

## Constitution



# CONSTITUTION

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This is the current section which provides an introduction to the Constitution and includes information on the Council's composition and the rights of the public which the Council serves.

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This section sets out the rights and duties of councillors who are elected to the Council.

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# 1. Summary & Explanation to the Constitution

## 1.1 Purpose of the Constitution

Teignbridge District Council’s Constitution sets out how the Council operates, how decisions are made and the procedures which are followed. These rules ensure that the Council’s operates in an efficient and transparent manner and that its councillors are accountable to local people. Some of these are required by law, while others are a matter for the Council to decide.

## 1.2 What’s in the Constitution?

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2	<p><b>Members of the Council</b> This section sets out the rights and duties of councillors who are elected to the Council.</p>
3	<p><b>Decision Making Structure</b> This details the Council’s decision making bodies, including terms of reference (which includes their membership and areas of work).</p>
4	<p><b>Procedural Rules</b> This details the procedural rules that apply to full Council and Committee meetings when they convene to make decisions.</p>
5	<p><b>Area Committee and Joint Arrangements</b> This details the powers of the Council to set up Area Committees and committees with members from other local government areas (known as Joint Arrangements).</p>
6	<p><b>Officers and Scheme of Delegations</b> This details the decisions which the Council determines may be made by senior officers within the confines of its adopted policy and budget limits.</p>
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7	<p><b>Financial Procedures:</b>                      (a) Budget and Policy Framework Procedure Rules                      (b) Financial Instruments                      (c) Contract Procedure Rules</p>

8	<p><b>Member Procedures</b></p> <ul style="list-style-type: none"> <li>(a) District Councillor Role Definition</li> <li>(b) Call in Procedure for Scrutiny Committees</li> <li>(c) Protocol for Shadow Portfolio Holders</li> <li>(d) Councillor Call for Action</li> <li>(e) Guidance for Planning</li> <li>(f) Allowances Scheme</li> </ul>
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### 1.3 Interpretation of the Constitution

#### 1.3.1 In applying this Constitution:

- (a) the document is gender neutral
- (b) references to working days shall be to days other than Saturdays, Sundays, bank holidays and 24 December to 2 January (inclusive) and clear working days shall be to full days between and not including the start and end date;
- (c) references to Councillors are to those elected members of the Council although the provisions will apply to co-opted members as appropriate;
- (d) consideration should be given to the purpose of the document which is to enable the Council to:
  - provide clear leadership to the community in planning and delivering services in partnership with citizens, businesses and other organisations;
  - support the active involvement of citizens in the process of local authority decision-making;
  - help Councillors effectively represent their constituents;
  - enable decisions to be taken efficiently and effectively;
  - create a powerful and effective means of holding decision-makers to public account;
  - ensure that no one will review or scrutinise a decision in which they were directly involved;
  - ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
  - provide a means of improving the delivery of services to the community.

#### 1.3.2 The ruling of the Chair of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be



challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution listed above.

- 1.3.3 Other than minor amendment, changes to the Constitution will only be approved by the full Council after consideration of the proposal by Head of Paid Service. With the exception of specific rules of procedure the Constitution may not be suspended. This provides certainty and stability to the fundamental aspects of the Council's governance. Individual rules of procedure may only be suspended provided this is to achieve an effect consistent with the purposes of the Constitution above. This might apply, for example, to rules of debate in Council where particular circumstances arise.

## **1.4 The Council and its Councillors**

- 1.4.1 The Council is composed of 47 councillors elected every four years. Councillors are sometime referred to as Members of the Council. The term of office of a Councillor starts on the fourth day after being elected and finishes on the fourth day after the date of the next election.
- 1.4.2 Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.
- 1.4.3 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties.
- 1.4.4 All Councillors meet together as the Council. The Council sets up smaller groups of councillors making up committees, which form part of the decision making structure of the Council. In addition the Council has an Executive, which is the main decision making committee of the Council. The chair of the Executive is the Leader of the Council. The Leader is appointed by the Council.
- 1.4.5 Meetings of the Council and its committees are normally open to the public. The Council is the paramount authority and sets the policy and the budgetary framework of the Council. This framework sets the limits of the Executive's powers.
- 1.4.6 The Council also provides an opportunity for citizens and Councillors to ask questions and raise issues of broad public interest. For a fuller description of the work of the Council, please see Section 3.

## **1.5 The Executive**

- 1.5.1 The Executive is responsible for day-to-day decisions and most policy decisions unless reserved to Council or otherwise excluded from their areas of responsibility by law. The Executive is made up of the Leader and a cabinet of up to nine councillors who the Leader appoints.

1.5.2 When major decisions are to be discussed or made, these are published in the Executive's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. If the Executive has to make decisions which are outside the budget or policy framework, they must be referred to the Council as a whole to decide. For further information on the Executive, please see Section 3.

## **1.6 Scrutiny Committees**

The Council has committees which assist with decision making, developing new policy and scrutinising decisions made by the Executive. Details of these committees are set out in Section 3.

## **1.7 Regulatory Committees**

Regulatory Committees normally deal with applying legislation and statutory regulations which have a degree of public or environmental protection. Details of these committees are set out in Section 3.

## **1.8 The Council's Staff**

The Council has people working for it (called Officers). They provide advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between Officers and Members of the Council.

## **1.9 Public Rights**

The public has a number of rights in their dealings with the Council. These are largely set down in law and in addition the Council has granted additional rights. They include:

- If included on the electoral roll for the area, to vote and sign a petition to request a referendum for an elected mayor form of Constitution;
- To 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;
- To find out from the Forward Plan what key decisions will be taken by the Executive and when and whether these will be taken in public or in private;
- To see reports and background papers, and any records of decisions made by the Council and the Executive;
- To inspect the Council's accounts and make their views known to the external auditor;
- To ask questions at meetings and address committees in accordance with the Council's procedural rules;
- To complain about the Council. The Council's service complaints procedure is available at:

<https://www.teignbridge.gov.uk/council-and-democracy/comments-and-complaints/complaints-overview/>. The complaints procedure about councillors should be directed to <https://www.teignbridge.gov.uk/council-and-democracy/district-councillors/conduct-of-local-councillors/>

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## **2. Role of Members of the Council**

### **2.1 Key Role**

All 47 of the Members of the Council will:

- collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- represent their communities and bring their views into the Council's decision-making process, being the advocate of and for their communities;
- deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- balance the different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- be involved in decision-making;
- be available to represent the Council on other bodies; and
- maintain the highest standards of conduct and ethics.

The Council's 'role definition' for all councillors is set out in Section 8(a).

### **2.2 Rights and Duties**

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

### **2.3 Specific Roles**

Councillors also have different roles as Members of the different committees. These are referred to in the following sections of the Constitution. The Leader, Chair of the Council and Chair of Committees also have additional duties and responsibilities.

### **2.4 Conduct**

Councillors are required at all times to observe the Members' Code of Conduct, the Protocol on Officer and Member Protocol and Guidance for Planning set out in Sections 8(e) and 10 (a) and (b).

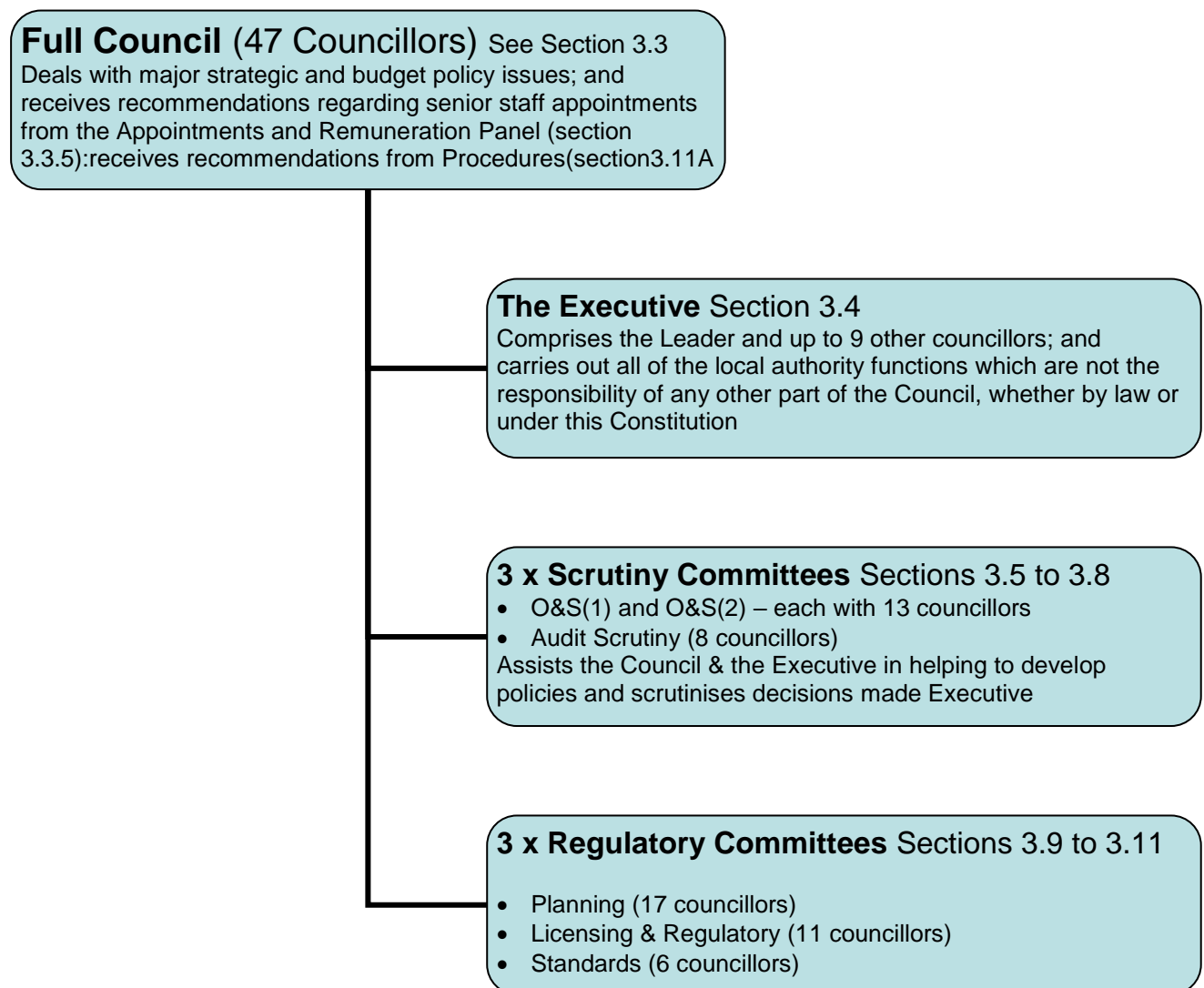
### **2.5 Allowances**

Councillors are entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Section 8(f).

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## 3. Decision Making Structure

3.1 The Council's Decision Making Structure is illustrated here. Some decisions are made by officers in accordance with the Scheme of Delegations in Section 6.



3.2 The terms of reference (including their membership and specific responsibilities) are detailed below. The rules of procedure which apply to the meetings of each body are detailed in Section 4 of the Constitution.

### **3.3 Full Council**

**3.3.1 Membership:** The Full Council consists of all Councillors who represent the wards of the District of Teignbridge.

**3.3.2 Areas of work:** Full Council is ultimately responsible for all decisions of the Council but delegates decisions to the Executive; the other committees set out above; and also to some officers as set out in the Scheme of Officer Delegations in Section 6. The primary areas of work which Full Council undertakes comprise:

- (a) Adopting and making substantive changes to the Constitution;
- (b) Approving or adopting the policy framework and the budget (including approving the Annual Budget and setting the Council Tax);
- (c) Creating committees and sub committees (such decisions not to be undertaken by committees) and approving joint arrangements as necessary, with one or more local authorities to carry out such functions as it considers appropriate, including the appointment of a Joint Committee;
- (d) Appointing the Leader; Chair and Vice Chair of Council; committee membership including the chair and vice chair of committees;
- (e) Assessing the performance of the Leader and passing a resolution if necessary removing the Leader from their position of Leader;
- (f) Adopting a members' allowances scheme;
- (g) Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;

and additionally, all other matters which, by law, must be reserved to Council.

**3.3.3** Although the vast majority of staff appointments are the responsibility of the Head of Service, the Council also appoints its Senior Leadership Team on the recommendation of the Appointments and Remuneration Panel. The latter's terms of reference are set out in Section 3.3.5 below. The Panel does not have any decision making powers, being advisory only. The Panel shall consist of four members appointed by full Council who shall be:

- (a) Leader of the Council who shall be the Chair of the Panel;
- (b) Group Leader of the political group with the largest number of councillors other than the group of which the Leader of the Council is a member;
- (c) Group Leader with next number of Councillors (again other than the group of which the Leader of the Council is a member);
- (d) Portfolio Holder which covers area of Corporate Resources.

Where such appointments are not possible, the Group Leader of the relevant group may nominate another member (and substitute) as they think fit.

**3.3.4 Chair:** The Chair of the Council (and in their absence the Vice Chair) has certain responsibilities and the Vice-Chair acts in the chair's absence. The



political leadership of the Council is the responsibility of the Leader. The Chair's responsibilities comprise:

- (a) To be the conscience of the Council;
- (b) To perform and attend such civic duties and carry out the ceremonial duties of the Council as they consider appropriate;
- (c) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (d) To preside over full Council meetings so that its business can be carried out efficiently and with regard to the rights of citizens and the interests of the community;
- (e) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive to account;
- (f) To promote public involvement in the Council's activities;
- (g) To agree what constitutes a matter of urgency.

**3.3.5. Appointment and Remuneration Panel:** The Panel will make recommendations to the Council on the discharge of its duties in relation to:

- (a) the appointment (including interim arrangements) of the Head of Paid Service, Monitoring Officer and s151 Officer ("Statutory Chief Officers") and the terms and conditions relating to such appointments;
- (b) the appointment (including interim arrangements) of any other Chief Officers of the Council (being those comprising the Senior Leadership Team);
- (c) disciplinary action against or the dismissal of Statutory Chief Officers, subject to legislative requirements regarding their appointment and dismissal and the views of such independent persons required to be appointed to investigate such matters;
- (d) the terms of any payments and other remuneration to any Officer where such payments and other remuneration would result in a total payment exceeding £100,000 per annum;
- (e) to decide upon and carry out the recruitment process leading to the recommendations for the appointments referred to in paragraph (a) and (b); including deciding upon whether such appointments are advertised externally or confined to internal applicants;
- (f) to make recommendations to the Council on the discharge of the Council's legislative requirements in to the adoption of a Pay Policy Statement.

### **3.4 The Executive**

**3.4.1 Membership:** The Executive consists of the Council's Leader, a Deputy Leader, together with up to eight other Councillors. The Leader is appointed by the Council. The Deputy Leader and up to eight Executive Members are appointed to the Executive by the Leader.

**3.4.2 Areas of Work:** The Role of the Executive is to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

**3.4.3 The Leader:** The Leader of the Council is the chair of the Executive. Unless the law or circumstances direct otherwise, the Leader is elected to the position of Leader by the Council for a period of four years at the annual meeting immediately following the local government elections. The Leader will hold office until:

- (a) they resign from the office; or
- (b) they are suspended from being a councillor (although they may resume office at the end of the period of suspension); or
- (c) they are no longer a councillor; or
- (d) they are removed from office by resolution of the Council.

**3.4.4 Executive Members:** The areas of responsibility of each member of the Executive is determined solely by the Leader who may vary such during their term of office as they considers appropriate. Such members will exercise regular budget monitoring of the resources allocated by the Council for those purposes, monitor performance, strive to deliver the Council's Corporate Objectives, seek to achieve best value in the services for which they are responsible and have regard to the Council's other policies and strategic objectives.

3.4.5 Executive Members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from the Executive, either individually or collectively by the Leader of the Council.

**3.4.6 Executive Decisions:** The Leader, after consultation with the other members of the Executive and the Managing Director, will table at every meeting of the Executive a list of what they consider are **key decisions** and once this list has been approved such decisions shall not be taken other than by the full Executive. **Each member of the Executive is authorised to make the following decisions** without a meeting of the Executive. If an Executive Member is absent or otherwise unavailable to act the Leader (or in their absence, the Deputy Leader) may deputise.

- (a) Make any decision other than a key decision which is both within their remit and does not contravene Council approved policy and budget
- (b) Two or more Executive Members may jointly agree to make a decision which is within their collective remits
- (c) Before taking any decision under this delegation, the Executive Member shall, so far as is reasonably practicable, consult any Member whose ward is particularly affected by that decision and shall arrange for a copy of any report which they intend to take into account in coming to a decision to be made available to the Chair of the Overview/Scrutiny Committee and to the local Ward Member(s) if it relates to a local issue

- (d) As soon as is reasonably practicable, complete and sign a form provided by the Team Leader (Democratic Services) summarising any such decision they have made together with reference to the relevant report or other information which was taken into account by them.

3.4.7 **Key Decisions:** Unless otherwise provided by law, a key decision means an Executive decision which is likely:

- (a) To result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates. For this purpose significant expenditure or savings shall mean in the case of revenue any contract or proposal with an annual payment of more than £50,000; and in the case of capital, any project with a value in excess of £125,000; or
- (b) To be significant in terms of its effects on communities living or working in an area comprising two or more wards in the opinion of the Head of Service or the Managing Director. A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in this Constitution.

3.4.8 **Notification of Key Decisions (whether individual or full Executive decisions)**

- (a) Once made, the decision will be notified to all Members of the Council within 2 clear working days.
- (b) The notice will bear the date on which it is published and will specify that the decision(s) which it records will come into force 5 working days after that date unless it is 'called in'. (Please see Section 8(b) for the Call in Procedure).

### 3.5 **Scrutiny Committees: General Terms of Reference**

3.5.1 These committees are appointed in accordance with the statutory requirements to achieve **political balance**. The **Chair and Vice Chair** of the Committee are appointed by each relevant committee at the commencement of its first meeting in each civic year. The committees collectively discharge the functions conferred by Section 21 Local Government Act 2000.

3.5.2 So far as relevant to their specific terms of reference (see Sections 3.6 to 3.8), the committees:

- (a) Set their own work programmes;
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives and develop new policy recommendations for Executive and full Council approval;
- (c) Report annually to full Council on their workings and where appropriate, propose amendments in their working methods.

3.5.3 In doing so, the committees may:

- (a) make recommendations to full Council and the Executive arising from its work as part of call in measures or policy development and service improvement;
- (b) appoint review / working groups to investigate specific time limited tasks and report back to it within an agreed time period;
- (c) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (d) recommend to the Council the appointment of up to 5 co-optees (without voting rights) onto their committee or sub-committees;
- (e) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (f) question Members of the Executive, committees and Chief Officers about their decisions, views on issues and proposals affecting the area or specific policy proposals and reviews;
- (g) ask witnesses to attend committee and informal meetings (and where appropriate require on provision of reasonable notice) to address them on any matter under consideration and may pay to any external advisers, assessors and witnesses reasonable expenses for doing so with the Team Leader (Democratic Services) authorised to approve the level of payment and make payments;
- (h) 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;
- (i) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committees and local people about their activities and performance; and
- (j) if it, or the Chair of the Committee, or five members of the Committee considers that a key decision has been taken which was not included in the forward plan; or the subject of the general exception procedure; or the subject of an agreement with the appropriate Overview and Scrutiny Committee Chair, or the Chair/Vice-Chair of the Council:
  - to resolve that the Executive to submit a report to the Council within such reasonable time as the committee specifies; or
  - for the Chair of the Committee or any five members to request the Head of Paid Service to arrange for a report to be submitted on the matter to the Committee.

