with you could be subjected to violence or intimidation.
"Register of Interests"	The register containing the interests of Members required under s29 Localism

Purpose

As elected Members and non-elected Members of the Council you have a responsibility to represent the community and work constructively with the staff and partner organisations to secure better social, economic and environmental outcomes for all.

The purpose of this Code of Conduct is to promote high standards of behaviour amongst the elected and non-elected Members of the Council and to demonstrate to the public that the Council is committed to maintaining those high standards and to representing the community in every way that it can.

The public and others working for or with the Council should have confidence in the integrity and capability of you as elected and non-elected Members of the Council and this Code seeks to ensure that such confidence is maintained.

Principles of Public Life

For the reasons set out above, the Code of Conduct is underpinned by the following Principles of Public Life which should be borne in mind when interpreting the meaning of the Code:-

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

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

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

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

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

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

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

Disclosure and Barring Service Checks

Full Council has resolved to make it compulsory for all Members upon election to undergo a Disclosure and Barring Service (DBS) check. This is intended to increase public confidence in their elected Members, and gives the Council an opportunity to put measures in place to mitigate any risk arising from previous conduct, if necessary. Failure to undergo a DBS check, or a positive DBS check, may be referred to the Standards Committee.

General Provisions

- 1. You must treat others with respect, including members of the public, officers of the
- 2. You must not bully or intimidate or attempt to bully or intimidate any person.
- 3. You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council.
- 3.04. You must not do anything or act in any way which could reasonably be regarded as bringing either your office of Member or the Council into disrepute.

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5. (i) You must not disclose information given to you in confidence by anyone, or information acquired by you or provided to you by the Council which ought reasonably to believe, is of a confidential nature or is capable of being as confidential.

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(ii) For the avoidance of doubt, information covered by and dealt with by 12A of the Local Government Act 1972 (Part 2 information) is included within above.

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(iii) Exceptions to the requirement in 5(i) above may arise where you have to disclose the information given to you by someone authorised to do so, where are required by the law to disclose the information, where the disclosure is to a party for the purpose of obtaining professional advice and the third party agrees to disclose the information to any other person or where the disclosure is reasonable and in the public interest and made in good faith and in accordance the requirements of the Council.

6. You must not do anything which may lead the Council to be in breach of any legislation or act in a way which is otherwise unlawful.

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7. You must have regard to any relevant advice provided to you by the Council's

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8. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or

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9. In taking decisions you must exercise independent judgement, take into account all relevant considerations and views, and you must give reasons for an open and transparent manner.

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10. You must not use the resources of the Council for purposes which conflict with the

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11. You must treat everyone equally, impartially and fairly and represent the residents of the whole of the Council area, [not just the Ward to which you were

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Interests

Disclosable Pecuniary Interests

12. You have a Disclosable Pecuniary Interest if it is of a description specified in

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Regulation 13 hereof, and

either:- (i) it is an interest of

yours, or

(ii) it is an interest of your spouse or civil partner, a person with whom you are

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living as husband or wife, or a person with whom you are living as if you were civil partners.

13. A Disclosable Pecuniary Interest is an interest in any of the following matters:-

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Interest	Prescribed Description
Employment, Office, Trade, Profession or Vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the Relevant Period in respect of any expenses

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	carrying out duties as a member, or towards your election expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour relations (Consolidation) Act 1992
Contracts	Any contract which is made between the Relevant Person (or a body in which the Relevant Person has a beneficial interest) and the Council under which goods or services are to be provided or works are to be carried out, and which has not yet been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate Tenancies	Any tenancy where (to your knowledge) the landlord is the Council and the tenant is a body in which a Relevant Person has a beneficial interest, including a firm in which the relevant Person is a partner or a body corporate in which the relevant person is a director, or in the securities
Securities	Any beneficial interest in securities of a body where:- (a) that body, to your knowledge, has a place of business or land in the area of the Council, and (b) either:- (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of

14. For the purposes of 12(ii) above you will only be deemed to have a Disclosable Pecuniary Interest if you are aware that the other person referred to in 12(ii) above has that interest.

Registerable Interests

15. You have a Registerable Interest if it is of a description set out in paragraph 16 of this Code and either:-
(i) it is an interest of yours, or

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- (ii) it is an interest of your spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you were civil partners.

16. The following shall be Registerable Interests:-

- (i) membership of any body to which you have been appointed or nominated by the Council,
- (ii) membership of the County Council or a Parish or Town Council within the
- (iii) membership of any body exercising functions of a public nature, which is directed to charitable purposes or whose principal purpose includes the influence of public opinion,
- (iv) the name and the interests of any person or body from whom you have receive a gift or hospitality with an estimated value of at least £25.00,

Prejudicial Interests

17. Notwithstanding the content of paragraphs 13 and 16 above, you will have a prejudicial interest in a matter where:-

- (i) a decision on that matter would affect the well being or financial position of any relevant person, member of your family or close associate more than it would affect the majority of people living within the ward or electoral division affected by the decision and
- (ii) a reasonable member of the public with knowledge of the relevant facts would reasonably think that your interest was so significant that it is likely to prejudice your judgement of the public interest..

18. Subject to paragraph 23 below, you must within 28 days of this Code being adopted by the Council, or your election or appointment (where that is later), notify the Monitoring Officer in writing of any Disclosable Pecuniary Interests and any Registerable Interests that you have at that time.

19. Subject to paragraph 23 below, you must within 28 days of becoming aware of any new Disclosable Pecuniary Interest or Registerable Interest, or any change to any such interest already registered, register details of that new interest or that change in writing to the Monitoring Officer.

20. If you attend a meeting of the Council and have and are aware that the business being conducted at that meeting affects a Disclosable Pecuniary Interest or a Registerable Interest or is such that you would have a Prejudicial Interest in the business:-

- (i) you must, subject to paragraph 23 below, disclose to the meeting that you have a Disclosable Pecuniary Interest, a Registerable Interest or Prejudicial Interest in that matter and if you have not done so already, you must also notify the Monitoring Officer of the interest in writing within 28 days of the meeting,
- (ii) subject to paragraph 21 below, unless a Dispensation has been granted, you must NOT participate, or participate further once the interest is known, in any discussion of the matter at the meeting, or participate in any vote, or further vote, taken on the matter at the meeting, and you must leave the room whilst discussion on the matter is taking place.

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21. If your interest in a matter being discussed at a meeting of the Council is a Registerable Interest falling within paragraph 16(1) or 16(2) above you may remain

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in the room and participate in the discussion on the matter and may also take part in the vote taken on the matter provided the matter could not have a significant effect on the financial viability or well-being of the external organisation.