### **3.6 Overview and Scrutiny Committee (1): Specific Terms of Reference**

**3.6.1 Membership:** All Councillors except Members of the Executive may be members of the committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved. The committee has 13 members (excluding co-opted members) who are elected councillors who are appointed at the Annual Meeting of Full Council.

**3.6.2 Areas of Work:** The committee is responsible for policy / strategy development and review and the scrutiny of decisions made in respect to the

Strategic Direction responsibilities of the Leader and the following portfolio areas of the Executive:

- Environmental Health
- Waste Management (including recycling)
- Climate Change Emergency
- Housing
- Communities
- IT

### **3.7 Overview and Scrutiny Committee (2): Specific Terms of Reference**

**3.7.1 Membership:** All Councillors except Members of the Executive may be members of the committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved. The committee has 13 members (excluding co-opted members) who are elected councillors who are appointed at the Annual Meeting of Full Council.

**3.7.2 Areas of Work:** The committee is responsible for policy / strategy development and review and the scrutiny of decisions made in respect to the following portfolios areas of the Executive:

- Business, Economy and Tourism
- Planning (Executive functions only)
- Corporate Resources
- Sport, Recreation and Culture

### **3.8 Audit Scrutiny Committee: Specific Terms of Reference**

**3.8.1 Membership:** All Councillors except Members of the Executive may be Members of the Audit Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved. The Committee has eight members who are elected councillors and who are appointed at the Annual Meeting of Full Council.

**3.8.2 Areas of Work:** Its role is to actively review and improve the Council's corporate governance arrangements. In this regard, the Audit Scrutiny Committee will be attended by Chief Finance Officer and the Audit Manager or their nominated deputies. Its responsibilities include:

(a) Financial Management of the Council:

- To review 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.
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
- To consider a report from the Chief Finance Officer on agreed recommendations which have not been implemented within a reasonable time-scale.

- To maintain an overview of the Council’s Constitution in respect of contract procedure rules or financial regulations.

(b) Internal Audit:

- To consider the Chief Finance Officer’s annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council’s corporate governance arrangements;
- To consider summaries of specific internal audit reports as requested;
- To consider reports dealing with the management and performance of the providers of internal audit services.

(c) External Audit:

- To consider the external auditor’s annual letter, relevant reports, and the report to those charged with governance;
- To comment on the scope and depth of external audit work and to ensure it gives value for money.

(d) Other corporate governance matters:

- To review any issue referred to it by the Chief Executive or Business Lead, Monitoring Officer or any Council committee;
- To monitor the effective development and operation or risk management and corporate governance in the Council;
- To monitor Council policies on ‘Raising Concerns at Work’ and the anti-fraud and anti-corruption strategy and the Council’s complaints process.
- To oversee the production of the authority’s Statement on Internal Control and to recommend its adoption;
- To consider the Council’s arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice;
- To consider the Council’s compliance with its own and other published standards and controls.

### **3.9 Planning Committee**

**3.9.1 Membership:** The committee has 17 members who are elected councillors who are appointed at the Annual Meeting of Full Council. The committee is politically balanced. Each member of the committee is required to complete in full an induction programme; undertake regular training; and attend development updates in relation to the planning function. Any member not undertaking these training activities will be unable to serve (or continue to serve) on the committee until such time that the full training requirement has been met. Up to three substitute members may be appointed by each political group (see paragraph 3.13 for requirements regarding such appointments).

**3.9.2 Areas of Work:** The committee deals with the Council’s local planning authority function in respect to the determination of development and other

applications requiring a formal determination by the Council and other planning matters set out in the Town and Country Planning Act 1990 (including subordinate and related legislation) other than those applications delegated to officers under delegated powers. This works includes the determination of:

- (a) applications for planning permission, consent under the building regulations and other building control matters, listed buildings consent, advertisement consent, hazardous substances consent;
- (b) consultations from the Dartmoor National Park Authority, other adjoining authorities and Devon County Council;
- (c) modification of planning permissions and non-material amendments;
- (d) certificates of lawful use and development;
- (e) tree preservation orders;
- (f) building preservations;
- (g) breaches of planning, listed building, conservation area, advertisement control including requisite legal action;
- (h) planning obligations;
- (i) prior approvals and notifications;
- (j) screening and scoping opinions for environmental impact assessments; and
- (k) high hedges complaints.

**3.9.3 Site Inspection Teams:** The committee may appoint such teams to view the sites the subject of applications to help inform debate at the committee by submitting a report (including verbal) on its findings. These reports are for guidance and the site inspections are informal with no public right of access. The procedure for site inspections is as follows:

- (a) Attendance:** The only people authorised to attend a site inspection are:
- Members of the Site Inspection Team
  - Ward Members
  - Up to two persons authorised to represent the Parish/Town Council for the application site
  - Planning Officer
  - County Environment Director’s representative and/or other statutory consultees
  - Other Teignbridge Members (as observer).

Applicants/Agents, objectors and members of the public are excluded.

- (b) Procedure:**
- The Planning Officer outlines the proposal and Members may ask any questions of the officer.
  - Other attendees may give their view and Members may ask any questions of them

### **3.10 Licensing & Regulatory Committee**

**3.10.1 Membership:** The committee has 11 members who are elected councillors who are appointed at the Annual Meeting of Full Council. Only non-Executive

Members are eligible. The committee is politically balanced. The Chair or the Vice-Chair of the Committee will, if in attendance at a sub-committee (comprising up to 3 members of the Committee) dealing with licensing applications and / or appeals, chair the sub-committee; otherwise the sub-committee will appoint a chair for the meeting. Up to three substitute members may be appointed by each political group (see paragraph 3.13 for requirements).

**3.10.2 Areas of Work:** Within its specific terms of reference below, the committee may appoint sub-committees to deal with its business and wherever possible these will be politically representative, the chair of such being appointed by the sub-committee.

3.10.3 The committee's responsibilities comprise:

- (a) All statutory licensing functions of the Council;
- (b) To hear and determine on behalf of the Council (via its sub-committee), any application or appeal within the committee's terms of reference; and
- (b) To consider and recommend to Council on all matters concerning licensing policy and procedure.

3.10.4 In undertaking its work:

- (a) The proceedings of the committee and any sub-committee shall be conducted with regards to its relevant statutory licensing functions in accordance with the applicable legislation; and
- (b) There is no automatic right for a Teignbridge Councillor to address sub-committee hearings. Councillors wishing to do so must follow the due process for making relevant representations set out in relevant legislation (e.g. Licensing Act 2003).

### **3.11 Standards Committee**

**3.11.1 Membership:** The committee has 6 members who are elected councillors who are appointed at the Annual Meeting of Full Council.

**3.11.2 Areas of Work:** In undertaking its responsibilities (below), the Committee may appoint sub-committees to deal with its business as follows:

- (a) To promote and maintain high standards of conduct by Councillors and co-opted members;
- (b) To advise the Council on the adoption or revision of the Members' Code of Conduct;
- (c) To advise or train councillors, co-opted members and parish / town councillors on matters relating to the Members' Code of Conduct;
- (d) To deal with the local filtering of complaints (including in respect to parish and town councillors) and dispensation requests (where these are not dealt with by the Monitoring Officer under delegated powers);
- (e) To conduct local hearings and determination of sanctions should a breach of the code of conduct be found; and in such cases:



- the sub-committee membership be limited to 3 members of the committee, selected to sit on the particular sub-committee according to their availability;
- when dealing with complaints about a parish / town councillor, the sub-committee should also include a non-voting parish / town council representative; and
- at least one independent person should be consulted by the sub-committee (or full committee as appropriate) prior to determination of any complaint or otherwise as required by law.

### **Section 3.11A Procedures Committee**

**3.11A.1 Membership:** The committee comprises the following elected councillors:

- (a) The Chair of Council (who will Chair the Committee);
- (b) All Group Leaders;
- (c) Two additional members from each Group (who are appointed at Annual Council) provided that the Group comprises 10% or more of the Council full membership; and any member may be substituted if a committee member is unable to attend.

**3.11A.2 Areas of Work:**

- (a) To review the operation of the Constitution, its Standing Orders, conventions and working practices;
- (b) To oversee the Councils programmes for member development/training; and
- (c) To make recommendations to the Council on its Scheme of Members' Allowances.

### **3.12 All Decision Making Bodies: Principles of Decision-Making**

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

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights – it is important that human rights should be considered at an early stage in the decision-making process;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) the record of decisions will include details of the options which were considered and the reasons for the decision as required by law;
- (g) in the case of decision making by bodies acting as tribunals or in quasi-judicial manner (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial.

### **3.13 Requirements for appointment of Substitute Members:**

A Substitute Member may only attend, speak or vote at a meeting in place of another Member of a relevant committee, who is not a substitute and who is unable to attend a meeting where the non-attending Member has advised the Democratic Services team (by 4.00 p.m. on the last working day prior to the meeting) by email at [comsec@teignbridge.gob.uk](mailto:comsec@teignbridge.gob.uk) (unless otherwise agreed by the Team Leader (Democratic Services)) that they will not be attending and nominating the name of the substitute from those appointed for the Committee.

Appointment names will be nominated by the Group Leaders at the start of the municipal year.

No substitutes may attend unless they have received the necessary training to the satisfaction of the Team Leader (Democratic Services).

Substitute Members will be listed on agenda papers and will receive all agenda papers to ensure transparency of process for the public and that they are aware of all pertinent issues when attending the meeting.

Substitute Members, when appointed for a meeting, shall take precedence over the unavailable Member, even if they become available during the course of the meeting, and their rights to attend and vote will remain to any subsequent meeting should it be adjourned.

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties excisable by the person they are substituting, i.e. the Chair of a Committee.

## 4. Procedural Rules

4.1 This section describes the procedure rules that apply to:

- (a) meetings of the full Council (when all members attend as voting members), the Executive and committee meetings and states any exceptions to the rules which apply to specified meetings (see paragraphs 4.2 – 4.17);
- (b) additional rules that apply to the Executive and / or committees (see paragraphs 4.18 – 4.19);
- (c) public access to information (see paragraph 4.20); and
- (d) miscellaneous matters including financial, contract and legal matters (see paragraphs 4.21 – 4.28).

4.2 The procedure rules apply to all formal meetings of full Council, Executive and committee unless otherwise specified in the Table below:

<u>Meeting</u>	<u>Exceptions</u>
Executive	No written motions No Member questions Non-Executive Members are required to notify the Leader in advance if they wish to speak at the Executive Requirement to meet at least 12 times per year Notes of key decisions are circulated to all Councillors May delegate decisions to committees, an Executive Member or an Officer and for avoidance of doubt is not prevented from discharging functions itself which it has delegated
Licensing & Regulatory Committee	No written motions Public speaking permitted in accordance with published operational arrangements for licensing hearings No public questions No Member questions
Scrutiny Committees	No written motions (other than ones referred to it by Council to consider and resolve) Requirement for Overview and Scrutiny Committees to meet at least 6 times per year (collectively) and for Audit Scrutiny to meet at least 4 times per year

Planning Committee	No written questions or motions Public speaking permitted in accordance with published operational arrangements agreed by the Head of Place and Commercial Services and Chair of the Committee No limit on number of questions from Members of the Committee as part of the consideration of the matter in committee No public questions
Standards Committee	No motions Public speaking permitted in accordance with published operational arrangements for standards hearings No public questions No Member questions
Procedures	Not Politically Balanced No Motions No public questions

### **4.3 Full Council**

#### **4.3.1 Annual Meeting of the Council**

Unless otherwise specified by law, 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; and 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 Chair of Council for the previous civic year is not present;
- (b) elect the Chair of Council;
- (c) elect the Vice-Chair of Council;
- (d) approve the minutes of the last Council meeting;
- (e) receive any announcements from the Chair and/or Managing Director;
- (f) elect the Leader (unless the appointment was made for a four year term following the Council election or the Leader post is vacant);
- (g) agree any changes to the Constitution (including an changes to committees)
- (h) appoint the membership of Committees;
- (i) consider any business set out in the notice convening the meeting.

#### **4.3.2 Ordinary Meetings**

At Ordinary meetings of the Full Council, the Council will:

- (a) elect a person to preside if the Chair and Vice-Chair are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interests from Members;
- (d) receive any announcements from the Chair, Leader, other Members of the Executive or the Managing Director;

- (e) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the business of the council;
- (f) receive and answer questions from Members which in the opinion of the Chair are relevant to the business of the Council;
- (g) deal with any business from the last Council meeting;
- (h) receive reports from Executive, committees and other bodies (including questions and answers on such reports) as appropriate;
- (i) consider motions;
- (j) consider any other business specified in the summons to the meeting.

#### **4.3.3 Extraordinary Meetings**

Those listed below may request the Managing Director to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution;
- (b) the Chair of the Council;
- (c) the Monitoring Officer or the Chief Finance Officer; or
- (d) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

At such extraordinary meetings the Council will:

- (a) elect a person to preside if the Chair or Vice-Chair of Council are not present;
- (b) receive declarations of interests from Members; and
- (c) receive the report(s) on the subject of the meeting.

#### **4.4 Quorum**

4.4.1 The quorum for meetings will be:

- (a) one-quarter of the whole number of Members of the Committee or Full Council as appropriate
- (b) two members for the Appointments and Remuneration Panel
- (c) four members for the Executive provided that where the Executive is required to divide into two committees, the quorum will be three
- (d) 100% of the membership for a sub-committee of the Standards Committee or Licensing & Regulatory Committee.

4.4.2 During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

#### **4.5 Notice of and Summons to Meetings**

The Democratic Services Team Leader will give notice to the public of the time and place of any meeting in accordance with the law. The time and place of meetings will be determined by the Democratic Services Team Leader (in consultation with the Chair of the relevant committee) and notified in the summons.

#### **4.6 Chairing of the Meeting**

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

#### **4.7 Questions**

##### **4.7.1 Questions by the Public**

- (a) Members of the public may ask questions of the Chair of Council, Executive Member (including the Leader) or a Committee Chair.
- (b) The Democratic Services Team Leader will refer these to the appropriate member for reply. A maximum period of 15 minutes will be allowed with a maximum period of three minutes per questioner.
- (c) Questions will be asked in the order notice they were received, except that the Chair of the relevant meeting may group together similar questions.
- (d) A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Team Leader (Democratic Services) at [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk) no later than three clear working days before the meeting *i.e. should the meeting be on a Thursday the deadline would be the Friday before at 5pm*. Each questioner must give their name and address.
- (e) At any one meeting no person may submit more than three questions and no more than three such questions may be asked on behalf of one organisation.
- (f) The Managing Director may reject a question if it:
  - relates to something that is or should be the subject of alternative recognised procedures (for example, staffing issues, complaint, licensing or planning matters);
  - is not about a matter for which the local authority has a responsibility or does not affect the District;
  - is defamatory, frivolous or offensive;
  - Is contrary to the Constitution
  - is substantially the same as a question which has been previously put in the past six months; or
  - requires the disclosure of confidential or exempt information.
- (g) The Chair will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, the Chair will put the question on their behalf.
- (h) Answers will normally be given in writing. An answer may take the form of a direct oral answer; where the desired information is in a publication of the Council or others published work, a reference to that publication; or a written answer.

- (i) In exceptional circumstances questions may be referred to another Committee at the discretion of the Chair.
- (j) A questioner who has put a question in person may also put one supplementary question without notice.
- (k) A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds applicable to the scope of questions in (f) above.
- (l) Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Members to whom it was to be put, will be dealt with by a written answer.

#### 4.7.2 Questions by Members without Notice

Members of the Council may ask the Leader or the Chair of a Committee any question without notice upon an item of the report of the Executive or a Committee when that item is being received or under consideration by the Council.

#### 4.7.3 Questions Requiring Notice

Other than under the provisions for questions without notice described above a Member may only ask a question of the Chair; Member of the Executive; or the Chair of any Committee or sub-committee, on any matter:

- (a) in relation to which the Council has powers or duties; or
- (b) which affects the District of Teignbridge

and which falls within the terms of reference of that committee.

A Member may only ask a question in accordance with 4.7.3 if either:

- (a) they have given written notice of the question no later than three clear working days before the meeting *i.e. should the meeting be on a Thursday the deadline would be the Friday before at 5pm* to the Democratic Services Team Leader (email [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk); or
- (b) the question relates to urgent matters, they have the consent of the Chair to whom the question is to be put and the content of the question is given to the Democratic Services Team by email [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk) on the day of the meeting.

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 conveniently be given orally, a written answer circulated later to the questioner.

A Member asking a question may ask one supplementary question, without notice, of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

The Managing Director may reject a question for one or more of the grounds set out in paragraph 4.7.1 (f) above.

#### **4.8 Rules of Debate**

##### **4.8.1 No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

##### **4.8.2 Right to require motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to them before it is discussed.

##### **4.8.3 Secunder's speech**

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

##### **4.8.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order with the exception of the mover of a motion who may speak for five minutes. No speech may exceed three minutes without the consent of the Chair.

##### **4.8.5 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:

- to speak once on an amendment moved by another Member;
- to move a further amendment if the motion has been amended since they last spoke;
- if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- in exercise of a right of reply;
- on a point of order; and
- by way of personal explanation.



#### **4.8.6 Amendments to motions**

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

- to refer the matter to an appropriate body or individual for consideration or reconsideration;
- to leave out words;
- to leave out words and insert or add others; or
- to insert or add words

as long as the effect is not to negate the motion.

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.

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

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.

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

#### **4.8.7 Alteration of motion**

A Member may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

A Member may alter a motion which they has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

Only alterations which could be made as an amendment may be made.

#### **4.8.8 Withdrawal of motion**

A Member may withdraw a motion which they have moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **4.8.9 Right of reply**

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.

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.

The mover of the amendment has no right of reply to the debate on their amendment.

#### 4.8.10 **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;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules;
- (h) to not hear further a Member named under 4.16.3 or to exclude them from the meeting under 4.16.4.

#### 4.8.11 **Closure motions**

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

- to proceed to the next business;
- that the question be now put;
- to adjourn a debate; or
- to adjourn a meeting.

If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, they will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

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

#### 4.8.12 Point of order

A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chair on the matter will be final.

#### 4.8.13 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 Chair on the admissibility of a personal explanation will be final.

### 4.9 **Motions on Notice (only applicable to Full Council)**

#### 4.9.1 Notice

Except for motions which can be moved without notice under 4.10 notice of every motion, must:

- (a) be delivered in writing or by electronic mail,
- (b) signed by at least five Members, and
- (c) be delivered to the Democratic Services Team not later than seven clear working days before the date of the meeting.

The councillor proposing the notice must be supported by four other councillors who must sign the notice, if written, or submit separate emails of support, within the prescribed timescales.

#### 4.9.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

#### 4.9.3 Scope

The relevant motion must fall within the following scope which will be determined by the Managing Director (in consultation with the Chair of Council):

- (a) Motions must be about matters which are related to the responsibilities of the Council or which directly affect the District.
- (b) Motions may not relate to the personal affairs or conduct of individual Members.
- (c) Motions must not include inappropriate or inflammatory language.

#### 4.9.4 **Process**

Subject to the following, the Chair of Council shall refer the Notices of Motion to the appropriate meeting, (i.e. the Executive for Executive business or for non-Executive items, a committee).

In such cases the mover of the motion can outline the proposal and then it stands adjourned to the appropriate meeting.

The motion may be debated if agreed by two-thirds of the Council Members present at the meeting.

Items which relate to the Council's responsibilities can be taken at the full Council meeting unless the Constitution requires consultation with a Committee or referral to an Officer as designated in the Constitution or by law.

#### 4.10 **Motions without Notice**

4.10.1 The following motions may be moved without notice:

- (a) to appoint a Chair of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) to suspend a particular Council Procedure Rule;
- (n) to exclude the public and press in accordance with the law;
- (o) to not hear further a Member named under 4.16.3 or to exclude them from the meeting under 4.16.4;
- (p) to give the consent of the Council where its consent is required by this Constitution.

#### **4.11 Motion to rescind a previous decision**

Unless there has been a material change of circumstances, a motion or amendment to rescind a decision made at a meeting within the past six months cannot be moved unless the notice of motion is signed by at least one-third of the Members of the Council.

#### **4.12 Motion similar to one previously rejected**

Unless there has been a material change of circumstances, a motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one-third of the Members of the Council.

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

#### **4.13 Voting**

##### **4.13.1 Majority**

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

##### **4.13.2 Chair's casting vote**

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

##### **4.13.3 Show of hands**

Unless a ballot or recorded vote is demanded under the ballot rules below, the Chair will take the vote by show of hands or by means of the electronic voting system, or if there is no dissent, by the affirmation of the meeting.

##### **4.13.4 Ballots**

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

##### **4.13.5 Recorded vote**

If legislation requires or at least 5 Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

A demand for a recorded vote will override a demand for a ballot.

#### **4.13.6 Right to require individual vote to be recorded**

Where any Member requests it immediately after the 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.

#### **4.13.7 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.

#### **4.14 Minutes**

4.14.1 Unless legislation provides otherwise, the Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### **4.15 Exclusion of Public and Media for Interruption of Proceedings**

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

#### **4.16 Members' Conduct**

4.16.1 **Standing to speak** (applicable to Full Council only)

Other than in the case of Members who are attending remotely, when a Member speaks at Full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chair of Council will ask one to speak and the others must sit. 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.

4.16.2 **Chair standing or demand for silence**

When the Chair demands or stands, any Members speaking at the time must be silent and where relevant, sit down. The meeting must be silent.

4.16.3 **Members not to be heard further**

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may

move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

#### **4.16.4 Member to leave the meeting**

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

#### **4.16.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

#### **4.17 Agenda Items**

Agenda items must be approved by the Chair and Managing Director provided that a Member may, upon giving ten working days' notice to the Team Leader (Democratic Services) and the Chair of a committee / Executive have an item placed on the agenda of the Executive or a committee if the subject is relevant to the work and scope of that forum. Items placed by individual Councillors will be marked as such and they will be allowed to speak to them subject to other relevant notice requirements.

#### **4.18 Invited Guests and Non Committee Members attending Committees and the Executive**

4.18.1 Committees and the Executive may invite guests to attend their meetings and non-Committee Members may attend including Part 2 items (subject to other relevant rules including the Code of Conduct which serve to restrict access in appropriate cases).

4.18.2 Invited guests are likely to be expert witnesses or interested parties who the Committee or Executive considers will be able to contribute to the work of the committee. The Committee / Executive will determine the length of the appointment which may be for one meeting or longer but it should only be for as long as the person is likely to make a contribution to the business of the committee. The person will not be a co-opted Member of the Committee / Executive and will not have voting rights. The person will have the ability to speak and participate in the debate at the discretion of the Chair. Members will at all time treat invited guests with respect and will acknowledge their voluntary contribution in asking questions appropriately.

#### **4.19 Procedural Rules Specific to the Executive**

##### **4.19.1 Reports to Executive:**

All reports to the Executive from any Member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of

the nature and extent of consultation with stakeholders and relevant scrutiny committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration

#### 4.19.2 Key Decisions:

**(a) Notice of Key Decision:** Subject to the provisions of this Rule a key decision may not be taken unless a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question; at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and where the decision is to be taken by the Executive legal notice of the meeting has been given.

The Notice of Key Decision will state that a key decision is to be taken by the Executive (including a committee of the Executive, individual members of the Executive officers, area committees or under joint arrangements in the course of the discharge of an executive function) and will describe the matter in respect of which the decision is to be made; where the decision maker is an individual, their name and title, if any and where the decision maker is a body, its name and a list of its membership; the date on which, or the period within which, the decision is to be made; a list of the documents submitted to the decision maker for consideration in relation to the matter; the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available; that other documents relevant to those matters may be submitted to the decision maker; and the procedure for requesting details of those documents (if any) as they become available.

The Notice of Key Decision must be made available for inspection by the public.

**(b) The Forward Plan:** The Council is not required by law to publish a Forward Plan. However, notices of Key Decisions and notice of Private Meetings of the Executive will set out details of specific key decisions and key decisions anticipated over a four month period (including decisions to be made by Executive, individual Executive members or delegated officers, which are not key decisions). In this constitution, such notices are together referred to as the "Forward Plan". The Forward Plan does not have to include exempt information and should not include confidential information.

**(c) General Exception:** If a matter which is likely to be a key decision has not been included in the forward plan, then subject to paragraph (d) below (Special Urgency), the decision may still be taken if:

- i. the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;



- ii. the Monitoring Officer has informed the Chair of the relevant scrutiny committee, or if there is no such person, each Member of that committee in writing, by notice, of the matter to which the decision is to be made;
- iii. the proper officer has made copies of that notice available to the public at the offices of the Council; and
- iv. at least five clear days have elapsed since the proper officer complied with (a) and (b).

As soon as reasonably practicable after compliance with the General Exception requirements, the reasons why compliance with paragraph 4.19.2 (b) is impractical will be published.

- (d) Special Urgency:** If by virtue of the date by which a key decision must be taken paragraph (c) (General Exception) cannot be followed, then the key decision can only be taken if the decision maker obtains the agreement of the Chair of the relevant scrutiny committee that the taking of the decision cannot be reasonably deferred. If the relevant Chair is unable to act or unavailable, the agreement of the Chair of Council, or in their absence the Vice Chair of Council will suffice.

As soon as reasonably practicable after compliance with such requirements the reasons why the meeting is urgent and cannot reasonably be deferred will be published.

- (e) Report to Council:** When the relevant scrutiny committee resolves that a key decision has been taken which was not the subject of a Notice of Key Decision; or the subject of the general exception procedure; or the subject of an agreement with the Chair of the relevant scrutiny committee of Council as appropriate as provided for above, it may require the Executive to submit a report to the Council within such reasonable time as the relevant scrutiny committee specifies.

The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Executive believing that the decision was a key decision. The power to require a report rests with the relevant scrutiny committee but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the committee when so requested by the Chair of the relevant scrutiny committee or any 5 members of the committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant scrutiny committee.

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the following Council meeting.

- (f) **Quarterly reports on Special Urgency Decisions:** In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in paragraph (d) (Special Urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.
- (g) **Record of Decisions:** After any meeting of the Executive the Team Leader (Democratic Services) or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include the decision including the date it was made; the reason for the decision; details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made; any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and in respect of any declared conflict of interest, a note of dispensation duly granted.

#### 14.9.3 Executive Decisions by Officers:

Where an officer receives a report which they intend to take into account in making any key decision in conjunction with a Member of the Executive then they will not make the decision until at least 5 clear working days after receipt of that report.

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the relevant scrutiny committee as soon as reasonably practicable and make it publicly available at the same time.

As soon as reasonably practicable after an Executive decision has been taken by an officer, they will prepare, or instruct the proper officer to prepare, a record of the decision, including the date it was made a statement of the reasons for it and any alternative options considered and rejected, a record of any conflict of interest declared by any Executive member which relates to the decision, and a note of any dispensation granted by the Head of Paid Service. The provisions of for inspection of documents after meetings will also apply to the making of decisions by an officer in consultation with individual Members of the Executive.

#### 14.9.4 Access to Executive Documents by Members:

Scrutiny committees will be entitled to copies of any document which is not in draft form, in the possession or control of the Executive.

All Members will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted at a private meeting unless it

contains exempt information; or it contains the advice of a political advisor; or is in draft form.

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which is part of a Key Decision.

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

4.19.5 **Call in of Executive Decisions:** see Section 8(b) of the Constitution which sets out the procedure for call on by the Scrutiny Committees of Executive Decisions.

**4.20 Access by the Public to Council and Committee Meetings (including the Executive)**

4.20.1 These rules apply to all formal meetings of the Council and its committees. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law. Members of the public may attend all meetings of the Council and committees subject only to the exceptions in these rules.

4.20.2 The Council will give at least 5 clear days' notice of any meeting of the Council and its committees by posting details as required by law and on the Council's website.

4.20.3 The Council will make copies of the agendas and reports open to the public available for inspection at least 5 clear days before the meeting. If an item is added to the agenda later, the revised agenda and any report will be available for public inspection as soon as practicable. All agendas, reports, decision notices and minutes which are open to public inspection will be made available on the Council's web site ([www.teignbridge.gov.uk](http://www.teignbridge.gov.uk)).

4.20.4 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 or confidential information would be disclosed; or the Chair of the meeting following a warning to the said person requires the person to leave the meeting room, for which the Chair may in his absolute discretion adjourn the meeting to facilitate such departure.

4.20.5 The relevant access to information and meeting rules are governed by law. To be exempt from public access, the relevant information must fall within the following categories (subject to any condition) AND it must be considered by the relevant meeting that the information should be excluded in the public interest. Information is not exempt if it relates to proposed development for which the Council as local planning authority can grant itself planning permission under Regulation 3 Town and Country Planning Regulations 1992.

Category	Qualification
1. Information relating to any individual.	Information is not exempt information unless it relates to any individual.
2. Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it would 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).	Information is not exempt information unless it relates to the financial or business affairs of any person, including the body 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.	Information within this paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter. “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974 i.e. matters which may be the subject of a trade dispute.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is not exempt information unless, in view of the Solicitor to the Council, legal 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.	Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information is not exempt information unless it relates to action taken or to be taken in connection with the prevention, investigation or prosecution of crime

4.20.6 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his opinion relates to items during which, in accordance with 4.20, the meeting is likely not to be open to the public. Such reports will be marked not for publication and specify the category of information likely to be disclosed.

#### **4.21 State of the District of Teignbridge Debate at a Council Meeting**

The Leader and Deputy Leader may call a State of the District of Teignbridge debate annually as a separate event from the Council Meeting. The Leader and Deputy Leader will decide the format and content of the event which will be a separate event from the Council meeting. The debate will be chaired by the Chair of Council. The results of the debate will be reported to the Council meeting.

#### **4.22 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Section 7 of the Constitution.

#### **4.23 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Section 7 of this Constitution.

#### **4.24 Legal Proceedings**

The Solicitor to the Council and those persons authorised by them are 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 Solicitor to the Council considers that such action is necessary to protect the Council's interests.

#### **4.25 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 Solicitor to the Council or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract entered into on behalf of the Council in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made in accordance with the Financial Regulations set out in Section 7.

#### **4.26 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 Legal Services. The Common Seal will be affixed to those

documents which in the opinion of the Head of Legal Services should be sealed.

The affixing of the Common Seal will be attested by the Head of Legal Services or such other person authorised by them in writing

### **Signing of documents**

The Monitoring Officer and/or Head of Legal Services can sign any document necessary to carry out the Council's decisions or protect its interests including certificates given under the Local Government (Contracts) Act 1997.

The Managing Director, Monitoring Officer and members of the Senior Leadership Team (Section 151 Officer & Chief Finance Officer, Head of Place & Commercial Services and Head of Community Services and Improvement may sign documents on behalf of the Council or delegate in writing such authority to authorise officers whom they manage and in accordance with delegated powers stated under the Council Constitution to sign documents on behalf of the Council if:

- the document is about a function which they or an officer who reports to them has budgetary or management responsibility for and
- the constitution or the law does not require the document to be signed by someone else and
- they have had regard to any advice from the Chief Finance Officer and/or Monitoring Officer

### **Execution of the deeds**

The common seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. It will be attested by the Head of Legal Services, or an officer nominated by them in writing. 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 Legal Services should be sealed. The Council will keep a book recording when the common seal is used. The book will be signed by the officer who attests the seal.

The deed will be validly executed if:

1. the Common Seal has been affixed; and
2. the deed has been signed by the Head of Legal Services or in their absence any member of the Senior Leadership Team; and
3. the signature has been witnessed in the presence of the Council's officer; and
4. reference is made to the resolution [including its date] authorising such execution.

#### **4.27 Resignation of Councillor**

Subject to compliance with political allocation of seats and prior attendance on relevant training, if a councillor stops being a member of the Council or resigns from a committee (such notification being required to be provided in advance and in writing or by email from the relevant member to his Group Leader or the Managing Director), the Leader of the relevant Political Group (or, in their absence, the Deputy Leader), may appoint a replacement committee member to fill the vacancy. Any such appointment or changes to committee membership will be reported to the next available Council meeting.

#### **4.28 Interpretation, Suspension and Amendment of Council Procedure Rules**

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

4.28.2 All of these Council Rules of Procedure except the right to require individual vote to be recorded or where such would be contrary to the law, may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting. Any motion to add to, vary or revoke the Council Rules of Procedure will, when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Council.

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## **5. Area Committees and Joint Arrangements**

5.1 This section describes the powers of the Council to delegate its decision making to other member bodies. The options which the Council has identified include Area Committees / Forums and Joint Committees. Decisions may also be delegated to officers, the arrangements for which are set out in Section 6 of this Constitution.

### **5.2 Area Committees / Forums**

5.2.1 The Council may appoint area committees or area forums with specific decision making powers applicable to a defined area within the District if it is satisfied that to do so will improve service delivery in the context of Best Value and secure more efficient, transparent and accountable decision-making.

5.2.2 The Council will consult with relevant Parish and Town Councils and the Chairs of relevant Parish Meetings when considering whether and how to establish area committees.

### **5.3 Joint Arrangements**

5.3.1 The Council may establish joint arrangements with one or more local authorities for the latter to exercise some / all of its non-Executive functions or to advise the Council. The Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions.

5.3.2 Such arrangements may involve the appointment of a joint committee with these other local authorities.

5.3.3 The Executive may only appoint Executive Members to a joint committee if:

- (a) the joint committee has functions for only part of the area of the authority;
- (b) that area is smaller than two-fifths of the authority by area or population; and
- (c) the member councillor(s) are those whose ward is wholly or partly contained within the area.

5.3.4 Those appointments need not reflect the political composition of the local authority as a whole.

### **5.4 Delegation to / from Other Local Authorities**

5.4.1 The full Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority. The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.

5.4.2 The decision whether or not to accept a delegation from another local authority shall be reserved to the Council meeting.

### **5.5 Contracting Out Functions**

Provided there is no delegation of the Council's discretionary decision-making, the Council (for non-Executive functions); and the Executive (for Executive functions), may contract out to another body functions which may be exercised by an officer and which are subject to an order pursuant to Section 70 Deregulation and Contracting Out Act 1994 (as amended from time to time), or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles.

## 6. Officers and Scheme of Delegations

6.1 This section describes the requirements for Officers and the decision making powers approved by Council. The use of the word “Officers” means all employees and staff engaged by the Council to carry out its functions. Appointment of staff cannot be the responsibility of the Executive.

### 6.2 Management Structure

6.2.1 The Full Council may engage such Officers as it considers necessary to carry out its functions. The Full Council will engage persons for the following posts, except as otherwise delegated, who will be designated Chief Officers and their deputies who will be designated Deputy Chief Officers.

Post	Functions and Areas of Responsibility
Managing Director	<p>Overall corporate management and operational responsibility</p> <p>Returning Officer and Electoral Services Officer</p> <p>Direct service responsibility for Human Resources &amp; Organisational Development</p> <p>Other duties as required by statute or the Council</p>
Heads of Service (x4)	<p>Such duties as the Head of Paid Service shall determine comprising:</p> <ul style="list-style-type: none"> <li>• Corporate Services (including Democratic Services, Finance &amp; Payroll, Internal Audit, Legal, Procurement); or</li> <li>• Operations (including Active Leisure, Cemeteries, Environmental Protection, Food Health and Safety, Leisure Centres, Licensing, Open Spaces &amp; Countryside Management, Resorts, Street Cleansing, Waste &amp; Recycling); or</li> <li>• Service Delivery and Improvement (including Business Improvement &amp; Development, Communications, Community Safety, Customer Services, Housing, Revenue &amp; Benefits); or</li> </ul>

	<ul style="list-style-type: none"> <li>• Place and Commercial Services (including Building Control, Development Management, Drainage &amp; Coastal, Economy &amp; Assets, Estates/Property Management, Spatial Planning);</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• Other duties as required by statute or the Council.</li> </ul>
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6.2.2 The appointment of staff below Deputy Chief Officer level must be the responsibility of the Head of Paid Service or his nominee.

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

### **6.3 Head of Paid Service, Monitoring Officer and Chief Finance Officer**

6.3.1 The Council designates the following posts as shown:

Post	Designation (including role and restrictions)
Managing Director	<p>Head of Paid Service (cannot be the Monitoring Officer but may hold the position of Chief Finance Officer if a qualified accountant)</p> <ul style="list-style-type: none"> <li>• To report to the full Council (via the Appointments and Remuneration Panel) 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.</li> </ul>

Head of Corporate Services	<p>Chief Finance Officer and Deputy Managing Director (cannot be the Monitoring Officer)</p> <ul style="list-style-type: none"> <li>• After consulting with the Head of Paid Service and the Monitoring Officer, to report to full Council or to the Executive and the Council's external auditor if they consider 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</li> <li>• To administer the financial affairs of the Council</li> <li>• To contribute to the corporate management of the Council, in particular through the provision of professional financial advice</li> <li>• To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework</li> <li>• To provide financial information to the media, members of the public and the community.</li> </ul>
Solicitor to the Council	<p>Monitoring Officer (cannot be the Chief Finance Officer or the Head of Paid Service).</p> <ul style="list-style-type: none"> <li>• To maintain an up-to-date version of the Constitution</li> <li>• After consulting the Head of Paid Service and Chief Finance Officer, to report to full Council or to the Executive if they consider 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.</li> <li>• To contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee</li> <li>• To conduct investigations into matters referred by the Standards Committee and make reports or recommendations in respect of them to the Standards Committee</li> <li>• To ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible</li> <li>• To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework</li> <li>• To advise whether decisions of the Executive are in accordance with the budget and policy framework.</li> </ul>

6.3.2 The Council is required by law to provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in the Monitoring Officer's and the Chief Finance Officer's opinion sufficient to allow their duties to be performed.

#### **6.4 Conduct and Employment**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Section 10 of this Constitution. The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Section 9 of this Constitution and the Appointments and Remuneration Committee.