22. If you have delegated powers to take a decision on behalf of the Council acting alone, and you have and are aware that you have a Disclosable Pecuniary Interest, a Registerable Interest or a Prejudicial Interest in the matter dealt with or to be dealt with by you, you must not take any steps or any further steps in relation to that matter except for the purposes of enabling the matter to be dealt with other than by yourself.
23. Where you consider that the information relating to any of your interests is sensitive information, and the Monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest or when disclosing that interest to a meeting under paragraph 19 above.
24. — You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 23 is no longer sensitive information, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.

Dispensations

25. Section 33 of the Localism Act 2011 makes provision for the granting of a dispensation allowing a Member with a Disclosable Pecuniary Interest in a matter to speak and/or vote on that matter. For the avoidance of doubt, this Code extends the provisions of section 33 to allow a Member to also seek a dispensation excusing the Member, in whole or in part, from the effect of paragraph 20 above where the Member has a Registerable or Prejudicial Interest in an item of business. Any dispensations granted will only apply to decision making bodies of the Council who granted the dispensation (for example, dispensations granted by the District Council will not apply to Parish or Town Councils and vice versa).

PART 5 – Chapter 2

CODE OF CONDUCT FOR OFFICERS

1. Introduction and Explanatory Note

This code has been derived from a draft national Model Code of Conduct that was the subject of widespread consultation in 2008. In the event that a Code of Conduct is introduced for all local government employees, the content of this Code will be updated.

The Council may separately publish Employee Rules and/or a Statement of Expectations.

2. Core Values that apply to all Council employees

General principles

The public is entitled to expect the highest standards of conduct from all Council employees. As an employee your role is to serve the Council in providing advice, implementing the Council's policies and delivering services to the local community. In performing your duties, you must always act with integrity, honesty, impartiality and objectivity.

Accountability

You are accountable, and owe a duty to, the Council. You must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political neutrality

You must follow every lawfully expressed policy of the Council and must not allow your own personal or political opinions to interfere with your work. If by reason of the post you hold or the nature of the work you do, then you must comply with any statutory restrictions on political activities.

Relations with members, the public and other employees

Mutual respect between employees and members is essential to good local government and working relationships should be kept on a professional basis. The Council has agreed a Member/Officer protocol to promote these aims.

You should deal with the public, members and other employees sympathetically, efficiently and without bias.

Equality

You must comply with policies relating to equality issues, as agreed by the Council, in addition to the requirements of the law.

Stewardship

You must ensure that you use any public funds entrusted to you in a responsible and lawful manner and must not utilize property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal interests

You must not allow any private interests (including those of your immediate family) or beliefs to conflict with your professional duty. You must not misuse your official position or information acquired in the course of your employment to further any private interest or the interests of others.

You should abide by the rules of the Council about the declaration of gifts or hospitality offered to or received from any person or body seeking to do business with the Council or which would benefit from a relationship with the Council. You should not accept benefits from a third party unless authorised to do so by the Council. In any event, any gifts or hospitality must be registered with the Council's Monitoring Officer and recorded in the Register of Officer's Interests.

3. Whistleblowing

If you become aware of activities which you believe to be illegal, improper, unethical or otherwise inconsistent with this code of conduct for employees, you should report the matter, acting in accordance with your rights under the Public Interest Disclosure Act 1998 and with the Council's Whistleblowing Policy and Procedure.

4. Treatment of Information

Openness in the dissemination of information and decision-making should be the norm in conducting Council business. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a Member, relevant Council employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

5. Appointment of staff

When involved in the recruitment and appointment of staff, you must ensure that appointments are made on the basis of merit. In order to avoid any accusation of bias, you must not be involved in any appointment, or any other decision relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom you are related or with whom they have a close personal relationship.

6. Investigations by Monitoring Officers

Where a Monitoring Officer is undertaking an investigation in accordance with the Localism Act 2011 and associated regulations, you must comply with any requirement made by that Monitoring Officer in connection with such an investigation.

7. Additional Values that apply to Qualifying Employees

Qualifying employees are ordinarily those who occupy the most senior posts within the Council, who will be formally identified as such.

As a qualifying employee you must not compromise, or attempt to compromise, the impartiality of anyone who works for or on behalf of the Council, either directly or as a response to pressure from others. You should not attempt to force employees to take action or change advice if doing so would prejudice their professional integrity.

8. Using your position improperly

You must not use, or attempt to use, your position improperly either for your own or anybody else's advantage or disadvantage.

9. Considering advice provided to you and giving reasons

If you seek advice, or advice is offered to you, on aspects of how this code applies, then you must have regard to that advice.

10. Personal interest

You must register, within 28 days of taking up your appointment, any interests set out in the categories below. This record of interest must be in writing, to the Council's Monitoring Officer

The registration of interests protects the qualifying employee by giving early warning of any possible areas of conflict of interest and provides assurance to the public that the qualifying employee is acting transparently. Only registration of personal interests in areas where there are clear grounds for concern that such an interest could give rise to accusations of partiality in decision making and working practice of the authority are required. These are:

- Membership, or position of control or management, in bodies exercising functions of a public nature (that is, carrying out a public service, taking the place of a local or central governmental body in providing a service, exercising a function delegated by a local authority or exercising a function under legislation or a statutory power).
- Any business you might own or have a share in, where that shareholding is greater than £25,000 or have a stake of more than 1/100th of the value or share capital of the Company.
- Any contracts between the Council and any Company you have an interest in, as above.
- Any land or property in the Council's area, in which you have a beneficial interest.

You may seek to exempt your personal interests from the register of interests if you consider, for instance, that having this information on record might put you or others at risk. In such cases, you should discuss the matter with the Monitoring Officer.

11. Prejudicial interest

A prejudicial interest is considered to be a matter which affects your financial interest or relates to a licensing or regulatory matter in which you have an interest and where a member of the public, who knows the relevant facts, would reasonably think that your personal interest is so significant that it is likely to prejudice your judgment of the public interest.

A prejudicial interest in a licensing or regulatory matter may stem from a direct financial interest or from a more tangential interest, where for instance approval for a licence may affect a body with which you [hashave](#) a personal interest or will affect you personally.

Qualifying employees with a prejudicial interest should declare such an interest. Where possible, you should take steps to avoid influential involvement in the matter. Where this is not possible, your prejudicial interest should be made clear.

PART 5 - Chapter 3 PROTOCOL FOR MEMBER/OFFICER RELATIONS

The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another. It aims to promote the high standards in public office that are required for a modern local government.

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1. Principles underlying member- officer relations

The principles underlying this protocol are consistent with the principles within the Members Code of Conduct, which are set out in the Localism Act 2011. They are:

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Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Members have a duty to declare any private interests relating to their public duties and take steps to resolve any conflicts in a way that protects the public interest.

Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

Members should be accountable to the public for their actions and in the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Members should be as open as possible about their actions and those of their Authority and should be prepared to give reasons for those actions.

Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence. Both Members and Officers serve the public. They depend on one another, but their responsibilities are distinct.

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2. The roles of Members

Members are elected democratically. It is their policies, ideas and decisions which people vote for. Members set the core values of the authority, agree a policy framework, set corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability, ensuring that Officers uphold the values of the organisation and deliver those policies that have been determined by democratic means. Members are the channel for the voices of the people in their wards.

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Members have four main areas of responsibility:

1. determining the policy of the Council and giving it leadership;
2. monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
3. representing the Council externally; and
4. acting as advocates on behalf of their constituents and the wider community

Members have a right to ensure that their decisions, for which they are statutorily responsible and accountable, are implemented by Officers.

Members must not normally become involved in the management of the Council except where an appeal is made under the Grievance Procedure (for example, all disciplinary, capability or grievance processes are officer-only affairs). They must not engage in activities which might undermine the management line of command or adherence to Council personnel procedures, or try to influence the recruitment process.

3. The roles of Officers

The Officers of the Council will support all Members to enable them to perform their roles effectively in the interests of the Council and the public. They will provide support, information and advice to Members to help them in their roles.

Certain statutory Officers (the ~~Head of Paid Service~~Chief Executive, the Monitoring Officer and the Statutory Finance Officer) have specific roles. These roles are set out in Article 11 of the Constitution. Their roles need to be understood and respected by all Members.

Officers give advice and information to Members, implement the policies determined by the Council and manage the day to day business of the authority.

Officers serve the Council through its committees and other Council bodies. They work to the instructions of their Manager or the ~~Head of Paid Service~~Chief Executive – not individual Members of the Council, whatever office the Member might hold.

Officers should always know that they must –

- pursue every known lawful policy of the Council
- implement the decisions of Council and Committees
- inform Members immediately of any decision that they cannot fully implement
- be helpful and respectful to Members
- behave in a professional manner
- serve all Members equally
- maintain confidentiality
- deal with Member enquiries efficiently
- strive continually to comply with the Council's performance management and scrutiny processes
- support Members in their role as ward Councillors

The organisational role of officers has two important dimensions. – Some Officers have professional skills relevant to a particular organisational task. Others have a primarily managerial responsibility. Many have elements of both in their job.

Professional officers will be given the opportunity to give their own professional views – they cannot be required, or expected, to recommend against their own professional view.

Mutual respect between Members and Officers is essential to good local government.

Close personal familiarity between individual Members and Officers can prove embarrassing to other Members & Officers.

Officers must comply with the Code of Conduct for Officers, as set out in Part 5 of the Constitution.

4. Relationship between **ChairmanChair** of the Council and Leader and Officers

The **ChairmanChair** of the Council shall be bound by the same provisions when acting as **ChairmanChair** as he/she would be when acting as an ordinary Council Member.

SimilarlySimilarly, the Leader of the Council shall be bound by the same provisions when acting as Leader as he/she would be when acting as an ordinary Council Member.

It is clearly important that there should be a close working relationship between the Leader, **ChairmanChair** of the Council and Members and Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with the Member(s).

5. Relationship between **ChairmenChairs** and Members of the Council and Officers

The expression **ChairmenChairs** in this section will include Vice **ChairmenChairs**.

The **ChairmenChairs** shall be bound by the same provisions when acting as **ChairmenChairs** as they would be when acting as ordinary Council Members.

Although relationships should be declared on application forms, a situation may arise where a relative or close friend becomes a Member of the Council after the appointment of the Officer. In such cases the Member and Officer should make the circumstances known to the **Head-of-Paid-ServiceChief Executive**.

There should be a close working relationship between the **ChairmenChairs** and Members of a Committee and Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with the Member(s).

Officers will regularly brief **ChairmenChairs** on matters affecting their committee. Any **ChairmanChair** may have a briefing from officers at a mutually agreed time, on matters to be discussed at a forthcoming committee meeting.

A manager will always be fully responsible for the content of any report submitted in his name. Reports will contain a recommendation unless the issue is one where the Members' judgement is required, or where the officer writing the report believes the situation is such that Members may legitimately exercise a choice between two or three alternatives. They will also always include the name of the contact officer.

ChairmenChairs will be given the opportunity to view and discuss the draft agenda and reports for their committee.

The **chairmenChairs** and members of all committees shall give Officers the opportunity to present any report and give any advice they wish to give.

All members must seek the advice of the Monitoring Officer where they consider there is doubt about the lawfulness of a decision. Members should seek advice from the Monitoring Officer and/or other appropriate officers where they consider a committee decision might be contrary to the policy framework.

Members and Officers should be mutually supportive in order to minimise any potential embarrassment to the Council.

Any criticism of Officers should be dealt with in private and in accordance with the Dignity at Work Policy, and by the same token, Officers will never be publicly critical of the Council or its policies.

6. Relationships between ~~Chairmen~~Chairs and Members of Overview and Scrutiny Committee and Officers

The ~~Chairmen~~Chairs and Members of the Council's Overview and Scrutiny Committees shall be bound by the same provisions as those for Members and Officers. In addition, they shall:

- consider the seniority of the officers asked to appear before it to ensure that more junior officers are not put under undue pressure;
- when asking officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions;
- where they consider it appropriate, ask officers to explain and justify advice given to Members of committees prior to decisions being taken, and
- not question officers in such a way as to be in breach of the Council's Dignity at Work Policy.

Officers are required at all times to serve the whole Council in a manner which is impartial and politically neutral. Members must continue to respect the political neutrality of Officers and accept that Officers are obliged to respond positively to any requests from the Overview and Scrutiny Committees for appropriate information and advice relevant to the issue being considered by the Committee.

7. Officer Relationships with Party Groups

Any invitation to an Officer to attend a group meeting shall be deemed to include the ~~Head of Paid Service~~Chief Executive.

Officers will not attend and provide information to any political group meeting which includes non District Council members. Exceptions to this may be approved by the ~~Head of Paid Service~~Chief Executive.

In all dealings with Members, in particular when giving advice to political groups, Officers must demonstrate impartiality and must not suppress their professional advice in the face of political views.

For the avoidance of doubt, any information disclosed to an officer in the course of a meeting with a political group shall not be regarded as confidential or privileged.

Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the ~~Head of Paid Service~~Chief Executive who will then discuss them with the relevant group leader(s) prior to the meeting.

8. Members in their Ward Role and Officers

Officers will keep members informed about any significant issues currently affecting their Wards, including matters raised in correspondence and complaints made under the formal complaints procedure.