#### **6.5 Scheme of Officer Delegations**

##### **General Principles of Officer Delegations**

6.5.1 The following general principles shall apply in respect of all Officer delegated powers.

6.5.2 All delegated decisions are to be made in accordance with or in a manner which would not conflict with:

- (a) the Constitution;
- (b) the Council's approved budget and policies; and
- (c) the law.

6.5.3 Where any legislation referred to in a delegation is amended or repealed the Schedule will be deemed to have been changed to incorporate the appropriate new or amended legislation.

6.5.4 Functions delegated are by reference to job titles or posts as at the date of adoption of this Scheme. In the event that such titles or posts are deleted or otherwise changed subsequently, the delegations will be transferred to those Council post holders whose duties include or most closely correspond to the duties of the post originally referred to.

6.5.5 Any function delegated to a specified officer may also be exercised:

- (a) by any Officer who has been so authorised in writing by the officer to whom the function is delegated; or
- (b) their relevant Strategic Leadership Team ("**SLT**") officer.

6.5.6 The powers delegated to SLT officers may be exercised by any other SLT Officer in his absence.

6.5.7 Functions which have been delegated to:

- (a) a committee may be delegated to an Officer or sub-committee

- (b) a sub-committee may be delegated to an Officer
- (c) the Executive may be delegated to an Executive Member, an Officer or committee of the Executive.

6.5.8 Each SLT officer should maintain a separate record of Officer on going sub-delegations pertaining to their service areas and provide copies to the Monitoring Officer for record keeping.

6.5.9 In cases where individual Officers are appointed as Proper Officers, the appointee may not sub-delegate that appointment.

### **Cross Service Delegations**

6.5.10 Corporate Management Team officers may make decisions on the **management and administration of the services** for which they are responsible subject to such decisions being within approved budget and policy and other relevant provisions in the Constitution.

6.5.11 SLT officers are authorised to:

- (a) **appoint staff;**
- (b) **submit applications for planning** consent under the Town and Country Planning General Regulations 1992;
- (c) **submit applications for planning consent;**
- (d) grant permission for the **suspension of normal closing hours** in respect of any towns in the District over the Christmas period;
- (e) determine any matter of **urgency** falling within the function of the Council or the Executive which in the interests of the Council cannot await the next relevant meeting subject to (when possible) consultation with:
  - i) The Chair and Vice Chair in the case of Council matters; and
  - ii) The Leader and the Deputy Leader in the case of Executive matters.

6.5.12 The Council's **Financial Rules** which also form part of the Constitution also contain a number of powers delegated to specified officers.

6.5.13 **Legal proceedings** by the Council may be initiated and conducted by the Council's Solicitor(s) or persons authorised by the Solicitor to the Council.

6.5.14 **Cautions for breaches of criminal law** may, after consultation with the most relevant Executive Member, be undertaken by the relevant member of SLT.

6.5.15 The Managing Director and the Solicitor to the Council or any officer appointed by them shall be designated "**the Proper Officer**" for the **purposes of all statutory notices** and other Officers to whom a particular function is delegated shall also be designated as the Proper Officer for the purposes of relevant statutory notices. For the avoidance of doubt, such delegations shall include power to issue, sign and serve such notices.

- 6.5.16 CMT officers shall be authorised so far as their area of responsibility applies and where legislation permits to:
- (a) Grant **power of entry** to specified officers
  - (b) Obtain **particulars of persons** interested in land pursuant to Section 16 Local Government Miscellaneous Provisions) Act 1976
  - (c) Obtain information pursuant to Town and Country Planning Act 1990 Section 330 regarding **interests in land**.

**Service Area Delegations**

- 6.5.17 The following schedules of the Constitution set out the delegations to the specified post holders with reference to service areas within which they sit the Council’s organisational structure. These delegations are additional to the cross service delegations above (see 6.5.10 to 6.5.16).

Schedule 1	Managing Director / Head of Paid / Returning Officer Service Operational Responsibilities.
Schedule 2	Corporate Services
Schedule 3	Operations
Schedule 4	Community Services & Improvement
Schedule 5	Place and Commercial Services

- 6.5.18 Schedule 6 sets out the Planning Call-in Rules which apply to delegation reference 5E1 (see Schedule 5).



## Section 6 Schedules Officers and Scheme of Delegations: Service Area Delegations

The following schedules set out the delegations to specified post holders (as per the Council's organisational structure). The delegations are in addition to the cross service delegations in Constitution Section 6.5.10 - 6.5.16 and also subject to the general rules for delegations set out in the remainder of Section 6.5 as well as the law and this Constitution.

- Schedule 1            Managing Director including delegations:**
- 1A For elections & electoral matters; parish matters; ex gratia payments; legal proceedings; and staffing disciplinary appeals
  - 1B To Head of Human Resources & Organisation Development [*currently none*]
- Schedule 2            Corporate Services including delegations:**
- 2A Head of Corporate Services
  - 2B Solicitor to the Council / Monitoring Officer
  - 2C Democratic Services Team Leader
  - 2D Audit Manager / Data Protection Officer [*currently none*]
- Schedule 3            Operations including delegations to:**
- 3A Head of Operations
  - 3B Waste Manager [*currently none*]
  - 3C Leisure Manager [*currently none*]
  - 3D Environmental Protection Manager & Food, Health and Safety Manager
  - 3E Licensing Manager
  - 3F Senior Licensing Officer
- Schedule 4            Community Services & Improvement including delegations to:**
- 4A Head of Community Services & Improvement
  - 4B Revenue, Benefits and Fraud Manager [*currently none*]
  - 4C Communications and Marketing Managers [*currently none*]
- Schedule 5            Place and Commercial Services including delegations to:**
- 5A Head of Place & Community Services [*currently none*]
  - 5B Assets Manager
  - 5C Principal Growth Point Officer

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5D Business Manager (Devon Building Control Partnership)

5E Business Manager (Development Management)

**Schedule 6            Requests for planning application determination by the  
Planning Committee**

## **Schedule 1: Managing Director's Service Area**

<b>Delegation Ref</b>	<b>Officer to whom delegation granted</b>
1A	<u>Managing Director</u>
Elections & electoral matters	
1A1	Subject where possible to prior consultation with the Chair and Vice-Chair of Council: (a) to appoint an electoral registration officer (ERO); (b) to assign officers in relation to requisitions of the ERO; (c) to appoint returning officer for local government elections (Section 35); (d) to divide a constituency into polling districts (Section 18); pursuant to Representation of the People Act 1983.
1A2	Subject where possible to prior consultation with the Chair and Vice-Chair of Council: (a) to divide electoral divisions into polling districts at local government elections (Section 31); (b) to hold elections (Section 39(4)); (c) to pay expenses properly incurred by EROs (Section 54); (d) to fill vacancies in the event of insufficient nominations (Section 21); (e) to declare vacancy in office (Section 86); pursuant to Representation of the People Act 1983.
1A3	To: (a) give notice of a casual vacancy (Section 87) (b) make temporary appointments to parish councils (Section 91) pursuant to Local Government Act 1972
1A4	To determine fees and conditions for supply of copies of, or extracts from, elections documents (Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and Rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215)).
1A6	Subject where possible to prior consultation with the Chair and Vice-Chair of Council, to provide assistance at European Parliamentary elections
1A7	To determine appeals on personnel issues where the Council's internal procedure gives an employee a right of appeal
Parish matters	
1A8	Subject where possible to prior consultation with the Chair and Vice-

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	Chair of Council, to: (a) dissolve small parish councils, pursuant to Local Government Act 1972 (Section 10) (b) make orders for grouping parishes, dissolving groups and separating parishes from groups (Section 11) pursuant to Local Government Act 1972
Ex-gratia payments	
1A9	To make payments or provide other benefits in cases of maladministration etc. (Section 92 Local Government Act 2000).
Legal Proceedings	
1A10	To take legal proceedings to require the removal of unauthorised campers having taken into account the Council's policy on unauthorised camping (Sections 77 – 79 of the Criminal Justice and Public Order Act 1994 and Section 9 of the Commons Registration Act 1965)
1A11	To authorise officers to provide and sign statements of truth. Civil Procedure Rules 1998.
Staff Appeals	
1A12	To determine appeals on personnel issues where the Council's internal procedure gives an employee a right of appeal
1B	<u>Head of Human Resources &amp; Organisational Development</u>
	<i>Currently none</i>

## **Schedule 2: Corporate Services**

<b>Delegation Reference</b>	<b>Officer to whom delegation granted</b>
2A	<u>Head of Corporate Services</u>
Finance	
2A1	To undertake the management of the Council's financial affairs including all matters concerned with the recovery of community charge, council tax, national non-domestic rates, sundry debts and the power to authorise officers to represent the Council in Court proceedings for recovery.
2A2	To write off debts subject to the following limits: (a) a maximum of £1000; (b) Between £1000 and £5000 after consultation with the relevant Portfolio Holder.
2A3	To grant discretionary relief subject to the following limits: (a) Upto £1000; (b) £1000 or more after consultation with the relevant Portfolio Holder.
2B	<u>Solicitor to the Council and Monitoring Officer</u>
Standards	
2B1	To consult with the Independent Person appointed to deal with Standards Matters by South Hams District Council or West Devon Borough Council on complaints received relating to the Members' Code of Conduct if Teignbridge District Council's Independent Person is not available.
2B2	To determine written applications from Members for dispensations in consultation with the Chair of Committee and / or the Independent Person where it is not reasonably possible to convene a meeting of the Standards Committee in time to consider the application.
2B3	To resolve standards complaints informally or refer for investigation in consultation with the Council's Independent Person.
Constitution	
2B3	To make such minor amendments <i>i.e. change which no Group Leader feels is significant in that it fundamentally changes existing provisions</i> to the Constitution as they considers appropriate (including changes to reflect current legislation, organisational arrangements, to promote clarity and to enable the Constitution to be kept up to date)

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Former council house locality restrictions	
2B4	To determine requests to waive the locality clause imposed on former Council houses subject to prior consultation with the Leader, Deputy Leader and (if different) the relevant Executive Member (Section 157 of the Housing Act 1985).
Legal proceedings	
2B5	To take legal proceedings to require the removal of unauthorised campers having taken into account the Council's policy on unauthorised camping (Sections 77 – 79 of the Criminal Justice and Public Order Act 1994 and Section 9 of the Commons Registration Act 1965)
2B5	To authorise officers to provide and sign statements of truth
2B6	To issue any formal notices required to protect the Council's property interests and to institute and defend any criminal and civil legal proceedings on behalf of the Council and to settle, vary and waive such proceedings.
2B7	To decide on the choice of advocate in any case in which the Council is to be represented in court
2B8	To authorise service of requisitions for information (Local Government (Miscellaneous Provisions) Act 1976)
2B8	To (a) remove unauthorised placards and posters and / or (b) prosecute (Sections 224 - 225 Town and Country Planning Act 1990)
2B9	To instigate, 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 they consider that such action is necessary to protect the Council's interests.
2C	<u>Democratic Services Team Leader</u>
2C1	Subject to prior consultation with the Group Leaders, the appointment of any individual to: (a) to any office other than an office in which they are employed by the authority; (b) to any body other than (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.
2C2	Minor changes to the Constitution (i.e. subject to such change not being required by law) which Group Leaders do not consider fundamentally change the existing provisions of the Constitution to the detriment of a member of the public or a councillor.

2D	<u>Audit Manager and Data Protection Officer</u>
	<i>Currently none</i>

## **Schedule 3: Operations**

<b>Delegation Reference</b>	<b>Officer to whom delegation granted</b>
3A	<u>Head of Operations</u>
3A1	To grant exclusive rights of burial and to determine matters concerning management of cemeteries
3A2	To serve notices and take action in connection with dangerous trees (Section 23 Local Government (Miscellaneous Provisions) Act 1976)
3B	<u>Waste Manager</u>
	<i>Currently none</i>
3C	<u>Leisure Manager</u>
	<i>Currently none</i>
3D	<u>Environmental Protection Manager &amp; Food and Safety Manager</u>
Environment protection / public health	
3D1	To take action pursuant to Environmental Protection Act 1990, Parts II, IIA, II, IV and VIII
3D2	To take action pursuant to Pollution Prevention and Control Act 1991 and Clean Air Act 1993
3D3	To take action pursuant to Control of Pollution Act 1974 including: (a) Section 60 - requirement on the way works are to be carried out; (b) Section 61 - noise levels on construction sites.
3D4	To enforce the provisions of the following Acts and (including the issue of fixed penalty notices where provided for by the relevant statute) (a) Clean Neighbourhoods and Environment Act 2005 – Part 2 (Vehicles); Part 6 (Dogs); Part 7 (Noise). (b) Anti-Social Behaviour Crime and Policing Act 2014 - Part 4 (Dispersal of Groups etc); Part 6 (the Environment) (c) Refuse Disposal (Amenity) Act 1978 (Abandoned vehicles and refuse) (d) Dogs (Fouling of Land) Act 1996 (e) Noise Act 1996

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	<p>(f) Control of Pollution (Amendment) Act 1989 (Failure to furnish documentation – Waste Carriers Licence)</p> <p>(g) Wildlife and Countryside Act 1981</p>
3D5	<p>To take action (including but not limited to the issue and service of notices and taking legal proceedings) under the Public Health Act 1936:</p> <p>(a) Section 45 - repair to closets.</p> <p>(b) Section 48 - examine and test public drains believed to be defective.</p> <p>(c) Section 50 - works in connection with overflowing and leaking cesspools.</p> <p>(d) Section 80 - removal of manure or refuse from public stables and other buildings.</p> <p>(e) Section 83 – requiring owner or occupier to cleanse premises which are filthy or verminous.</p>
3D6	<p>To take action pursuant to Local Government (Miscellaneous Provisions) Act 1982 regarding:</p> <p>(a) Section 27 the repair of drains and to remedy stopped up drains</p> <p>(b) Section 29 the prevention of entry to or damage to health from permanent / temporarily unoccupied buildings</p>
3D7	<p>To take action pursuant to Building Act 1984 regarding:</p> <p>(a) Section 59 – the provision of satisfactory drainage to premises</p> <p>(b) Section 60 – requirement for sufficient sanitary conveniences to be provided in factories and workshops</p> <p>(c) Section 64 – the provision of adequate closets to buildings</p> <p>(d) Section 66 – the provision of water closets to replace earth closets etc when a water supply is available.</p> <p>(e) Section 81 - requiring owners of property to be demolished to shore up or make weather-tight adjoining property.</p>
3D8	<p>To take action pursuant to Local Government (Miscellaneous Provisions) Act 1976:</p> <p>(a) Section 33 regarding the restoration or continuation of supply of water, gas or electricity; and</p> <p>(b) Section 35 regarding the removal of obstructions from private sewers</p>
3D9	<p>To take action pursuant to Local Government (Miscellaneous Provisions) Act 1982 regarding:</p> <p>(a) Section 27 the repair of drains and to remedy stopped up drains</p> <p>(b) Section 29 the prevention of entry to or damage to health from permanent / temporarily unoccupied buildings</p>
3D10	<p>To take action regarding water supplies:</p> <p>(a) Section 80 - 81, Water Industry Act 1991</p> <p>(b) Section 57 Water Act 1991</p> <p>(c) Private Water Supplies Regulations 2009</p> <p>regarding unwholesome private water supplies and to obtain</p>

	information
3D11	To take action pursuant to Prevention of Damage by Pests Act 1949 (Section 4, 5 & 6 regarding the destruction of rats and mice)
3D12	To arrange burials (Section 50 of the National Assistance Act 1948).
Health & Safety	
3D13	To appoint officers: (a) To undertake functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer (b) To Act as inspectors pursuant to Part I of the Health and Safety at Work etc. Act 1974 Section 19(2)
Food Safety	
3D14	To undertake all food safety enforcement functions pursuant to Food Safety Act 1990
3D15	To take actions pursuant to the Food Information Regulations 2014
3D16	To register and take associated action regarding approved food business premises (including for keep up to date register) as required by European regulations applicable to the UK.
3D17	To register food business premises (Regulation 9 Food Premises (Registration) Regulations 1991).
Licensing of caravan sites	
3D18	To deal with all matters relating to licences authorising the use of land as a caravan site ("site licences") under the Caravan Sites and Control of Development Act 1960 pursuant to: (a) Section 3(3) the issue of site licence; and (b) Sections 5 and 8 conditions.
3D19	To license the use of moveable dwellings and camping sites (Section 269(1) Public Health Act 1936)
Licensing / respiration of non-food premises and activities	
3D20	To license premises for acupuncture, tattooing, ear-piercing and electrolysis pursuant to Sections 13 to 17 Local Government (Miscellaneous Provisions) Act 1982.
3D21	To license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business pursuant to: (a) Section 1 Pet Animals Act 1951;

	(b) Section 1 Animal Boarding Establishments Act 1963; (c) The Riding Establishments Acts 1964 and 1970; (d) Section 1 Breeding of Dogs Act 1973; and (e) Sections 1 and 8 Breeding and Sale of Dogs (Welfare) Act 1999.
3D22	To license persons to collect for charitable and other causes pursuant to: (a) Section 5 Police, Factories etc. (Miscellaneous Provisions) Act 1916; and Section 2 House to House Collections Act 1939
3D23	To register animal trainers and exhibitors (Section 1 Performing Animals (Regulation) Act 1925).
3D24	To license zoos (Section 1 Zoo Licensing Act 1981).
3D25	To license dangerous wild animals (Section 1 Dangerous Wild Animals Act 1976).
3D26	To grant consent for the operation of a loudspeaker (Schedule 2 to the Noise and Statutory Nuisance Act 1993
Miscellaneous	
3D26	To take action pursuant to Public Health (Ships) Regulations 1979, International Health Regulations 1979 and Public Health (Ships) (Amendment) Regulations 2007
3D27	To undertake matters for which the Council is responsible or has powers regarding: (a) European Communities Act 1972; (b) Product of Animal Origin (3 <sup>rd</sup> Country) (England Regulations 2002 and (c) Transmissible Spongiform Encephalopathy (England) Regulations 2002
3D28	To determine matters pursuant to Sunday Trading Act 1994
3D29	To determine matters pursuant to the Vehicles (Crime) Act 2001 regarding registration of motor salvage operators
3D30	To appoint Proper Officers to act on behalf of the Council for the purpose of: (a) National Assistance Act 1948; (b) National Assistance (Amendment) Act 1951; (c) Public Health (Control of Diseases) Act 1984; (d) Public Health (Infectious Diseases) Regulations 1988; and (e) Milk and Dairies (General) Regulations 1959.
3D31	To enforce Teignbridge District Council Byelaws
3E	<u>Licensing Manager</u>
3E1	To determine requests to be removed as designated premises supervisor

3E2	To determine whether a complaint regarding licences is irrelevant, frivolous, vexatious etc.
3E3	To set fees (where appropriate) pursuant to Gambling Act 2005
3E4	Where no representations have been received or representations have been withdrawn to determine applications for: <ul style="list-style-type: none"> <li>(a) premises licences</li> <li>(b) variation of licences</li> <li>(c) transfer of licences</li> <li>(d) provisional statements</li> </ul>
3E5	Where no objections have been made or objections have been withdrawn to determine applications for club gaming / club machine permits
3F	<u>Senior Licensing Officer</u>
3F1	To license hackney carriages and private hire vehicles: <ul style="list-style-type: none"> <li>(a) as to hackney carriages in accordance with Town Police Clauses Act 1847; Section 15 Transport Act 1985; and Sections 47, 57, 58, 60 and 79 Local Government (Miscellaneous Provisions) Act 1976;</li> <li>(b) as to private hire vehicles in accordance with Sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.</li> </ul>
3F2	To license drivers of hackney carriages and private hire vehicles (pursuant to Sections 51, 53, 54, 59, 61 and 79 Local Government (Miscellaneous Provisions) Act 1976).
3F3	To license operators of hackney carriages and private hire vehicles (pursuant to Sections 55 to 58, 62 and 79 Local Government (Miscellaneous Provisions) Act 1976).
3F4	To license sex shops (pursuant to Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3).
3F5	To license persons to collect for charitable and other causes (pursuant to Section 5 Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939).