It is the duty of the ~~Head of Paid Service~~Chief Executive and managers to ensure that all relevant staff are aware of the requirement to keep local Members informed and that the timing of such information allows Members to contribute to the decision making process.

9. Member access to documents and information

The Council believes in open government. This means information will be provided to members of the public and Members of the Council unless it falls within a list of items which are exempt or confidential or for other proper reasons. The meaning of Exempt Information can be found in Part 4 of the Constitution.

Members are free to approach any Council service to provide them with information, explanation or advice as they may reasonably need in order to fulfil their role as a Member, including responding to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the manager, or another senior Officer of the service concerned. Members must ensure that junior officers are not put under undue pressure.

Members are not entitled to confidential information which is not directly relevant to their role as a Councillor. Members are in a position of trust and should not request confidential information in order to use it for a purpose not legitimate for their role as a Councillor. A Member's motive for requesting information must be relevant, and Members should always be prepared to disclose the reason for their request either to the officer from whom the information is sought or the ~~Head of Paid Service~~Chief Executive. Members must not abuse this trust by disclosing information that is confidential or exempt from disclosure to the public.

Confidential information should not be disclosed to any third party unless –

- the Member is legally compelled to do so, for example there is a legal duty to make disclosure in the public interest
- the disclosure is at the request, or with the consent, of the party that provided the information

Members who believe that the disclosure of confidential information is necessary for the effective performance of their duties as members should seek advice from the ~~Head of Paid Service~~Chief Executive or the Monitoring Officer. Improper disclosure of confidential information can put the Council at legal and financial risk.

Where, in a service manager's view, a request for information will require an unreasonable amount of staff resources to provide the information, which he feels unable to commit, he should seek guidance from his manager or the ~~Head of Paid Service~~Chief Executive so that a satisfactory solution, in consultation with the Member, can be found. In the event of a dispute,

a decision will be made by the ~~Head of Paid Service~~Chief Executive in consultation with the leader of the group whose member is requesting the information.

By common law, Councillors are entitled to see all those documents as are necessary to enable him to carry out his duties. This does not, however, permit a 'roving commission' and simple interest or curiosity is unlikely to provide sufficient justification.

Members have a statutory right to inspect any Council document which contains material in relation to any business which is to be transacted at a Council or Committee Meeting. This right applies irrespective of whether the Member is a member of the committee concerned and extends not only to reports which are submitted to the meeting, but also to any relevant background papers.

10. Other individuals who are members of Council bodies

This protocol applies equally to non Council members who are members of, or attend any of the Council's committees or any other Council bodies as it does to Council Members.

11. Press releases / media Relations

All press releases should be issued through the Corporate Services Team in accordance with the Media Policy.

Councillors must check the up to date position with the appropriate member of Corporate Services Team or the ~~Head of Paid Service~~Chief Executive to verify the facts before speaking to the media or taking part in interviews. Whilst individual views are respected, Members are the democratically elected representatives of Torridge District Council. If a Member is speaking to the media as a spokesman for his particular group or on his own account he should make this clear from the outset.

This shall not fetter the individual Member's right to comment personally on issues provided such comment does not seek to represent or be capable of being construed as representing the Council's corporate or resolved position on any issue.

Officers - all approaches from the media should be addressed to the Corporate Services Team in accordance with the Media Policy.

12. Correspondence

Official letters on behalf of the Council should normally be sent out in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government minister) for a letter to appear in the name of a Member, but this should be the exception rather than the rule.

It is not legal for letters which, for example, create obligations or give instructions on behalf of the Council to be sent out in the name of a Member as this would constitute an act which cannot be delegated to an individual Member.

13. Support Services to Members and Party Groups

Support services such as typing, photocopying, etc., to Members must only be used on Council business. Such services should never be used in connection with party, political or campaigning activities or for private use.

14. Complaints

Members may have reason to complain about the conduct or performance of an Officer. All such complaints should be made ~~in~~ accordance with the Dignity at Work Policy.

Officers may have reason to complain about the conduct of a Member. All such complaints should be made in accordance with the Dignity at Work Policy or the Grievance Procedure.

The ~~Head of Paid Service~~ Chief Executive will ensure that the Authority's response to any allegation of bullying or harassment will be dealt with promptly and effectively under the terms of the Dignity at Work Policy.

15. Whistleblowing

The Council is committed to the highest possible standards of openness, honesty and accountability. In line with that commitment the Council expects Officers and Members to come forward and voice their concerns in respect of any ~~wrong doing~~ wrongdoing such as fraud, malpractice, breach of any health and safety law, or any other illegal act. The Council has, therefore, adopted a Whistleblowing Policy.

PART 5 – Chapter 4

Public Participation at Full Council and Committees

The public are encouraged to become involved in Full Council and Committee meetings through the 15 minute public participation period at the start of each meeting.

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General Rules

1. There will be a 15 minute Public Participation period at the start of each meeting. [Torridge welcome public participation however please be aware that issues raised during Public Participation will not be debated at the actual meeting.](#)
2. Persons may speak on any District Council matter.
3. Persons wishing to speak must register themselves and their subject matter with the committee clerk and sign to agree to abide by the Public Participation Scheme **before** the commencement of the meeting. [If speakers are unable to attend the meeting, then they can request that their Statement/Question is read out by the Chair of the meeting \(at their discretion\).](#)
4. The ~~Chairman~~Chair may select from the register any speaker in any order as he thinks appropriate.
5. Persons may speak for up to 3 minutes.
6. Persons must ensure that what they say is factually correct (speakers cannot take advantage of the defence of qualified privilege and may be exposed to legal proceedings for defamation).
7. Speakers contravening the Code may be barred from participating in the Scheme for the next 6 meetings.
8. The ~~Chairman~~Chair has absolute discretion over this Public Participation Scheme and its temporary suspension, variance or withdrawal at a particular meeting.
9. Questions asked under this Scheme will receive a written response from the ~~Head of Paid Service~~Chief Executive or appropriate officer within 14 working days of the meeting.
10. If the Member of Public wishes to receive an answer to a question at Full Council, they should submit their question in writing to the ~~Head of Paid Service~~Chief Executive at least 5 working days in advance of the meeting and should state that it is a question for which an answer is required at that particular meeting. The Member of the Public will not be permitted to ask any supplemental questions at that meeting. [If the Question is not provided a minimum of 5 working days before the meeting then they can still register under the Public Participation Scheme, but they will not be provided with a verbal answer at the meeting.](#)

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11. A separate public speaking scheme operates in relation to the Plans Committee, which can be found at Part 5 Chapter 5 of this Constitution.

PART 5 – Chapter 5

Public Participation at Plans Committee

In a move to improve local democracy, the public now have the opportunity to speak at formal meetings of the Council's Plans Committee. This leaflet sets out the terms and conditions for that public representation.

How many people can speak – and for how long?

In most cases, up to four members of the public can address the Committee on a specific application. Two would be objectors, and two either as applicant /agent or as a supporter. Each speaker will have up to three minutes to put his or her case.

A representative from the Town or Parish Council is also given 3 minutes to express the views of that council.

To be eligible to speak

You must make a request **in writing** following publication of the Committee Agenda and it must arrive no later than 2 pm, two days before the scheduled Committee meeting, so if the meeting is on a Thursday, the request must be received by 2 pm on the previous Tuesday. The **written** request must be sent by post, fax or email to the:

Committee Clerk (Plans)
Riverbank House,
Bideford, EX39 2QG

- Fax to 01237 479164
- E-mail to: speak.planning@torridge.gov.uk

You must include the application number, site address, your full name, address and telephone number and whether you are in favour or against the application. A form is attached for your use and should be used in all cases.

You must agree to abide by the Code of Conduct outlined in this leaflet.

What if more than two people wish to support or oppose a proposal?

The procedure allows for two people to speak in support of the application and two against. Requests to speak are dealt with through the process highlighted above, and where there are more than two people wishing to speak they will be required to organise **spokespeople** ~~to~~ **spokes people to** represent the views on each side. After the deadline date of 2 pm on the Tuesday before Committee, a list of people requesting to speak will be posted on our website at www.torridge.gov.uk/speakplanning and in Council reception areas.

What happens at the Committee Meeting?

Those who have a valid request to speak will be required to report to the Committee Clerk 15 minutes before the meeting starts. The Committee Clerk will meet all the speakers, explain the procedure, and show you where you will be asked to sit and present your case.

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Working through each application on the agenda, the Committee Chairperson will first invite the Planning Officer to introduce the application and advise the Committee of the main planning issues and the recommendation. The Chair will then invite the Parish / Town Council representative to speak on behalf of their local council. The nominated objectors to that specific item will then put their views, to be followed by the applicant/agent and /or supporters. The Ward Member will then be allowed the opportunity to speak.

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Exceptionally other Members will be allowed to speak at the discretion of the Chairman provided that they represent an adjacent ward to where the red line is located and in the Committee's opinion the development directly affects residents in that adjacent ward and any of those residents have submitted letters of representation within the statutory notice period.

The speakers will not have the right to question Members or the Planning Officers, and neither shall they produce any further photographs or other written evidence for information or display. The Committee will then discuss the application and will have the opportunity of further guidance from the Planning Officers before reaching their decision.

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It is essential that there is no unnecessary repetition of points made and the Chairman will strictly control the procedure exercising discretion when required in order to satisfy 'natural justice' and provide members with the required information upon which to make an informed and well-considered decision.

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Each speaker will be allocated 3 minutes in which to make their views known. This time limit will be strictly applied by the Committee Clerk. Member representations should be as succinct as possible but are not restricted to 3 minutes. An application will not be deferred because a speaker is not present. Please bear in mind that by law the Council can only take into account certain matters when considering planning applications.

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What if a decision is deferred, perhaps for more information or a site visit?

~~Generally~~ Generally, the right to speak can only be exercised at the first meeting at which the planning application is considered, ~~except if~~ except if an application is on the agenda but the item is deferred prior to the Planning Officer presenting the case. In the event an application is deferred, anyone wishing to speak at the subsequent Plans Committee meeting must register in the normal way and whether they are allowed to speak will be at the discretion of the Chairman. Any previous speaker will not be given preference over other eligible speakers.

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PUTTING YOUR CASE TO THE COMMITTEE..... A FEW POINTERS

When putting your ~~case~~ case, you must only talk about planning issues as the Committee can only make a decision on planning grounds.

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If you address the Committee on other matters, which are not planning issues, the Chairman may interrupt you, or even withdraw your opportunity to speak further. This also applies if you act inappropriately.

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It will be helpful if you are able to prepare your presentation in order to ensure that the key points are made and that you are able to keep within the time limit.

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In all issues relating to public speaking at the Plans Committee, the Chairman has the ultimate discretion.

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The Committee Must Consider:

In reaching a decision the Plans Committee must consider all relevant planning policies in the Development ~~Plan~~ (Plan (i.e. Torridge District Local Plan), relevant Government Policies and all relevant material planning considerations.

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Some of the most common “material considerations” include:

- Loss of light or over-shadowing
- Overlooking / loss of privacy
- Overbearing
- Loss of trees
- Layout and density of development
- Design and appearance
- Nature conservations
- Landscape impact
- Tourism / employment
- Sustainability
- Previous planning history and appeal decisions
- Highway safety, parking and turning
- Traffic generation
- Effect on Listed Buildings and Conservation Areas
- Landscaping
- Archaeology
- Hazardous materials
- Disabled persons access
- Noise and disturbance resulting from a use
- Odour / Fumes

The Committee cannot normally take into account:

Matters controlled by other legislation such as Building Regulations. Examples include -

- Encroachments of foundations, gutters, pipes, etc
- Structural stability of a property
- Terms of gaming or alcohol licences
- Control of rodents
- Noise and dust from construction works

Other issues such as:

- Ownership
- Boundary disputes
- Loss of / impact on views
- Private rights of way, light or easements
- Damage to property
- Access for maintenance
- Applicant or neighbours behaviours
- Age, health, status or background of an individual
- Size of the ~~applicant's~~ applicant's family
- How long the applicant has been living there
- The applicant's motive
- What may happen in the future
- Loss of Trade

For further information or advice contact:

[Plans-Admin-Planning](#) Support
Riverbank House
BIDEFORD, EX39 2QG
Tel. 01237 428778

PUBLIC PARTICIPATION - CODE OF CONDUCT

In seeking to speak at a Plans Committee.....

You must:

- Treat everyone with dignity and respect.
- Register your wish to speak no later than 2 pm two days before the scheduled Committee Meeting and agree to abide by this code
- Ensure what you say is factually correct

You must not:

- Speak when the Chairman speaks
- Make personal or slanderous remarks
- Be abusive
- Interrupt speakers
- Go beyond the prescribed time allowed

You are not entitled to take advantage of the defence of 'qualified privilege' and may be liable to legal proceedings for possible defamation.

The Chairman has absolute discretion over this Public Participation Scheme and may temporarily suspend, vary or withdraw the Scheme at a particular meeting.