## **Schedule 4: Community Services & Improvement**

<b>Delegation Reference</b>	<b>Officer to whom delegation granted</b>
4A	<u>Head of Community Services &amp; Improvement</u>
4A1	To authorise service of requisitions for information (Local Government (Miscellaneous Provisions) Act 1976)
4A2	To take action pursuant to Local Government (Miscellaneous Provisions) Act 1982: (a) Section 27 regarding the repair of drains and to remedy stopped up drains (b) Section 29 regarding the prevention of entry to or damage to health from permanent / temporarily unoccupied buildings
Housing	
4A3	To take action in relation to the Council's statutory powers regarding homelessness, housing overcrowding, housing conditions, licensing of houses in multiple occupation and controls on residential accommodation
4A4	To make decisions relating to homelessness pursuant to Housing Act 1996 Section 202 provided that: (a) decisions at first instance must be sub delegated by the Head of Community Services & Improvement to other officer(s); (b) any review of that decision must be carried out by an officer in consultation with the Solicitor to the Council or an officer appointed by them; and (c) reviewing officers should have been involved in the original decision.
4A5	To take action pursuant to Protection from Eviction Act 1997
4B	<u>Revenue Benefits &amp; Fraud Manager</u>
	<i>[currently none]</i>
4C	<u>Communications and Marketing Managers</u>
	<i>[currently none]</i>

## **Schedule 5: Place and Commercial Services**

<b>Delegation Reference</b>	<b>Delegation detail</b>
5A	<u>Head of Place and Commercial Services</u>
	[currently none]
5B	<u>Assets Manager</u>
5B1	To negotiate and enter into transactions involving minor property transactions (including but not limited to wayleaves, Easements and licences, assignments).
5C	<u>Principal Growth Point Officer</u>
5C1	To approve requests for concessionary car parking at Christmas subject to prior consultation with the Leader and Deputy Leader
5C2	To take action / enforce relevant provisions of Road Traffic Regulation Act 1984 Part VIII and The Traffic Management Act 2004 Part VI
5D	<u>Business Manager (Devon Building Control Partnership)</u>
5D1	To exercise the Council's building control powers including taking action in respect of dangerous buildings and acting as statutory consultee (Building Act 1984 & Local Government (Miscellaneous Provisions) Act 1982)
5D2	To take action in respect of dangerous structures (Sections 77 - 78 Building Act 1984)
5D3	To appoint officers pursuant to The Party Wall etc. Act 1996
5E	<u>Business Manager – Strategic Place (Development Services)</u>
Planning Applications and associated planning matters	
5E1	To determine all planning applications and related planning matters under Town and Country Planning Act 1990 and Town and Country Planning (Development Management Procedure) (England) Order 2010 refers UNLESS they fall within one or more of the paragraphs referred to in the "Planning "Call-in Rules" as set out in Schedule 6 below.
5E2	To determine applications for planning permission made by a local

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	authority, alone or jointly with another person
5E3	To make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights
5E4	To enter into agreement regulating development or use of land (Section 106 & 106A Town and Country Planning Act 1990) subject to the Planning Committee Chair or Ward Member not requiring the matter to be referred to Planning Committee
5E5	To issue a certificate of existing or proposed lawful use or development (Sections 191(4) & 192(2) Town and Country Planning Act 1990)
5E6	To issue an environmental impact assessment screening or scoping opinion
5E7	To serve a completion notice (Section 94(2) Town and Country Planning Act 1990)
5E8	To determine applications for the display of advertisements and undertake enforcement action on unauthorised adverts
Listed Buildings / Conservation Areas / Heritage Assets (& associated enforcement)	
5E9	Subject to the Planning Committee Chair or the Ward Member not requiring the matter to be referred to committee to: <ul style="list-style-type: none"> <li>(a) determine applications for listed building consent;</li> <li>(b) make Heritage Partnership Agreements;</li> <li>(c) serve repairs notices; and</li> <li>(d) make decisions on related Council powers</li> </ul>
5E10	Subject to the Planning Committee Chair or the Ward Member not requiring the matter to be called into committee to: <ul style="list-style-type: none"> <li>(a) serve a building preservation notice and make decisions on related powers; and / or</li> <li>(b) issue a listed building enforcement notice</li> </ul> provided that the action required does not require the cessation of the use of any land or building(s) as a dwelling.
Hedgerows / Trees	
5E11	To deal with matters relating to the protection of important hedgerows including allowing for removal of hedge.
5E12	To determine applications and take action regarding high hedges under Part 8 of the Anti-Social Behaviour Act 2003
5E13	To serve notices and take action in connection with dangerous trees (Section 23 Local Government (Miscellaneous Provisions) Act 1976)
5E14	To make decisions regarding preservation of trees pursuant to Section 197 – 214D, 333(7) Town and Country Planning Act 1990 and associated regulations

Enforcement	
5E15	To require proper maintenance of land and power to execute and recover cost of works (Section 215(1) and 219 Town and Country Planning Act 1990) subject to Planning Committee Chair or Ward Member not requiring the matter to be referred to the Planning Committee
5E16	To serve a planning contravention notice and power to require information under Sections 171C & 330 Town and Country Planning Act 1990
5E17	To: (a) remove unauthorised placards and posters and / or (b) prosecute (Sections 224 - 225 Town and Country Planning Act 1990)
5E18	To authorise entry onto land pursuant to Section 196A & 324 Town and Country Planning Act 1990; Section 88 Planning (Listed Buildings and Conservation Areas) Act 1990; and Section 36 Planning (Hazardous Substances) Act 1990
5E19	Subject to the Planning Committee Chair or Ward Member not requiring the matter to be referred to the Planning Committee, to: (a) require the discontinuance of any use of land (Section 102 Town and Country Planning Act 1990); (b) serve a temporary stop notice, stop notice or breach of condition notice (Sections 171E, 183 and 187A Town and Country Planning Act 1990); (c) issue, vary or withdraw an enforcement notice and power to execute and recover cost of works (Sections 172, 172A, 173A and 178 Town and Country Planning Act 1990); (d) apply for an injunction restraining a breach of planning control (Section 187B Town and Country Planning Act 1990); (e) apply for an injunction in relation to a listed building (Section 44A Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990. other than where the required action is to cease use of land / buildings as a dwelling(s)
5E20	To execute urgent works and to recover costs of work (Sections 54, 55 Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
Hazardous Substances	
5E21	Subject to the Planning Committee Chair or Ward Member not requiring the matter to be referred to the Planning Committee, to:  (a) determine applications for hazardous substances consent, and

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	related powers (Sections 9(1), 10, 13, 14 Planning (Hazardous Substances) Act 1990 and associated regulations; and / or (b) issue, vary or withdraw a hazardous substances contravention notice (Sections 24 and 24A Planning (Hazardous Substances) Act 1990)
Miscellaneous	
5E22	To take action in respect of dangerous structures under Section 167 of the Highways Act 1980.

## **Schedule 6: Requests for planning application determination by the Planning Committee**

The delegation to the Business Manager - Strategic Place (Development Services) to determine all planning applications and related planning matters (“Applications”) to which delegation reference 5E1 refers does not apply where the matter falls within one or more of the paragraphs 1 to 5 below <sup>1</sup>

### **1 Call in of Applications excluding planning enforcement matters<sup>2</sup>**

1.1 Subject to 1.2 – 1.3 below, the delegation shall not apply to an application where:

- (a) a Member of the ward in which the application site is located or whose ward is contiguous to that ward; or
- (b) the Chair of the Planning Committee; or
- (c) the Town / Parish Council of the parish in which the application site is located

makes a valid request to the Business Manager for the Application to be determined by Planning Committee.

1.2 To be valid, a request must:

- (a) set out the material planning reasons that are relevant to the application;
- (b) set out why the matter should be referred to committee; and
- (c) be received by the Business Manager or by [planning@teignbridge.gov.uk](mailto:planning@teignbridge.gov.uk) before the expiration of the consultation period being at least 21 days after the relevant weekly list of Applications

1.3 An application may not be referred to committee if it concerns a matter of technical appraisal, fact or legal opinion; or is an application with fixed determination periods or an application with no statutory public consultation requirement which shall include for example:

- consultations
- notifications and prior approvals
- permission in principle
- certificates of lawfulness
- screening and scoping opinions
- advertisements

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<sup>1</sup> Members who have an interest under the Member’s Code of Conduct in the matter under consideration will not be entitled to call in an application unless a dispensation has been granted.

<sup>2</sup> For exclusions applicable to planning enforcement matters please see paragraph 5

- hazardous substances applications
- public right of way orders
- works to protected trees
- hedgerow notifications
- high hedge remedial notices
- reserved matters applications.

## 2 Major Applications

2.1 The delegation shall not apply to any major Application<sup>3</sup> where:

- (a) approval is recommended by the Business Manager and
- (b) which would represent a departure from the policies of the Development Plan.

## 3 Council Member or Officer Applications

3.1 The delegation shall not apply to an application where the applicant or agent (or their close associate / family member) is a Council Member or Officer.

3.2 For the avoidance of doubt this does not cover applications made on behalf of the Council e.g. in respect to Council owned land or development on behalf of the Council.

## 4 Tree Preservation Orders (TPOs)

4.1 The delegation shall not apply to an application concerning a TPO where objections are made (and not withdrawn) to the unconfirmed order

4.2 The decision whether to confirm the order will be determined by the Regulatory and Appeals Committee.

## 5 Enforcement Action

5.1 The delegation shall not apply to planning enforcement action which involves the cessation of the use of any land or building as a dwelling(s) unless urgent enforcement action (as determined by the Business Manager) is required

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<sup>3</sup> Major applications are planning applications for dwelling houses of at least 10 or on a site of at least 0.5 hectares where the number of houses is not known to be at least 10; the provisions of a building(s) where the floor space to be created is at least 1000<sup>2</sup>m; or development on at least one 1 hectare

5.2 Subject to 5.3 and 5.4 below, the delegation shall not apply to planning enforcement action where:

- (a) a Member of the ward in which the application site is located or
- (b) the Chair of the Planning Committee

makes a valid request to the Business Manager for the action to be approved by Planning Committee.

5.3 To be valid a request must meet the following requirements:

- (a) the request must set out the material planning reasons that are relevant to the Application;
- (b) why the matter should be referred to committee; and
- (c) be received by the Business Manager or by [planning@teignbridge.gov.uk](mailto:planning@teignbridge.gov.uk) before the expiration of 14 days (or such shorter period as may be determined by the Business Manager e.g. due urgency) from the date of the email advising them of the proposed action.

5.4 A matter may not be referred to committee if it concerns a matter of technical appraisal, fact or legal opinion.

## **7(a) Financial Procedures: Budget and Policy Framework**

### **1.1 The Framework for Executive Decisions:**

The Council will be responsible for the adoption of its Budget and Policy Framework. The budget and policy framework comprises the following plans and strategies:

- Sustainable Community Strategy
- Crime and Disorder Reduction Strategy
- Development Plan documents
- Council's Corporate Plan
- Licensing/Policy Statement and Gambling

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

Once a budget or a policy framework document is in place, it will be the responsibility of the Executive to implement it.

### **1.2 Process for Developing the Budget and Policy Framework**

The process by which the budget and policy framework shall be developed is:

**(a) The Budget** - The Executive will publicise in a Forward Plan on the Council's website, a timetable for making proposals to the Council for the adoption of the annual budget and its arrangements for consultation after publication of those initial proposals. The initial proposals will have regard to any previous recommendations of the relevant scrutiny committees. All non-Executive Members, the media, Town and Parish Councils and the Chambers of Trade will be notified of the proposals. The Council's relevant scrutiny committees will be asked for detailed comments on the

proposals. The relevant scrutiny committee will have the relevant proposals placed on its agenda. The consultation period shall be not less than six weeks.

**(b)** Any Plan, policy or strategy item within the Budget and Policy Framework which is being prepared or amended shall be submitted to the relevant scrutiny committee(s) for its comments. Relevant views will then have to be taken into account by the Executive.

**(c)** The Executive will take any response from the scrutiny committee(s) into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees.

**(d)** Once the Executive has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.

**(e)** That any Member who wishes to propose major changes, i.e. changes to the proposed Council Tax levels, housing rents, or levels of reserves (to the budget proposed by the Executive) be required to give notice of such changes, in writing, to the Team Leader (Democratic Services) and the Chief Finance Officer at least 5 working days before start of the Council (Budget) Meeting, e.g. if the meeting is at 10.00 am on Monday, the alternative proposal will need to be received by 10.00 am on the immediately preceding Monday, so as to enable proper consideration to be given to the proposal. In conjunction with this the agenda for the Council (Budget) Meeting will be despatched 7 working days before the meeting. The Chief Finance Officer to ensure that all papers relating to the proposed major changes to the budget as set out will also be circulated to all Members at least 24 hours before the Council Meeting.

**(f)** On reaching a decision, the Council may adopt the Executive's proposals, amend them, refer them back to the Executive for further consideration, or in principle, substitute its own proposals in their place.

**(g)** If it accepts the recommendation of the Executive without amendment, the

Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

**(h)** The decision will be publicised in accordance with legal requirements and as per the Constitution and a copy shall be given to the Leader.

**(i)** An in-principle decision will automatically become effective five days from the date of the Council's decision, unless the Leader, acting on behalf of the Executive, informs the proper officer in writing within four days that they objects to the decision becoming effective and provides reasons why.

**(j)** In that case, the proper officer will call a Council meeting within a further 14 days to re-consider its decision and the Leader's written submission to:

- approve the Executive's recommendation by a simple majority of votes cast at the meeting; or
- approve a different decision which does not accord with the recommendation of the Executive by a simple majority.

**(k)** The decision shall then be made public in accordance with legal requirements and as per the Constitution and shall be implemented immediately.

**(l)** In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with virement and in-year adjustments rules in this framework document. Any other changes to the policy and budgetary framework are reserved to the Council.

### **1.3 Decisions Outside the Budget or Policy Framework**

**(m)** Subject to the relevant virement provisions the Executive, individual Members of the Executive and any officers, or any area committees or joint arrangements discharging Executive functions may only take decisions which are in line with the

budget and policy framework. If any of these bodies or persons wish to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, subject to urgency rules below.

**(n)** If the Executive, individual Members of the Executive and any officers, or any area committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 1.4 (urgent decisions outside the budget and policy framework) shall apply.

#### **1.4 Urgent Decisions Outside the Budget or Policy Framework**

**(o)** The Executive, an individual Member of the Executive or officers, area committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:

- if it is not practical to convene a quorate meeting of the Full Council; and
- if the Chair of the relevant scrutiny committee agrees that the decision is a matter of urgency.

**(p)** The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair of the relevant scrutiny committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the relevant scrutiny committee, the consent of the Chair of the Council, and in the absence of both, the Vice Chair, will be sufficient.



**(q)** Following the decision, the decision-taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

### **1.5 Budgetary Control and Virements**

**(r)** The Council shall have the following main budget heads General Fund or Capital.

**(s)** Steps taken by the Executive to implement Council policy shall not exceed those budgets allocated to each main budget head. However, the Executive shall be entitled to approve additional expenditure up to a percentage of any unallocated reserve for each of the budget heads to that budget head in any one year. This percentage shall be decided annually by the Council as part of the budget setting process.

### **1.6 In-Year Changes to Policy Framework**

**(t)** The responsibility for agreeing or amending the budget and policy framework lies with the Council, and decisions by the Executive, portfolio holder or officer, discharging Executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals.

### **1.7 Call-In of Decisions Outside the Budget or Policy Framework**

**(u)** Where the relevant scrutiny committee is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.

**(v)** In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in

respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant scrutiny committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

**(w)** If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the relevant scrutiny committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 28 days of the request by the relevant scrutiny committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.

The Council may either:

- endorse a decision or proposal of the Executive decision-taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

or

- amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

or

- where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

**Teignbridge District Council**  
**Financial  
Instructions**



Financial  
Instructions



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## 1. PREFACE

### **What are the Financial Instructions?**

- 1.1 The Financial Instructions provide the framework for managing the authority's financial affairs. They are for use within Teignbridge District Council and by anyone acting for it.

### **Why are they important?**

- 1.2 The Financial Instructions are part of a wider set of operational and managerial arrangements that aim to ensure that the Council is carefully managed through control of its finances and financial affairs.
- 1.3 If followed on a day to day basis the Financial Instructions offer protection to the Council from poor decision making, theft, fraud and material error. However, they also offer significant protection to each employee and member that follows them. Provided that officers and members can demonstrate they have acted in accordance with the Instructions they are unlikely to face undue criticism and can defend themselves against accusation of impropriety.

### **To whom do they apply?**

- 1.4 The Financial Instructions apply to every member and officer of the authority and anyone acting on its behalf.
- 1.5 All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 1.6 The Managing Director, Heads of Service and Service Managers are responsible for ensuring that all staff in their sections are aware of the existence and content of the authority's Financial Instructions and other internal regulatory documents and that they comply with them.

### **What happens if the Instructions are breached?**

- 1.7 The Chief Finance Officer is responsible for reporting, where appropriate, breaches of the Financial Instructions to the Council and / or to Executive members and Audit Scrutiny Committee. The Internal Audit section will investigate suspected breaches of the Financial Instructions and prepare a report for the Chief Finance Officer and the Managing Director and relevant Heads of Service / Service Manager.

### **Are the Instructions reviewed and when?**

- 1.8 As the Council's Section 151 Officer, the Chief Finance Officer is responsible for maintaining a continuous review of the Financial Instructions and submitting any additions or changes necessary to the Council for approval.

## 1. PREFACE

The Financial Instructions are reviewed periodically by the Chief Finance Officer in consultation with Internal Audit and the Managing Director, Heads of Service and Service Managers prior to referral to Audit Scrutiny Committee to recommend approval by the Council.

### **How are the Financial Instructions laid out?**

- 1.9 The Financial Instructions are set out in sections that correspond to who should read them. It is important that the contents of the first section are read by all members of staff and members whilst latter sections are aimed at generic or named posts.
- 1.10 The headings within each section generally correspond to well-defined systems of financial control. An initial introduction within each section sets the scene and explains why the section appears in the Instructions. This is then re-enforced by explaining in more detail some of the risks of failing to follow the Instructions.

### **Who can give me advice and guidance?**

- 1.11 The Chief Finance Officer, or any member of Internal Audit can provide advice and guidance where required. If you have any queries, comments or concerns on the content of the Financial Instructions, please contact them.
- 1.12 Queries should be directed to Internal Audit. A record of all advice and guidance issued is maintained by Internal Audit.

## 2. WAIVING THE FINANCIAL INSTRUCTIONS

### Can the Financial Instructions be waived?

- 2.1 Both officers and members should follow the Financial Instructions in their day to day work. From time to time, however, it may not always be possible or practicable to do so.
- 2.2 The question of waiving the Financial Instructions usually arises when time is short, for example, emergency repair works may be required following a spell of very bad weather. If a formal contract tendering process were to be adopted this could delay completion of the works and could give rise to a health and safety risk, significant additional costs at a later stage or even loss of Government grant income.
- 2.3 The Financial Instructions, therefore, allow for officers and members to work in a manner that is responsive to the 'real world'. This section sets out how decisions to move away from the Instructions shall be taken, the procedure to be followed and the records to be maintained. **Officers and members should not interpret this section as an opportunity to waive the Financial Instructions carelessly. The waiving of the Financial Instructions will not be an excuse for poor planning and control. Waivers shall be the exception rather than the rule and alternative courses of action should always be taken within the spirit of the Financial Instructions.**

### What are the underpinning principles?

- 2.4 Where officers consider the Financial Instructions cannot be followed then reasoned, considered and sensible solutions to everyday problems that may arise shall be applied.
- 2.5 If the answer to one or more of the following questions is 'Yes' the waiving of the Financial Instructions may be considered:

If the Financial Instructions were to be followed to the letter...

- **Life or Death** – Is there a significant chance that the life or health of officers, members or the public will be put at real risk?
- **Increased Cost / Loss of Income** – Will the Council incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service or the Council)?
- **Limited Markets** – Would the Council be wasting its time obtaining quotations as supply of the product or service is demonstrably restricted to one or few businesses?
- **Urgent Action Required** – Would the Council be criticised for failing to act promptly?



## 2. WAIVING THE FINANCIAL INSTRUCTIONS

### Who's who?

#### The Officer

In the context of this section the officer is taken to be the individual faced with a problem that may require the Financial Instructions be waived.

#### The Manager

In the context of this section the manager shall be taken to be the officer's direct line manager who endorses the request to waive the Financial Instructions.

#### The Internal Auditor

Internal Auditors are not responsible for the management or the operation of any of the Council's services or systems. This is to ensure Internal Auditors can give independent and unbiased advice to managers. In the context of this section the Internal Auditor's role is to ensure the Financial Instructions are followed. If this is not possible then management is made aware and safeguard the Council against any significant financial or non-financial risks that are likely to arise. **Management not Internal Audit are responsible for any final decisions taken.**

#### The Procurement Officer

The Procurement Officer is not responsible for the management or the operation of any of the Council's services. In the context of this section the Procurement Officer's role is to ensure Procurement rules are followed. If this is not possible then management is made aware and safeguard the Council against any significant financial or non-financial risks that are likely to arise. **Management not the Procurement Officer are responsible for any final decisions taken.**

#### The Managing Director and Heads of Service

In the context of this section the Heads of Service shall be taken to be the 'Officer' and the line Manager's Heads of Service. They have the authority to approve or reject the waiver request.



## 2. WAIVING THE FINANCIAL INSTRUCTIONS

### The Procedure for Waiving the Financial Instructions

#### The Officer and their Manager

- 2.6 Where an officer considers they have reason to request the content of the Financial Instructions be waived, they shall first inform and obtain the written approval of their immediate line manager using a Financial Instructions waiver form. At the meeting between the officer and their manager, the circumstances surrounding the request must be discussed. A proposal as to the course of action to be taken will then be agreed and recorded on the waiver form.
- 2.7 The officer and manager will have to satisfy the Internal Auditor and, in the event of waivers involving spending, the Procurement Officer that:
- At least one of the basic principles as set out in 2.5 above has been met;
  - They have been provided with adequate evidence in support of the request;
  - The officer and their manager have had due regard to the risks to the Council of the action they propose (in terms of the likelihood of occurrence and the impact);
  - A decision to waive the Financial Instructions would be in the best interests of the Council.
- 2.8 The officer concerned and their manager, if necessary, may then approach the Internal Audit Section and if a spending waiver, the Procurement Officer where they will be asked to provide the full background. They will be asked what action they propose should be taken.

#### The Internal Auditor and Procurement Officer

- 2.9 The Auditor will record these details and may request evidence in support of any claims made, e.g. copies of documents, discussions with third parties, inspection etc.
- 2.10 In order to satisfy themselves that the waiver is in the best interest of the Council, it may not be possible for the Auditor or Procurement Officer to immediately respond to a request although every effort will be made to do so.
- 2.11 The Auditor (and Procurement Officer where appropriate) will then give their opinion verbally and record their opinion on the waiver form. The Auditor and Procurement Officer will evaluate the proposal and may recommend further action is taken before the waiver is approved. Should the Internal Auditor consider that any action or inaction by an officer or their line manager has given rise to the need to now consider waiving the Financial Instructions, e.g. it was left too late to tender, the Auditor will record this on their record of advice given. The Auditor will, however, take into consideration the circumstances surrounding the request.

## 2. WAIVING THE FINANCIAL INSTRUCTIONS

### The Managing Director and Head of Service

- 2.12 Once the view of Internal Audit (and Procurement where appropriate) has been obtained, the appropriate Managing Director and / or Head of Service will sign the 'Financial Instructions Waiver Form' unless a 'Key Decision' is required, i.e. those in respect of revenue spending over £50,000 and capital spending over £125,000. Such decisions must be referred back to the Executive Committee as must any decision which may have a significant effect on communities, i.e. effecting over 2000 residents.
- 2.13 No officer shall approve a Financial Instructions waiver initiated by them, i.e. a higher authority must approve it.
- 2.14 If a decision is urgently required the Managing Director is empowered to make a decision in consultation with the Leader and Deputy Leader. The decision will be recorded in accordance with the Council's Constitution, to enable it to be retrospectively reported to the following meeting of the Executive Committee. Internal Audit will be notified of the outcome.

### Record Keeping

- 2.15 Internal Audit will maintain a record of all advice given and requests to waive the Financial Instructions and their outcome. This record will be reviewed annually to ensure the Financial Instructions remain up to date, clear and in-line with operational and practical issues. All such advice will be reported for review by the Council's Audit Scrutiny Committee.
- 2.16 Where relatively minor waivers are requested the Auditor may advise the officer to proceed subject to the Auditor logging the advice for scrutiny as in 2.15.

### 3. SUMMARY OF FINANCIAL LIMITS

The following tables summarise the limits quoted in these Instructions:

Item Value ex VAT	Use of Reserves	Page
Up to £30,000	The Managing Director / appropriate Head of Service in conjunction with the Chief Finance Officer may approve the use of specific reserves up to £30,000 as set out in the Scheme of Delegation.	54
Between £30,001 and £100,000	The prior approval of the Executive is required upon receipt of a report from the Chief Finance Officer.	54
Greater than £100,000	The prior approval of Full Council is required upon receipt of a report from the Chief Finance Officer.	54

Item Value ex VAT	Budget Changes (Virements) – Limits for GENERAL FUND (Revenue Budgets)	Page
Up to £20,000	Up to £20,000 the relevant responsible officer (budget holder) may approve the virement. No form is required.	52
£20,001 to £50,000	Between £20,001 and £50,000 a virement form is required which is to be authorised by the relevant Head of Service or nominated deputy and the Chief Finance Officer or nominated deputy.	53
£50,001 to £100,000	A virement form is required which is to be authorised by the Chief Finance Officer or nominated deputy, Head of Service or nominated deputy, two Heads of Service, and approved by the Executive, or as a Portfolio Holder decision for non-Key Decisions £50,000 or less.	53
Greater than £100,000	Approval of the full Council is required. They shall require initial authorisation by the Chief Finance Officer or nominated deputy, the relevant Head of Service or nominated deputy, and the Managing Director.	53

Item Value ex VAT	Budget Changes (Virements) – Limits for CAPITAL Budgets	Page
Up to £20,000	Up to £20,000 is to be requested by the relevant responsible officer via the appropriate accountant. No form is required.	53
£20,001 to £50,000	A virement form is required which is to be authorised by the relevant Head of Service or nominated deputy and Chief Finance Officer or nominated deputy. The Portfolio Holder is to be consulted.	53
£50,001 to £125,000	A virement form is required which is to be authorised by the Chief Finance Officer or nominated deputy, Head of Service or nominated deputy, two Heads of Service, and agreed by the Portfolio Holder as a Portfolio Holder decision for non-Key Decisions.	53
£125,001 to £250,000	A virement form is required which is to be authorised by the Chief Finance Officer or nominated deputy, Head of Service or nominated deputy in consultation with the appropriate accountant, two Heads of Service, and approved by the Executive.	53
Greater than £250,000	Approval of the full Council is required. They shall require initial authorisation by all Heads of Service, the Managing Director and the Chief Finance Officer in consultation with the appropriate accountant.	53

### 3. SUMMARY OF FINANCIAL LIMITS

Item Value ex VAT	Quotations/Tendering for Goods, Services and Works	Requirement	Short Listing	Page
Up to £10,000	A minimum of one written Quotation e.g. via email, but good practice to seek most favourable prices and terms, having regard to the Council's Procurement Strategy.	Good Practice	Officer	32
£10,001 - £100,000	A minimum of three formal written Quotations via the Procurement Portal	Yes	Officer and Business Manager	32
£100,001 – FTS Threshold	Invitation to Tender via advertisement i.e. Contracts Finder.	Yes	Officer and Business Manager in consultation with the Corporate Procurement Officer.	See Contract Procedure Rules
Above FTS Threshold	Invitation to Tender by advertisement via Contracts Finder and Find a Tender Service (FTS) procedure.	Yes	Officer, Business Manager and Business Lead in consultation with the Corporate Procurement Officer	See Contract Procedure Rules
All values. Collaborative Contracts	The Corporate Procurement Officer must be consulted prior to commencing any procurement process using collaborative contracts. The terms and conditions of Contract applicable to any collaborative Contract, including the requirement to undertake competition between providers, must be fully complied with.	Yes	Corporate Procurement Officer	See Contract Procedure Rules
All Values. ICT	All system developments and purchases of computer equipment or software must be made by the Council's designated ICT provider (currently Strata Service Solutions Ltd) and awarded in line with their rules.	Yes	Officer, Business Manager and the Council's designated ICT Manager in consultation with the Corporate Procurement Officer	32

Item Value ex VAT	Authorisation of Payments	Page
Above £200,000	Any payment greater than £200,000 must be authorised by the appropriate Business Lead, or the Chief Finance Officer or nominated deputy in their absence. An exception to this is Treasury Management payments, which are bound by Financial Instruction 7.4.	35, 36

### 3. SUMMARY OF FINANCIAL LIMITS

Item Value ex VAT	Petty Cash	Page
Up to £30	Petty cash items shall be limited to minor items of expenditure. This amount may only be exceeded with the prior agreement of the Chief Finance Officer.	22
Above £30	Variations in reconciliation must be reported to the Finance department.	23

Item Value ex VAT	Income – Banking	Page
Daily / Weekly according to Insurance Limit	All monies received on behalf of the Council shall be banked without delay.	40, 41

Item Value ex VAT	Income – Unders and Overs	Page
Over £30	“Unders and overs” and discrepancies must be reported immediately to the Chief Finance Officer and Internal Audit.	42

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### 3. SUMMARY OF FINANCIAL LIMITS

Item Value ex VAT	Write Off – Bad and Doubtful Debts	Page
Finance Up to £5,000	The Chief Finance Officer is empowered to write off bad and doubtful debts, after satisfying themselves that it would be uneconomic or inappropriate for the Council to pursue them, and where appropriate a Legal representative has considered the Council's position and also takes the view that the debt is unlikely to be recovered without expenditure disproportionate to the amount involved.	44
Other Services Up to £5,000	In the case of debts due to other service groups, the Chief Finance Officer will consider write off in accordance with the above upon the written authorisation of the Managing Director / Head of Service involved or their deputy.	44
All Debts Up to £5,000	The total amounts of debt written off by the Chief Finance Officer under delegated powers will be reported to the Executive annually.	44
Greater than £5,000	The approval of the Chief Finance Officer and the Executive is required.	44
All Debts Subject to Formal Insolvency Proceedings	The approval of the Chief Finance Officer is required.	44

Item Value ex VAT	Write Off – Stock Deficiencies and Obsolete Stocks	Page
Individual items up to £500	A de-minimis level may be operated at the Business Manager's discretion, but a second officer shall witness the write off at a local level.	49
Individual items between £501 to £3,000	The Chief Finance Officer shall be empowered to approve the write-off of deficiencies not exceeding £3,000. Proposed write offs of obsolete stock should be approved in writing by the Managing Director / Head of Service or their nominated deputy, in consultation with the Chief Finance Officer.	49
Individual items above £3,000	The Chief Finance Officer shall recommend to the Executive approval to write-off of deficiencies and obsolete stock of more than £3,000.	49

Item Value ex VAT	Disposals – Land and Buildings	Page
Disposal by Lease	The decision to agree to disposal by lease, where the period of the lease does not exceed 10 years, may be made by the Head of Place and Commercial Services, subject the provisions of the Constitution in respect of Key Decisions and in accordance with the requirements of the Council's Asset Management Strategy and where it does not prejudice existing land holdings or future developments. Lease decision which commit the Council to periods in excess of 10 years must be approved by the Executive.	70
Disposal by Sale Up to £10,000	The decision to agree to the disposal by sale of small areas of land whose market value does not exceed £10,000 where such disposal does not prejudice the Council's existing land holding or any future development proposals may be made by the Head of Place and Commercial Services, having regard to the requirements of the Council's Asset Management Strategy.	70
£10,000 to £50,000	The decision to agree to the disposal of small areas of land whose market value is between £10,000 and £50,000, where such disposal does not prejudice the Council's existing land holding or any future development proposals may be made by the Head of Place and Commercial Service in consultation with the Portfolio Holder, Managing Director, and Chief Finance Officer having regard to the Council's Asset Management Strategy. The Head of Place and Commercial Services and Finance Manager will sign the Decision Notice to evidence their agreement	70
Above £50,000	Requires the prior approval of the Portfolio Holder in accordance with the rules for Portfolio Holder decisions. Subject also to key decision rules and having regard to the Asset Management Strategy. Decisions will be reported retrospectively to the next Executive Committee.	70

### 3. SUMMARY OF FINANCIAL LIMITS

Item Value ex VAT	Disposals – Plant and Equipment	Page
Up to £500	Business Manager approval is required. A second officer shall witness the disposal at a local level and a record of the disposal maintained.	71
£501 to £3,000	Business Manager approval required. Sealed bids are to be sought for any item valued up to £3,000, and it shall be the responsibility of the Chief Finance Officer and the relevant Business Manager or their nominated deputy, to obtain the best possible price. The Council's EBay account may be used or other appropriate method e.g. part exchange.	71
Above £3,000	Head of Service approval required. Disposal shall be by advertised competitive tender. The Head of Service, in consultation with the Chief Finance Officer shall determine the most appropriate method e.g. public auction, EBay or part exchange to enable best value to be achieved.	71

Item Value ex VAT	Inventories	Page
Individual items above £100	Inventories of all property (furniture, fittings and equipment) belonging to or in the care of the Council, other than stores, shall be prepared and maintained by the Managing Director / Head of Service concerned or a designated officer.	50

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### 4.1 Risk Management, Corporate Governance and Internal Control

#### Why is this important?

Delivering the Council's objectives and many of its services and activities is not without inherent risk, including: death or injury to staff or the public and financial loss to the Council. The Council needs to identify and log these risks and then decide how to address them, i.e. through the implementation and maintenance of controls. This Section should be read in conjunction with the Council's Risk Management Strategy.

#### Risks:

- The Council may be unable to meet large claims made against it, i.e. death or injury;
- The Council may be over insured, i.e. paying out higher premiums than it needs to and
- The Council may not achieve its objectives and / or realise opportunities if it is unaware of its risks.

#### Responsibilities and Key Controls

##### Risk Management

- 4.1.1 It is the responsibility of the Council to oversee the effective management of risk and the Strategic Leadership Team (SLT) to approve the Council's Risk Management Strategy.
- 4.1.2 The Audit Scrutiny Committee will review the effectiveness of the Council's risk management process on a regular basis and report to Council annually.
- 4.1.3 The Managing Director has overall responsibility for risk management.
- 4.1.4 SLT shall ensure the Council has a Risk Management Strategy and procedures that:
- (i) Identify and quantify risks and potential liabilities;
  - (ii) Ensure awareness among all levels of staff with regards to the control of risk;
  - (iii) Ensure all significant risks and potential liabilities are addressed;
  - (iv) Ensure appropriate decisions are taken on the acceptable level of retained risk; and
  - (v) Regularly review the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.
- 4.1.5 The Managing Director / Heads of Service will set the objectives for their service each year linked to corporate objectives; identify the risks to achieving those objectives and the controls to mitigate these risks.



## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

- 4.1.6 The Managing Director has strategic responsibility for risk management. To assist, SLT will act as the Council's strategic risk management group. The Business Improvement and Development team will co-ordinate Risk Management arrangements.
- 4.1.7 SLT will ensure the Council's risk register reflects the risks identified by Managing Director and Heads of Service. The Managing Director and Heads of Service are also responsible for identifying significant changes in risk for their service and must ensure that SLT is advised on a timely basis.
- 4.1.8 SLT will drive the implementation and embedding of risk management, approve amendments to the risk register and advise and support Heads of Service and Service Managers on risks likely to have an impact on the achievement of the Council's objectives.
- 4.1.9 Internal Audit will review the risk management process on an annual basis and report results to the Audit Scrutiny Committee.

### Internal Control

- 4.1.10 The Council is responsible for maintaining a System of Internal Control – setting of objectives, identification of risk and controls to mitigate the risks.
- 4.1.11 The Council will also be responsible for conducting a review at least once a year of the effectiveness of the system of internal control and shall prepare a Governance Statement, in accordance with proper practices, for inclusion in the Council's published annual accounts.
- 4.1.12 The Audit Scrutiny Committee will act as the nominated member body to examine the draft statement and supporting evidence and recommend to Council for approval.
- 4.1.13 Heads of Service / Service Managers are to manage system processes to ensure established controls are being adhered to and their effectiveness evaluated in order to be confident in the proper use of resources, achievement of objectives and management of risks.

### Corporate Governance

- 4.1.14 The Council is responsible for approving the Council's Local Code of Corporate Governance.
- 4.1.15 The principles of the Code will be openness, integrity and accountability and will include:
- focussing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area;
  - members and officers working together to achieve a common purpose with clearly defined functions and roles;

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

- promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
- taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
- developing the capacity and capability of members and officers to be effective; and
- engaging with local people and other stakeholders to ensure robust public accountability.

4.1.16 Compliance with the principles and elements of corporate governance and the requirements of the Code will be monitored by the Council's S.151 Officer (Chief Finance Officer), Monitoring Officer, Internal Audit Manager and SLT.

4.1.17 Internal Audit will also assess compliance with the code annually, and the results of the monitoring and testing will be reported to both SLT and Audit Scrutiny Committee.

### **Business Continuity**

4.1.18 The Civil Contingencies Act 2004 requires the Council as a Category 1 responder to put in place business continuity arrangements to ensure that in the event of an emergency it can continue to exercise both its civil protection functions and perform its ordinary functions.