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REQUEST TO SPEAK AT PLANS COMMITTEE

Please complete this form and either send by fax or post to –

Plans Admin Support
TORRIDGE DISTRICT COUNCIL
Riverbank House,
BIDEFORD
EX39 2QG

or complete the form online at <http://www.torridge.gov.uk/speakplanning>

Requests to speak must arrive no later than 2pm two days before the scheduled Committee Meeting.

Application Number:
Site Address:
Full Name:
Address:
Day-time Tel. Number:
*I wish to speak IN SUPPORT of this application / I wish to speak AGAINST this application
<i>* Please delete as appropriate</i>
I AGREE TO ABIDE BY THE CODE OF CONDUCT
Signed:
Date:

PART 6

MEMBERS ALLOWANCE SCHEME

2020/21



April 2020

1. Torridge District Council (“the Council”) in exercise of powers contained within the local Authorities (Members Allowances) (England) Regulations 2003 has made the following scheme providing for allowances to be paid to Councillors and certain Co-optees serving on the Council.

BASIC ALLOWANCES

2. The Basic Allowance is intended to recognise the time devoted by Councillors to their work, including such calls on their time as meetings with constituents etc., and to cover incidental costs for which no other provision is made, such as telephone costs. This basic allowance is the same amount for each Councillor.

At the Council each Councillor will receive the current “fully inclusive” Basic Allowance of £5,100. The Allowance should be uprated annually on the basis of any percentage increase agreed for NJC Local Government Staff.

SPECIAL RESPONSIBILITY ALLOWANCES

3. The present scheme includes a provision for the payment of special responsibility allowances (“SRA”) for certain Councillors. Members should only be entitled to claim one SRA and less than 50% of roles should attract a SRA.

The Council has identified the following positions as those in respect of which SRAs are payable:-

Position	SRA 2018/19
Leader	11,985.00
Deputy Leader	5,100.00
Chair person of Council	5,100.00
Chair person of Community and Resources	5,100.00
Chair person of Overview and Scrutiny (Internal)	5,100.00
Chair person of Overview and Scrutiny (External)	5,100.00
Chair person of Plans	5,100.00
Chair person of Audit and Governance	2,550.00
Chair person of Licensing	2,550.00
Chair person of Standards	658.50
Vice Chair person Chair of Community Resou	658.50
Vice Chair person of Overview &and Scrutiny (Intern	658.50
Vice Chair person of Overview &and Scrutiny (Exter	658.50
Vice Chair person of Plans	658.50
Vice Chair person of Licensing	329.19
Vice Chair person of Audit and Governance	

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April 2020

ALL HIGHLIGHTED BITS TAKEN FROM MINUTES or to be amended-

To be referred back to the Panel for further review:

- i) Vice Chairs Community Resources; Overview and Scrutiny (internal and external); Plans; Audit and Governance and Vice person of Licensing should not receive an allowance, but expectation would be that Chairs would share their allowances if they were asking the Vice to step into the role
- j) The Chairs and Vice Chairs and to include Lead Member roles be fully reviewed in future deliberations by the Panel

- 4. Only one Special Responsibility Allowance will be payable to an individual Councillor. Any part-year entitlements to either Basic or Special Responsibility Allowances will be paid according to the number of days in a relevant period as related to the number of days in the whole year.

TRAVELLING ALLOWANCES

- 5. The following rates are payable in respect of travel costs incurred by a Councillor or co-opted member. The rates are only payable in respect of travel undertaken wholly in order to fulfil an Approved Duty as set out within the Appendix to this document.
- 6. No claims will be reimbursed for the costs of hiring a vehicle although the travel rates indicated below will still be payable.
- 7. All travel claims must be submitted on the appropriate form and in the appropriate manner as laid down by the Council from time to time. All receipts and car park tickets must be produced.
- 8. **Public transport** – The rate reimbursed shall be the actual costs incurred except where more than one class of fare is available, in which case the cheapest class will be payable. Use of any form of public transport other than bus/coach or train must be approved in advance by the Strategic Manager (Resources).

- 9. **Motor Vehicle** – The rates of allowance shall be:

Up to 10,000 business miles	45p per mile
Over 10,000 business miles	25p per mile
Passenger Supplement	+ 5p per mile <i>per passenger to whom a travel allowance would be provided (max 4)</i>

- 10. **Cycle** – The rates of allowance shall be:

Any cycle	25p per mile
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- 11. **Motor cycle** – The rates of allowance shall be:

Any motor cycle	24p per mile
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April 2020

12. **Ancillary** – Any car parking or toll charges shall be reimbursed in full except penalty charge notices issued for parking or driving infringements

SUBSISTENCE ALLOWANCES

13. The Council will reimburse Councillors and co-opted members for any expenses incurred in purchasing food and drink whilst wholly engaged on an Approved Duty outside of the Council area. The amount reimbursed will equate to the amount actually incurred and must be supported by receipts. Payments will not be made unless the correct receipts are provided. Claims should be made on the appropriate forms and in the appropriate manner as laid down by the Council from time to time. The following list represents the maximum amounts that will be payable for each particular meal and the conditions applicable.

Breakfast Allowance – Payable for absence away from the area for more than 4 hours prior to 11.00am	£6.01
Lunch Allowance – Payable for absence away from the area for more than 4 hours including the period between 12.00 and 14.00	£8.27
Tea Allowance – Payable for absence away from the area for more than 4 hours including the period from 15.00 to 18.00	£3.29
Evening Meal Allowance – Payable for absence away from the area for more than 4 hours ending after 19.00	£10.26

CARERS ALLOWANCES

14. An allowance of up to £8.21 per hour (pro rata for part of an hour) may be claimed in respect of expenses incurred by a Councillor when a carer for a dependant has been engaged to enable a Councillor to carry out an Approved Duty.
15. A carer will be any responsible person who does not normally live with the Councillor as part of the Councillors family. An allowance will be payable if the dependant being cared for:
- Is a child under the age of 14 years,
 - Is an elderly person, or
 - Has a recognised physical or mental disability,
- AND who normally lives with the Councillor as part of that Councillors family and should not be left unsupervised.
16. 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.
17. The actual cost of care will be reimbursed, up to a maximum of £7.38 per hour subject to receipts being provided.

April 2020

UPDATING AND INDEXATION

18. The above allowances will increase in line with the following indices or principles:

Allowance	Index/Principle	Automatic or Approval Required
Basic	By equivalent of pay award agreed for staff by NJC	Approval
SRA	By equivalent of pay award agreed for staff by NJC	Approval
Travel Allowances	By amendment of the Contribution Free Allowance set by Inland Revenue	Automatic
Subsistence Allowance	Officer rates	Automatic
Carers Allowance	National minimum wage for over 21 years	Automatic

EXCEPTIONS

19. Where as a result of any disability or through any exceptional circumstances, the application of the above restrictions on allowances causes difficulties for the Councillor, the Council will consider any amendments as appropriate and reasonable to ensure that the needs of the Councillor are met.
20. Where a Councillor does not wish to receive a basic allowance or SRA, they should notify the Chief Executive to ensure that appropriate steps are taken to comply with the Councillors wishes.