4.1.19 The Council has identified business continuity as a strategic risk.

4.1.20 In addition, business continuity will require a separate but similar Risk Management Strategy and process.

### **Money Laundering**

4.1.21 The Council's S.151 Officer (Chief Finance Officer) will ensure that procedures are in place that satisfy the requirements of anti-money laundering legislation as they impact on local government, in line with guidance from the relevant professional bodies.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### 4.2 Security

#### Why is this important?

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

#### Risks:

- Cash and other assets could be lost, stolen or misused; and
- Claims against the Council's insurers may be invalidated.

#### Responsibilities and Key Controls

- 4.2.1 Each Head of Service / Service Manager is responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc. under their control, and shall consult the Chief Finance Officer in any case where security is thought to be defective or where special security arrangements may be needed.
- 4.2.2 Heads of Service / Service Managers must ensure that attractive and portable items are to be identified with security markings as belonging to the Council.
- 4.2.3 All staff are to ensure that all windows, cabinets, safes and drawers are locked in any location wherever cash or keys are held out of hours.
- 4.2.4 Teignbridge aims to be cashless Council, but where cash payments are currently unavoidable, holdings shall be kept to a minimum and at a level agreed with the Chief Finance Officer. They shall not exceed insurance cover unless risks have been carefully considered.
- 4.2.5 Employees of the Council responsible for collecting, holding and the paying-in of official cash are to ensure that it is held under secure arrangements at all times. See also Financial Instruction 5.3: Income.
- 4.2.6 Heads of Service / Service Managers or their designated deputies shall ensure that staff leaving the authority hand back any keys or assets held by them prior to their departure. Door entry systems, combinations and safe combinations etc. shall be changed on the day of departure, where appropriate.

#### Safes

- 4.2.7 Members of staff who are authorised to gain access to any Council safe, or secure area, must not allow the keys or combination access codes to pass from their control or to be available to unauthorised persons at any time. The loss of any such keys must be reported to the Chief Finance Officer immediately.
- 4.2.8 The combination of any Council safe must not be disclosed to another person without the express authorisation of the Chief Finance Officer or relevant operational manager. The combination of a safe must be changed immediately when a member of staff, who is authorised to open that safe, leaves the employment of the Council.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

4.2.9 All keys held for any official purpose by an authorised member of staff shall be held under proper and secure arrangements and not passed or be available to any unauthorised person. (This regulation includes card keys and door entry codes issued to members of staff).

### **Postal Franking Machines**

4.2.10 Postal franking machines must be securely held, and officers responsible will keep proper records of usage and certify the balance of impressions held in the machine at the 31<sup>st</sup> March each year. The certificate is to be forwarded to the Chief Finance Officer promptly. Stocks of postage stamps, where held, shall also be held securely.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### 4.3 Audit

#### Why is this important?

##### About Internal Audit

The Public Sector Internal Audit Standards state that 'internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes'.

The Accounts and Audit Regulations 2015 state that a relevant body must 'undertake an adequate and effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.

##### About External Audit

It is a legal requirement to have an external auditor. They are required to give an independent opinion on the Council's financial statements and to review and report on aspects of the arrangements put in place by Councils to ensure the proper conduct of their financial affairs and to manage their performance and use of resources. This work includes providing a certificate on the Council's published accounts and an annual letter to members outlining their key findings and recommendations.

##### Risks:

- Changes in the delivery of services could lead to internal control systems failing thereby increasing the possibility of fraud, loss, extravagance, waste or embarrassment to the Council; and
- The Council could face legal action for failing to maintain proper accounting systems and an adequate and effective internal and external audit service.

#### Responsibilities and Key Controls

##### Internal Audit

4.3.1 The Council shall make provision for an internal audit in accordance with the UK Public Sector Internal Audit Standards.

4.3.2 The Audit Manager or their authorised representative shall have authority to:

- (i) Enter at all reasonable times on to any Council premises or land;
- (ii) Have access to all records, documents, computer systems and correspondence relating to any transaction of the Council;
- (iii) Require and receive such information and explanations as are necessary concerning any matter under examination;
- (iv) Require any employee or agent of the Council to account for cash, stores or any other Council property under their control;
- (v) Access records belonging to third parties, such as contractors, partners etc. when required. Such a requirement shall be written into all contracts and partnership agreements.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

- 4.3.3 Internal Audit will follow professional standards and guidelines issued by the Chartered Institute of Public Finance Accountants (CIPFA) and Chartered Institute of Internal Auditors (CIIA) specifically the Public Sector Internal Audit Standards, and prepare risk based audit plans which outline the work required to deliver an annual audit opinion.
- 4.3.4 Internal Audit will report on its activities to the Audit Scrutiny Committee quarterly, and to SLT where audits reveal unacceptable risks.
- 4.3.5 Heads of Service and Service Managers are to consider and promptly respond to recommendations set out in Internal Audit reports and to ensure that any agreed actions arising from the recommendations are carried out in a timely and efficient fashion.

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

- 4.3.6 The Chief Finance Officer shall be informed of the creation, amendment or removal of systems of a financial nature or where decisions arising from the use any system have a financial consequence. The requirements of the Council's Data Quality Strategy shall also be adhered to.

### **Irregularities**

- 4.3.7 The Chief Finance Officer must ensure that effective procedures are in place to promptly investigate any fraud or irregularity.
- 4.3.8 Whenever any matter arises which involves or is thought to involve irregularities concerning income, expenditure, cash, stores, or other property of the Council the relevant Head of Service / Service Manager concerned shall immediately notify the Chief Finance Officer in order that they may conduct an independent investigation (normally Internal Audit).
- 4.3.9 Where the Head of Service / Service Manager concerned is not the Monitoring Officer the latter should also be advised.
- 4.3.10 The same applies to any suspected irregularity in the exercise of the functions of the Council (corruption).
- 4.3.11 The Council's 'Anti-Fraud and Corruption Strategy' sets out the Council's anti-fraud position and the procedures to be followed for investigations.
- 4.3.12 Where, upon investigation, the Chief Finance Officer believes that reasonable grounds exist for suspecting that a loss may have occurred as the result of misappropriation or fraud they shall consider whether the circumstances require investigation by the Police. In any case, they shall report the matter to the Head of Service / Service Manager concerned, Audit Manager (if not already aware of the investigation), Monitoring Officer and Managing Director.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

4.3.13 Where, upon investigation, the Chief Finance Officer believes that a loss may have occurred as a result of waste, extravagance or maladministration, the Chief Finance Officer shall report the matter to the Head of Service / Service Manager, Audit Manager, Monitoring Officer and Managing Director.

### **Direct Access to the Managing Director, Executive and Scrutiny.**

4.3.14 Internal Audit have direct access to the Managing Director, SLT, Chief Finance Officer (S.151 Officer) and the Chair of the Executive and / or Audit Scrutiny Committee as required.

### **External Audit**

4.3.15 The Chief Finance Officer shall ensure there is effective liaison between external and internal audit.

4.3.16 The Chief Finance Officer will work with the external auditor and advise the Council, Executive, Audit Scrutiny Committee, Heads of Service and Service Managers on their responsibilities in relation to external audit.

4.3.17 Heads of Service and Service Managers shall ensure external audit are given access at reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work as required by statute.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### 4.4 Retention of Financial Documents

#### Why is this important?

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

#### Risks:

- The external auditor may not be able to provide adequate assurance that the Council's accounts present a true and fair view;
- Statutory obligations concerning the retention of key documents may not be met, e.g. VAT, PAYE;
- Court action could fail due to the loss of prime documents, and
- Performance statistics cannot be verified.

#### Responsibilities and Key Controls

- 4.4.1 In conjunction with the Chief Finance Officer, the Monitoring Officer shall create, maintain and make available a document retention schedule for all staff.
- 4.4.2 The schedule shall reflect statutory requirements and be kept up to date.
- 4.4.3 Heads of Service / Service Managers shall ensure their staff maintain adequate records to provide a management trail and are aware of and follow guidance set out in the document retention schedule.



## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### 4.5 Petty Cash

#### Why is this important?

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

#### Risks:

- Cash may be stolen, lost or borrowed without due authority; and
- Expenditure may be poorly controlled with little comparison of costs.

#### Responsibilities and Key Controls

4.5.1 Wherever possible the Council aims to reduce and / or eliminate the handling of cash. However, in exceptional cases the Chief Finance Officer may advance a fixed petty cash float to an officer of the Council for petty cash expenditure. Each float shall be of such amount as the Chief Finance Officer may determine in consultation with the Head of Service / Service Manager.

4.5.2 Following certification of receipt, officers holding petty cash take personal responsibility for the custody of cash until such time as another authorised officer formally takes over responsibility for the money.

#### Expenditure

4.5.3 Petty cash items shall be limited to minor non-recurring items of expenditure and shall not exceed in the case of each individual item, the sum prescribed by the Chief Finance Officer of £30. This amount may only be exceeded with the prior agreement of the Chief Finance Officer.

4.5.4 None of the following items of expenditure shall be paid out of petty cash:

- (i) Travelling and subsistence expenses of officers, including car park and ferry crossings;
- (ii) Postages, except where a small supply of stamps is held for a specific purpose agreed by the Chief Finance Officer, and
- (iii) Stationery.

4.5.5 No personal cheques are to be encashed via petty cash, nor personal loans made.

4.5.6 Where petty cash disbursements are made for goods that include VAT, a VAT invoice or receipt must be obtained.

4.5.7 Any claim for petty cash shall be recorded on an official petty cash voucher. The voucher is to be signed by the officer making the claim and attached to a suppliers payment receipt.

4.5.8 The holder of the petty cash float shall check the claim to ensure the item is for work use, the amount claimed matches the receipt and that it is correctly coded for both financial management and VAT purposes.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### Reimbursement

- 4.5.9 Petty cash floats shall be reconciled and balanced (vouchers to cash balances) on a regular basis (monthly is recommended) or when handed to another officer to administer. Every officer holding a petty cash float shall certify to the Finance department the amount of the float as at 31<sup>st</sup> March each year.
- 4.5.10 Receipts and vouchers for petty cash disbursements shall be forwarded to the Finance department with the claim for reimbursement. A claim for reimbursement must also be made as close to the 31<sup>st</sup> March annually as is practical.
- 4.5.11 The claim shall be certified as correct by the Head of Service / Service Manager or such person nominated by them for that purpose.

### General

- 4.5.12 No income is to be paid into petty cash.
- 4.5.13 Cash income or change floats are not to be used as petty cash in any circumstances.
- 4.5.14 Floats and vouchers shall be held securely and access restricted to authorised officers.
- 4.5.15 The Finance department must be advised of any significant variances, above £30, identified by the reconciliation of the petty cash float.
- 4.5.16 On leaving the Council's employment or otherwise ceasing to hold a petty cash advance, an employee shall account to the Finance department for the amount advanced to them. Under no circumstances should the petty cash be banked as income, instead it should be coded to the relevant petty cash code supplied by the Finance department. On change of custody of the float it should be counted by both officers and a signed record of the balance held.
- 4.5.17 Cash balances and vouchers shall be available for inspection by Internal Audit at any time.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### 4.6 Travelling And Subsistence

#### Why is this important?

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

#### Risks:

- Fraudulent claims may be made, i.e. fictitious journeys, embellished claims, incorrect rates etc.;
- Claims could be paid twice or at the wrong rates and
- Financial and accounting records are not correctly updated.

#### Responsibilities and Key Controls

4.6.1 All claims for payment of travelling and subsistence shall be in a form approved by the Chief Finance Officer, and will in normal circumstances be made through salaries and wages.

#### Claim Completion and Certification

4.6.2 Claims for travel and subsistence shall only be made where journeys were authorised and expenses were properly and necessarily incurred. All claims shall be completed fully to the satisfaction of the Chief Finance Officer or nominated deputy.

4.6.3 Payment for travelling will normally commence from the first place of work or last place of work. Public transport should be used wherever practical and claims should not normally exceed the appropriate equivalent standard or saver rail fare.

4.6.4 Where an officer travels outside the boundaries of the Council, and in excess of 50 miles, the journey and method of travel must be approved in advance by the Head of Service / Service Manager or designated line manager. The mode of transport offering best value for money should be used. Mileage in excess of 50 miles will be paid at a reduced rate.

4.6.5 Where an officer travels direct from or to home, without having first visited their normal place of work, then normal mileage from home to work should be deducted in calculating the car allowance payable.

4.6.6 All car mileage claims shall be supported by a properly completed journey log showing sufficient details of the journey to enable mileages to be verified.

4.6.7 All claims for travelling and subsistence shall be signed by the claimant and authorised by or on behalf of the appropriate Head of Service / Service Manager. A list of officers authorised to sign claims shall be maintained by the Finance department. All amendments to the list shall be notified to the Chief Finance Officer and Internal Audit in writing. The claims shall be signed in manuscript in the authorised officer's own name. Claimants may not authorise their own claim.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

- 4.6.8 The certificate by the authorising officer shall mean that the journeys were authorised and that the manager is satisfied that expenditure was necessarily incurred on travel and subsistence for which the proper allowances have been claimed, ensuring that cost-effective use of travel arrangements is achieved. Employees can only claim the actual costs of breakfast, tea, dinner etc. up to the maximum prescribe limits.
- 4.6.9 Due to Income Tax implications no benefits in kind or other ex-gratia / other payments are to be made to staff without consulting the Chief Finance Officer.

### Receipts

- 4.6.10 If a receipt for subsistence is not attached an explanation as to why must be recorded. The allowance paid will be restricted to 50% of the scale approved if no receipt is produced. Where no receipt is supplied, the expense claimed must be treated as a taxable item.
- 4.6.11 A VAT receipt for petrol must be provided to cover the VAT element claimed for car mileage. This is an HMRC requirement, if the Council is to reclaim the VAT paid to the employee. If no VAT receipt is supplied, the Council cannot pay the VAT element to employees.
- 4.6.12 Credit card slips are not acceptable in lieu of other forms of receipt.
- 4.6.13 The names of all others for whom the claim relates shall be recorded on the claim.

### Timeliness of Claim

- 4.6.14 All claims for payment to employees of car allowances, subsistence allowances, travel and incidental expenses must be submitted with all relevant receipts on a monthly basis, subject to the limits approved in Local or National Conditions of Service and in accordance with processing timescales.
- 4.6.15 Claims in excess of 3 months may be referred to the relevant Head of Service for review and a satisfactory explanation may be called for.

### Insurance and Other Driver Requirements

- 4.6.16 Officers and members claiming car allowance shall be insured for business use (i.e. not just Social, Domestic and Pleasure) and have included and maintained in their policy of insurance a clause indemnifying the Council against all third party claims, including those concerning passengers, arising out of the use of the vehicle on official business.
- 4.6.17 Officers and members using their cars for business purposes shall ensure that their cars have a valid road fund licence and MOT certificate (if over three years old).

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

- 4.6.18 It is the responsibility of the relevant Head of Service / Service Manager to verify that the appropriate insurance, MOT and road fund licence requirements discussed above are met, and evidence such checks.
- 4.6.19 Claims for car allowance by users in receipt of a Council car loan should note that they are still required to have comprehensive insurance cover in accordance with the car loan conditions.

### **Council Members**

- 4.6.20 Members' travel claims will be certified by the Democratic Services Manager / Monitoring Officer or a duly authorised officer on their behalf and must be submitted on a monthly basis to the Chief Finance Officer.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### 4.7 Car Loans

#### Why is this important?

Any loan to an individual carries with it an element of risk on the part of the lender. The lender has to be sure that the person receiving the money can afford to repay it within an agreed timescale. In the case of car loans this is restricted to use for just that, the purchase of a new or approved second hand car. The Council wishes to ensure that its 'interest' in the vehicle being purchased is protected.

#### Risks:

- The member of staff may be unable to repay the loan;
- The vehicle may not be worth the sale price and hence the Council's interest in it would be reduced; and
- If not comprehensively insured the Council's interest in the vehicle is no longer tangible.

#### Responsibilities and Key Controls

4.7.1 The Chief Finance Officer shall be empowered to make loans in accordance with the Council's scheme to employees who are a member of the Local Government Pension Scheme, or employed by the Council in a permanent capacity.

4.7.2 A register of car loans shall be maintained by the Chief Finance Officer.

#### Application and Payment

4.7.3 Every applicant for a car loan shall submit an application form giving the details required with the approval of the Head of Service / Service Manager.

4.7.4 Payment of a loan shall be made by the Chief Finance Officer against a signed agreement to comply with the conditions of the scheme including authority to deduct amounts due from salary payment. The form of such agreement is to be approved by the Managing Director.

4.7.5 Payments for purchase of vehicles will be made by BACS transfer payable to the seller of the car (normally a garage). A receipt from the seller of the car must be produced and handed to the Council within 14 days of the payment of the loan and a copy held on file.

#### Responsibilities of the Borrower

4.7.6 Cars must be comprehensively insured for business use (see also Financial Instruction 4.6.16 and the Chief Finance Officer or their nominated officer is authorised to inspect policies or certificates of insurance for confirmation at any time.

4.7.7 Borrowers must hold a full valid driving licence and this will be checked annually at the discretion of the Chief Finance Officer.

## 4. SECTIONS APPLICABLE TO ALL STAFF AND MEMBERS

### Repayment

- 4.7.8 Repayment of a car loan must be completed within the agreed period to a maximum of 5 years. Deductions of the appropriate repayment amount will be made from salary by the Chief Finance Officer.
- 4.7.9 In circumstances where an employee with an outstanding car loan leaves the employment of the Council, arrangements for full repayment will be required before the employee has left the Council's service.
- 4.7.10 If the car is sold, the employee must immediately notify the Chief Finance Officer and the amount of outstanding loan must be repaid to the Council.

### 5.1 Ordering Goods, Work and Services

#### Why is this important?

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

#### Risks:

- The incorrect volume, number or quality of goods and services may be received;
- The Council may be committed to spending on goods or services for which no budgetary provision has been determined;
- Officers failing to follow contract and tendering procedures may leave both themselves and the Council open to accusations of favouritism and unfair contract terms;
- Goods or services ordered may fail to meet the Council's environmental, health and safety and other strategies and policies; and
- Short-term expenditure may commit the Council to longer-term maintenance costs.

#### Responsibilities and Key Controls

5.1.1 Each Head of Service / Service Manager is authorised to incur normal recurring expenditure provided that:

- (i) Provision has been made by way of revenue or supplementary estimate, virement or the work is rechargeable. Officers must not use an incorrect expenditure code to avoid overspending;
- (ii) The quotation or tendering procedure required by the Contract Procedure Rules has been observed unless the Council has given authority for them to be waived;
- (iii) In cases not covered by the Contract Procedure Rules, Heads of Service / Service Managers shall obtain competitive quotations;
- (iv) Each order shall conform to the directions of the Council with respect to central purchasing and the standardisation of supplies and materials.

5.1.2 Every officer and member of the authority has a responsibility to declare to the Monitoring Officer any links or personal interests that they may have with purchasers, suppliers and / or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct. These must be recorded in the corporate Register of Officers' Interests.



## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### Orders

- 5.1.3 Official orders shall be in a form agreed by the Chief Finance Officer.
- 5.1.4 Official orders shall be serially numbered and directions shall be specified on all orders that invoices shall be sent to the service issuing the orders as soon as possible after the despatch of goods.
- 5.1.5 The Chief Finance Officer may approve alternative arrangements for the ordering of goods etc. where circumstances or trading necessity make this in their opinion desirable. Such approval must be given in writing.
- 5.1.6 The Head of Service / Service Manager of a service group shall be responsible for all orders issued from that service group. They shall maintain a list of all persons permitted to authorise orders on their behalf and a copy of the list together with specimen signatures shall be supplied to the Chief Finance Officer.