CONTACT

21. If there are any queries regarding the application of the above Scheme, please contact:
- (i) Chief Executive
 - (ii) Monitoring Officer

April 2020

Appendix

List of Approved Duties

- a) The attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
- b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more local authority within the meaning of section 270(1) of the Local Government Act 1972, 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 at least two members of the authority have been invited;
- c) the attendance at a meeting of any association of authorities of which the authority is a member;
- d) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;
- e) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
- f) the attendance at a meeting of an outside body to which the Councillor has been nominated by the Council to represent the Council,
- g) the attendance at a meeting of a Parish Council within the Ward of the Councillor,
- h) the attendance at the authority's offices for the purpose of a pre-arranged meeting with Council officers regarding functions of the authority affecting inhabitants of the Ward which they represent,
- i) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or of any of its committees or sub-committees

April 2020

COUNCIL TAX - RESTRICTIONS ON VOTING

Under the Local Government Finance Act 1992, Section 106 applies at any time to a Member of a Local Authority whose Council Tax or penalties relating thereto have remained unpaid for at least two months. If a Member to whom this section applies is present at a meeting of the Authority at which any calculation required by Part 1 of the 1992 Act; or any recommendation, resolution or decision affecting the making of such a calculation; or the exercise of corresponding provisions with respect to Council Tax etc are the subject of consideration; then the Member shall, as soon as practicable, disclose the fact that Section 106 applies to him/her and shall not vote on any question with respect to this matter.

In effect, this legislation relates to budget making and the setting of the Council Tax. It is therefore likely to apply to the direct or indirect approval of supplementary votes and virements during the year and decisions directly or indirectly affecting the Council's resources. Persons failing to comply with this legislation shall be liable to summary conviction

Arrangements can be made for Member's council tax liability to be paid by direct debit to ensure regular up to date payments. A direct debit mandate can be obtained from the Head of Financial Services Finance Team in Riverbank House to enable those Members who have not taken up this facility to do so.

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A copy of Section 106 is shown on the following page.

April 2020

LOCAL GOVERNMENT FINANCE ACT 1992 CHAPTER 14
PART IV MISCELLANEOUS
ENGLISH AND WELSH PROVISIONS

UK Statutes Crown Copyright. Reproduced by permission of the
Controller of Her Majesty's Stationery Office.

Amendment as at: April 1, 2002

s 106 Council tax and community charges: restrictions on voting.

- 1) This section applies at any time to a member of a local authority, or a member of a committee of a local authority or of a joint committee of two or more local authorities (including in either case a sub-committee), [or a council manager within the meaning section 11(4)(b) of the Local Government Act 2000, if at that time--
 - a) a sum falling within paragraph 1(1)(a) of Schedule 4 to this Act; or
 - b) a sum falling within paragraph 1(1)(a), (b), (d) or (ee) of Schedule 4 to the 1988 Act (corresponding provisions with respect to community charges),

has become payable by him and has remained unpaid for at least two months.
- 2) Subject to subsection (5) below, if a member[or a council manager] to whom this section applies is present at a meeting of the authority or committee[or in the case of an authority which are operating executive arrangements the executive of that authority or any committee of that executive] at which any of the following matters is the subject of consideration, namely--
 - a) any calculation required by Chapter III, IV or IVA of Part I of this Act;
 - b) any recommendation, resolution or other decision which might affect the making of any such calculation; or
 - c) the exercise of any functions under Schedules 2 to 4 to this Act or Schedules 2 to 4 to the 1988 Act (corresponding provisions with respect to community charges),

he shall at the meeting and as soon as practicable after its commencement disclose the fact that this section applies to him and shall not vote on any question with respect to the matter.
- 2A) In the case of an authority which are operating executive arrangements, if or to the extent that any matter listed in paragraphs (a), (b) or (c) of subsection (2) is the responsibility of the executive of that authority, no member of the executive to whom this section applies shall take any action or discharge any function with respect to that matter.
- 3) If a person fails to comply with subsection (2) above, he shall for each offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale, unless he proves that he did not know--
 - a) that this section applied to him at the time of the meeting; or
 - b) that the matter in question was the subject of consideration at the meeting.

April 2020

- 4) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.
- 5) Subsections (1) to (3) of Section 97 of the Local Government Act 1972 (removal or exclusion of liability etc.) shall apply in relation to this section and any disability imposed by it as they apply in relation to section 94 of that Act and any disability imposed by that section.
- 6) In this section "local authority" has the same meaning as in sections 94 and 97 of the Local Government Act 1972.

April 2020

PART 7 - Chapter 1

Petition Scheme

1. Petitions

The Council welcomes petitions and recognises that they are a way in which people can let the Council know their concerns. All petitions must be submitted in accordance with this guidance and can be in electronic form or paper form and sent to:

The Senior Solicitor,
Torrige District
Council, Riverbank
House, Bideford,
Devon.
EX39
2QG

or: Dem.Services@torridge.gov.uk

Petitions can also be presented to a meeting of Full Council. These meetings take place on a six weekly basis, dates and times can be found here <http://www.torridge.gov.uk/CHttpHandler.ashx?id=5333&p=0>.

If you would like to present your petition to the council, or would like your Councillor or someone else to present it on your behalf, please contact Democratic Services on 01237 428705 at least 10 working days before the meeting and they will talk you through the process.

2. Content

2.1 Petitions submitted to the Council must:-

- include a clear and concise statement covering the subject of the petition stating what action the petitioners wish the Council to take;
- should be accompanied by the name, address, and contact details of the petition organiser; and
- ~~contain a minimum of 50 signatures of persons who live, work or study in the District and who support the petition and;~~
- be signed by residents of Torrige.

3. Petition Organiser

The Petition Organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the Petition Organiser will not be placed on the website. If the petition does not identify a Petition Organiser, the Council will contact signatories to the petition to agree who should act as the Petition Organiser.

4. Restrictions

4.1 A petition may be rejected if the Council consider that the petition:-

- contains intemperate, inflammatory, abusive or provocative language;
- is defamatory, frivolous, vexatious, discriminatory or otherwise offensive, or contains false statements;
- is too similar to another petition submitted within the last six months;
- discloses confidential or exempt information, including information protected by a court order or government department;
- discloses material which is otherwise commercially sensitive;
- contains names of individual citizens as the target of the petition, or provides information where they may be easily identified, e.g. officers or public bodies;
- contains advertising statements;
- refers to an issue which is currently the subject of a formal Council complaint, Local Government Ombudsman complaint or any legal proceedings;
- relates to the Council's Planning or Licensing functions as there are separate statutory processes in place for dealing with these matters;
- does not relate to an issue upon which the Council has powers or duties or on which it has shared delivery responsibilities; or
- has already been the subject of debate by Full Council within the last six months.

4.2 During politically sensitive periods, such as prior to an election or referendum, politically controversial material may need to be restricted.

4.3 If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, the Council will write to you to explain the reasons.

5. On Receipt of a Petition

5.1 An acknowledgement will be sent to the Petition Organiser within ten working days of receiving the petition. It will let them know what the Council plans to do with the petition and when they can expect to hear from the Council again.

5.2 To ensure that people know what the Council is doing in response to the petitions received, the details of all the petitions submitted will be published on the website, except in cases where this would be inappropriate. Whenever possible the Council will also publish all correspondence relating to the petition (all personal details, except the name, will be removed).

5.3 If the Council can do what your petition asks for, the acknowledgement may confirm that the Council has taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council debate (over ~~20003,000~~ signatures), then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, the Council will tell you the steps it plans to take. If more than one petition is received on the same subject matter within a 7 day period, if appropriate, they will be amalgamated which may trigger a Council debate as above.

5.4 If the petition relates to action currently being progressed by the Council and the petition triggers with a debate at Full Council, then the action will be suspended pending the debate, save in relation to statutory, contractual or other legal situations, where suspension would prejudice the Council's position.

6. Council's Response to Petitions

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6.1 The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-

- taking the action requested in the petition;
- considering the petition at a Council meeting. The Council Committee will be dependent upon the subject matter of the Petition;
- holding an inquiry into the matter;
- undertaking research into the matter;
- holding a public meeting;
- holding a consultation;
- holding a meeting with petitioners;
- referring the petition for consideration by the Council's Overview and Scrutiny Committee;
- calling a referendum;
- writing to the petition organiser setting out the Council's views about the request in the

petition

6.2 If your petition is about something over which the Council has no direct control (for example the local road network or hospital) it will give consideration to what the best method is for responding to it is. The Council may make representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If the Council is not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then it will set out the reasons for this to you.

6.3 If your petition is about something that a different Council is responsible for, the Council will give consideration to what the best method is for responding to it. It might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event the Council will always notify you of the action it has taken.

7. Full Council debates

7.1 If a petition contains more than ~~20003,000~~ signatures, it will be debated by the Full Council at a subsequent meeting within 3 months of receiving the petition. This means that the issue raised in the petition will be discussed at a meeting which Councillors and the public can attend. The Petition Organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors in accordance with Council Procedure Rules as contained.

7.2 The Council will decide how to respond to the petition at this meeting. They may decide to commission further investigation into the matter the petition requests, refer the matter to a relevant Committee for further consideration and/or decision, or decide not to take the action requested for reasons put forward in the debate. The Petition Organiser will receive written confirmation of this decision. This confirmation will also be published on the Council's website. Petition Organisers should be aware that a decision in relation to the Petition may not necessarily be made at the Full Council Meeting. It may be that it is referred to another Council Committee which has specific delegated functions to deal with the subject matter

contained within the Petition, or it may be that further information or enquiries are needed to be made.

7.3 Petitions that do not trigger a Full Council debate, will be sent to the relevant Council Officer to provide a response, or transferred to the relevant Council Committee if applicable. The exact course of action is dependent upon the subject matter of the Petition. In any event the Council will contact the Petition Organiser to explain how the Petition will be dealt with.

PART 7 - Chapter 2

Voting Scheme

Introduction

Paragraph 12 of Schedule A1 to the Local Government Act 2000 provides that:-

“A local Authority in England may permit a co-opted member of an overview and scrutiny committee of the authority to vote at meetings of the committee”.

The Council is fully committed to achieving an accountable and transparent decision-making process for Torridge and a key part of this process is ensuring that the Council's Overview & Scrutiny Committees are made up of a mixture of Councillors and co-opted members and that those co-opted members are entitled to vote on matters falling within the remit of the Council's Overview & Scrutiny Committees.

Accordingly, the Council has adopted this Voting Scheme to ensure that co-opted members of the Council's Overview & Scrutiny Committees are permitted to vote at Overview & Scrutiny Committee meetings and to regulate the way in which this is carried out.

Co-Opted Members

For the purposes of the Local Government Act 2000, a “co-opted member” refers to a member of the Council's Overview & Scrutiny Committees who is not an elected member of the Council.

The Composition of the Council's Overview & Scrutiny Committees is set out in Part 3 of this Constitution and sets out the number of Councillors and Co-Opted Members who are entitled to sit on the Committees at any one time.

Operation of the Voting Scheme

The basis on which co-opted members are entitled to vote at Overview & Scrutiny Committee meetings and the rules which govern that right are as follows:-

- a) The right to vote at Committee meetings is extended to all of the co-opted members entitled to sit on the Council's Overview & Scrutiny Committees subject to a maximum number of 3 co-opted members sitting on any one of the Overview & Scrutiny Committees having the right to vote;
- b) In the event that either of the Council's Overview & Scrutiny Committees are made up of more than 3 co-opted members, then the Councillors that form the remainder of the membership of that Committee shall vote to allocate voting rights to any 3 of the co-opted members of that Committee;
- c) A co-opted member who has the right to vote under paragraph a) above, shall have the right to vote on any decision that is within the remit of the

Overview & Scrutiny Committee on which they sit and which is before the relevant Overview & Scrutiny Committee at the relevant time;

- d) In the event that the Councillors are required to take a vote allocating the right to vote for 3 of the co-opted members sitting on the Committee in accordance with paragraph b) above, then any co-opted member who has previously acquired a right to vote, shall have no right to vote on that particular issue and once the Councillors have voted to allocate the appropriate voting rights, only those co-opted members who have been allocated voting rights shall continue to have a right to vote.

Adoption, Variation and Revocation of the Voting Scheme

The Council's voting scheme shall be approved annually by Full Council.

Full Council shall retain the right to vary, modify, amend or revoke this Voting Scheme at any time.

Publication and Availability for Inspection

The latest version of the Council's Voting Scheme is available for inspection at the Council's Offices at Riverbank House, Bideford, Devon EX39 2QG during normal office hours or by prior arrangement with the Council's Monitoring Officer.

The Council shall publish this scheme and any subsequent variation, modification, amendment or revocation of it in an appropriate local newspaper in accordance with the requirements of the Local Government Act 2000.