### Ordering

- 5.1.7 Official orders, either in whole or in part, are not to be used to obtain goods or services for private use.
- 5.1.8 Official orders shall be issued for all work, goods and services to be supplied to the Council. They are a simple form of contract between the Council and a supplier which include our standard terms and conditions.
- 5.1.9 Orders are not required for:
- (i) Rates;
  - (ii) Supply of utility services (e.g. gas, water, electricity, telephone);
  - (iii) Small cash purchases properly paid out of petty cash (see Financial Instruction 4.5).

Other exceptions must be agreed by the Head of Service / Service Manager concerned, in consultation with the Chief Finance Officer.

- 5.1.10 Oral orders shall only be given in the case of urgency by an officer authorised to sign the relevant order. Such oral orders shall be confirmed as soon as practicable within 48 hours by the issue of an official order unless exempt by paragraph 5.1.5 above.
- 5.1.11 No order shall be issued for goods, work, or services unless the cost is covered by the approved annual budgets, supplementary estimate or by virement approved by Financial Instruction 6.1.
- 5.1.12 Any order incurring expenditure greater than £200,000 must be authorised by the Managing Director and the Chief Finance Officer.

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

- 5.1.13 All official orders shall show the relevant expenditure code and the actual or estimated cost of the goods, materials or services taking into account discounts, carriage etc. at the time of the order.
- 5.1.14 No supplies are to be obtained on behalf of the Council without an order number being quoted and an order despatched.
- 5.1.15 Internal orders for stationery using approved suppliers' web based ordering systems will be placed by officers approved to use this system, and orders will be monitored by spending officers, and the central system administrator.
- 5.1.16 In cases where orders are lost in the post or claimed to be not received by suppliers, confirmation of the order shall be given by letter quoting the original order number. Duplicate orders shall only be issued where marked as such. Orders will be sent electronically where possible, in accordance with the Procurement Strategy.

### Quotations

- 5.1.17 Best endeavours must be made to ensure that the most favourable prices and terms are obtained for the supply of goods and services for expenditure not exceeding £10,000 ex VAT, having regard to the principles set out in the Council's Procurement Strategy.
- 5.1.18 Three formal quotations (Request for Quotation) are required before expenditure exceeding £10,000 ex VAT is incurred on any one item, to a maximum of £100,000. Evidence of these quotes must be retained.
- 5.1.19 Above £100,000 the instructions set out in the Council's 'Contract Procedure Rules' apply.
- 5.1.20 Where an internal supplier exists, such as printing, waste disposal, legal etc., Heads of Service / Service Managers are expected to approach these support services for a quotation before placing any external order for the service.
- 5.1.21 Orders are not to be split into smaller orders solely to avoid the value limits and procedures laid down in this instruction.
- 5.1.22 The following table is a summary of the quotation / tendering requirements, which also apply to any sub-contractors working on behalf of the Council and to the appointment of any specialist contractors / consultants:

### Limits for Quotations and Tendering

Item Value ex VAT	Quotations/Tendering	Requirement
Below £10,000	Most favourable prices and terms, having regard to the Council's Procurement Strategy.	Good Practice
£10,001 to £100,000	3 formal quotations (RFQ) appropriately evidenced.	Yes
Above £100,000	Tendering in line with Contract Procedure Rules.	Yes
ICT	All system developments and purchases of computer equipment or software must be made via the Council's designated ICT provider, currently Strata Service Solutions Ltd.	Yes

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

- 5.1.23 Certain suppliers e.g. Devon Purchasing, GCat, and other formal Procurement Partnerships are deemed to have obtained sufficient quotations to comply with this requirement, as a part of their compliance with the European Union purchasing regime.
- 5.1.24 Reliance may be placed upon quotations obtained by formal partners provided they meet the requirements of these instructions, and they are current and appropriately evidenced.
- 5.1.25 The best value for money for the Council may not necessarily lie with the lowest quotation. In these circumstances, an order may be placed with a provider other than the cheapest. However, the written approval of the responsible Head of Service / Service Manager must be obtained and the reasons appropriately recorded.

### **Open / Regular Supply Orders**

- 5.1.26 Orders must not be kept "open" for continuing purchases for more than fourteen working days or until completed, whichever comes first.
- 5.1.27 Approval will be given by the Chief Finance Officer to keep an order open where it can be shown that specified supplies from one contractor are required on a continuing regular basis, such as rental charges, having regard to the market testing limits above.
- 5.1.28 All such orders are to be closed down immediately following the approved period to a maximum of the financial year-end, and the expected payments to be recorded on it.

### **Information Technology (ICT) Equipment and Software**

- 5.1.29 All system developments and purchases of computer equipment or software must be made through the Council's designated ICT provider Strata Service Solutions Ltd, in accordance with the Council's ICT Strategy, and must comply with EU Legislation and Directives.
- 5.1.30 For the purpose of this instruction, equipment will include any device capable of being linked physically or otherwise to the Council's computer or telephone systems (e.g. digital cameras).
- 5.1.31 Only Strata's designated ICT Director, or nominated deputy, is empowered to enter into contracts for information, communication and technology services up to the limits specified in these Financial Instructions, the Contract Procedure Rules and Strata's Finance Policy.
- 5.1.32 Orders in respect of ICT hardware and software should be in the form of a Strata Service Request form on the Strata Portal. Authorisation is required from a Teignbridge manager who is authorised to approve such spend.

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### Orders, Delivery Notes and Invoices

5.1.33 All incoming invoices should be matched with the relevant order and the delivery note (where applicable) filed with the copy order.

### Orders to Individuals (Self-employed)

5.1.34 Special care should be taken when issuing orders or making payments to individuals. The fact that a person considers themselves to be self-employed does not necessarily mean that they are. Where a service is provided (rather than goods), and payments are calculated by the hour or day, it is probable that payment should be through the Council's payroll.

5.1.35 If there is any doubt as to the correct treatment, the matter should be referred to the Chief Finance Officer without delay. (It should be noted that failure to treat such payments in the correct manner might result in the Council incurring significant penalties for failing to comply with tax legislation).

5.1.36 Where a person is self-employed or a "Company", all works completed as a Sub-Contractor must be accompanied by a current valid Tax Certificate and Public Liability Insurance. (Payment will NOT be made without a valid certificate).

### 5.2 Payment of Accounts

#### Why is this important?

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

#### Risks:

- The Council could pay for goods and services that have not been received;
- The Council could pay for goods and services twice or more in error; and
- Interest could be charged to the Council by suppliers following late payment.

#### Responsibilities and Key Controls

##### Invoices

- 5.2.1 The payment of all monies due from the Council will be made by the Chief Finance Officer.
- 5.2.2 Each Head of Service / Service Manager will arrange for invoices to be sent in the first instance to the service issuing the orders in accordance with directions to be specified on the orders, and the supplier will be asked to quote the name of the service group, the number of the order and the place where the work was done or goods delivered.
- 5.2.3 Invoices for payment by the Council must not be drafted by officers of the Council on behalf of others except in any case or category of cases previously agreed by the Chief Finance Officer.
- 5.2.4 No amendments, changes or avoidance of the system laid down for the processing of invoices for payment must be undertaken without the approval of the Chief Finance Officer.
- 5.2.5 Only original copies of invoices will be accepted. No payment is to be made against a faxed or photocopied invoice unless the prior approval of the Chief Finance Officer has first been sought.
- 5.2.6 All amendments to an account will be made in ink and signed or initialled in their own name by the officer making the amendment and the reasons if not self-evident will be briefly stated on the account. No amendments will be made to the amount of VAT payable.

##### Invoices – Self-Employed Status

- 5.2.7 To comply with Inland Revenue requirements Heads of Service / Service Managers are required to formally consider the employment status of individuals employed on a 'self-employed, consultant or sub contract' basis. Advice should be sought from the Chief Finance Officer in the case of any doubt as payment through the Council's payroll system may be required.

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### Certification

5.2.8 The Head of Service / Service Manager issuing an order will be responsible for the examination, verification and certification of the relevant account on the original document.

5.2.9 The certification of an invoice on behalf of a Head of Service / Service Manager, by an officer authorised by them, will imply:

- (i) The goods have been received, examined and approved as to quality and quantity, or that services rendered or work done has been performed satisfactorily;
- (ii) They conform to the order;
- (iii) The price is in accordance with the quotation, contract or current market rate, whichever is applicable, or is otherwise reasonable;
- (iv) That all trade and cash discounts, other proper allowances and other credits due have been deducted;
- (v) The expenditure has been properly incurred, has been duly authorised and is within the estimates;
- (vi) That costing allocations are correct;
- (vii) The account has not been previously passed for payment and has now been recorded as paid on the copy order or other authorisation;
- (viii) That appropriate entries have been made in any inventories, goods received or stores records which are required to be kept;
- (ix) The invoice is arithmetically correct and that it complies with VAT regulations; and
- (x) That any commitments pertaining to the original order have been identified and the correct certification slip has been used to cancel the commitment.

5.2.10 A list of officers authorised to **certify** accounts will be sent by each Head of Service / Service Manager to the Chief Finance Officer together with specimen signatures. Amendments to the list will be notified to the Chief Finance Officer by email.

5.2.11 Every account will be signed in manuscript in the certifying officer's own name, on the invoice certification slip attached to the invoice.

### Authorisation

5.2.12 The authorisation of accounts will be made by the Head of Service / Service Manager concerned, or by an officer authorised by them.

5.2.13 A list of officers with the authority to **authorise** invoices will be sent by each Head of Service / Service Manager to the Chief Finance Officer together with specimen signatures. The Chief Finance Officer will be notified of any changes by email from the appropriate Head of Service / Service Manager.

5.2.14 Every invoice will be signed in manuscript on the invoice certification slip in the authorising officer's own name. Initials are not acceptable.

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

5.2.15 The officer authorising the payment will be confirming that the:

- (i) Account has been properly checked and certified by an officer authorised to do so;
- (ii) Account relates to necessary and valid expenditure, which conform to the needs of the particular service; and
- (iii) Items are coded to the correct financial code.

5.2.16 Any payment greater than £200,000 must be authorised by the appropriate Head of Service / Service Manager or the Chief Finance Officer in their absence. An exception to this is Treasury Management payments, which are bound by Financial Instruction 7.4.

### Separation of Duties

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

5.2.18 In no case will an account be certified or authorised for payment by the officer who has personal control over the goods, work or services to which the account relates.

### Payment

5.2.19 Accounts for payment will be submitted, appropriately certified and authorised to the Chief Finance Officer within 14 days of receipt, as they must be paid within 30 days of receipt, or on such terms as agreed with the supplier, unless they are formally in dispute.

5.2.20 The Chief Finance Officer will examine as far as they consider necessary all accounts passed to them for payment and they will be entitled to make all such enquiries and to receive such information and explanations as they may require to satisfy themselves that the accounts are in order.

5.2.21 The Chief Finance Officer will be responsible for carrying out such checks of the arithmetic accuracy of accounts submitted for payment, as they deems necessary.

5.2.22 Subject to the foregoing regulations being complied with the Chief Finance Officer will as soon as practicable pay all accounts passed to them for payment and will ensure the prompt payment of those accounts that are of an urgent nature. The Council aims to pay all undisputed invoices with 30 days from the date of receipt.

5.2.23 Creditors will be paid by BACS with a remittance advice forwarded within 24 hours of payment. All bank details to enable payment will be held on the Creditor's individual file records and amended by Finance staff only on receipt of official notification in writing, from the Creditor. Where a Creditor contacts the Council to make such a request, Finance staff will call the Creditor back having first verified the business telephone number as correct. BACS rejects will be dealt with promptly and followed up with the Creditor to ascertain correct bank details.



## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

- 5.2.24 Cheque payments are to be made only in exceptional circumstances and must be despatched independently of the officer requesting the payment. (See also 5.4). Records of cheques used, and their despatch, will be kept by Finance staff.
- 5.2.25 Each Head of Service / Service Manager will as soon as possible after the 31<sup>st</sup> March in each year, and in any case not later than a date to be specified by the Chief Finance Officer, notify the Chief Finance Officer of all outstanding items of expenditure relating to and incurred in the previous financial year which have not been passed to them for payment. When such items of expenditure are subsequently certified for payment they shall be identified accordingly.
- 5.2.26 Payment for goods and services not yet received should only occur in exceptional circumstances and with the prior approval of an authorising officer. A record of the payment should be made on the order and checks carried out to ensure that delivery subsequently takes place.
- 5.2.27 All paid invoices and certificates will be retained by the Chief Finance Officer for a minimum period of six financial years after the year to which they relate. (See Financial Instruction 4.4).
- 5.2.28 Payments must not be raised for internal transactions of the Council, even between departments without the prior approval of the Chief Finance Officer.

### Returned Cheques

- 5.2.29 Any Creditors cheques returned to the Council, whether by hand or by post shall be passed immediately to the Accounting Technician and not to the instigating section or payments staff. The cheque must be cancelled and the instigating section informed of the cheque having been returned.
- 5.2.30 The instigating section and Finance payments staff are to be informed of any cheques returned in order that appropriate action may be taken to update records etc.

### Value Added Tax (VAT)

- 5.2.31 It is the responsibility of all certifying officers to ensure that the relevant VAT invoice is forthcoming, in accordance with the guidance issued by the Council's VAT officer.
- 5.2.32 All invoices received from VAT registered suppliers, which contain elements of VAT must be valid tax invoices. In cases where payment is required with the order the VAT should be coded to the VAT suspense account.
- 5.2.33 VAT should not be added to any charge invoiced by a supplier without evidence that the supplier is registered for VAT. No amendments will be made to the amount of VAT payable. If the VAT status of the supplier is thought to be incorrect, the matter should be referred to Internal Audit for further investigation.



## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### Purchasing Cards

- 5.2.34 Corporate purchasing cards for buying work related goods or services shall only be issued to and used by officers / members approved by the Chief Finance Officer and relevant budget holder.
- 5.2.35 Officers / members issued with a corporate purchasing card shall ensure that it is held securely at all times and shall immediately report its loss or theft to the Chief Finance Officer / Internal Audit whereupon the issuing company shall immediately be notified by telephone with confirmation in writing by email. Officers issued with a corporate purchasing card shall not lend or disclose the details of the card to other officers unless they have received due authority to do so from the appropriate Head of Service / Service Manager and only in emergency cases. Great care should be taken where a purchase is made using the Internet, i.e. only reputable and secure 'https' web sites should be used.
- 5.2.36 Cardholders must sign the Council's Cardholder Responsibilities and Guideline for Operatives' form to confirm that they have read and understood the guidance and remain compliant with this.
- 5.2.37 Where an employee leaves the Council's employment, or is suspended from duty for any reason, the Head of Service / Service Manager shall ensure that the card is immediately surrendered. The Chief Finance Officer will take immediate steps to cancel the card and destroy it to prevent further use.
- 5.2.38 For each transaction made using the corporate purchasing card, the cardholder must ensure that the relevant order and / or cheque requisition is raised through the corporate ordering system and passed to Finance for processing through the Creditors system. This ensures that the transaction is recorded in the Council's Creditor payment and financial management systems. They must also ensure a VAT invoice is provided by the supplier in accordance with rule 5.2.31 above.
- 5.2.39 The card issuer's monthly statement must be promptly reconciled to receipts and then be submitted to the Chief Finance Officer before payment is due. Payment to the card issuer must be authorised by the relevant Head of Service / Service Manager or the Chief Finance Officer.
- 5.2.40 Should an unauthorised transaction be noted, the employee shall immediately notify the Chief Finance Officer / Internal Audit who will investigate the irregularity.

### 5.3 Income

#### Why is this important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts.

#### Risks:

- Income collected could be lost or stolen;
- Income may not be collected or may be incorrect, i.e. the incorrect rate or tariff is charged;
- Money owed to the Council may not be adequately pursued;
- Fees and charges may unknowingly fail to deliver full cost recovery in line with the Council's Commercial Strategy; and
- Financial and accounting records may not be correctly updated.

#### Responsibilities and Key Controls

- 5.3.1 Arrangements for the collection of all monies due to the Council shall be subject to the approval and control of the S.151 Officer (Chief Finance Officer) and in accordance with the requirements of the Accounts and Audit Regulations 2011.
- 5.3.2 All books of accounts, official receipting systems whether electronic or manual, licences, tickets and all documents or vouchers representing receipts for money or money's worth, shall be in the form approved by the Chief Finance Officer and records maintained of receipts or tickets ordered, controlled and issued by them.
- 5.3.3 Officers with income collection duties shall be properly trained in the requirements of income collection including till / receipting system operations, balancing, banking and security. They must return a signed certificate confirming that they have read and understood the Council's 'Instructions to Cashiers and Attendants' which must be explained to them, by their manager.
- 5.3.4 Officers collecting income shall not also be involved in the reconciliation of that income to the amounts due. An officer who is not involved in the collection process shall ensure that the money reported as collected has indeed been banked.
- 5.3.5 Bank reconciliation checks must be undertaken regularly (i.e. weekly) to facilitate prompt notification and investigation of any discrepancies immediately. Responsibility for this task shall be assigned to a responsible officer.
- 5.3.6 The Chief Finance Officer and Internal Audit Manager must be informed immediately, of any delays in banking income.
- 5.3.7 Officer shall comply with the Council's Commercial Strategy when determining fees and charges. Where possible income shall be collected in advance of providing goods or services having due regard to accounting and VAT implications as advised by the Chief Finance Officer.

### Income Collection and Banking

- 5.3.8 All monies received on behalf of the Council shall without delay be either paid to the Chief Finance Officer, in accordance with regulations agreed by them, or subject to their instructions banked in the Council's name in compliance with the Accounts and Audit Regulations 2015.
- 5.3.9 Where income is collected or processed on behalf of other bodies (e.g. car parking – counting house), monies shall be promptly banked in accordance with the relevant contract or service level agreement with the client organisation.
- 5.3.10 No deduction may be made from income save to the extent that the Chief Finance Officer may specifically authorise.
- 5.3.11 The official receipt is to be issued, and the receipt number or other appropriate reference number is to be recorded on all cheques and postal orders received on behalf of the Council.
- 5.3.12 Third party cheques will not be accepted in payment of accounts due to the Council. No change shall be given for any cheque payments.
- 5.3.13 Cash collected or held on behalf of the Council is to be fully accounted for and an official receipt issued.
- 5.3.14 All receipt forms or books, account forms and tickets are to be ordered and controlled by the Chief Finance Officer (unless by prior arrangement e.g. car parking tickets). All issues of these documents to other departments shall be properly recorded and acknowledged, and such departments should maintain the appropriate control records.
- 5.3.15 Income shall be recorded and banked daily following reconciliation or at such intervals as the Chief Finance Officer may decide. In any event banking shall be made at least once per week or before the relevant insurance limit is exceeded.
- All officers paying in must complete a paying in slip in duplicate in a form approved by the Chief Finance Officer, to allow income to be traced and analysed and comply with any other instructions agreed between the Council and its bank.
- 5.3.16 All collecting officers must maintain an "unders and overs" record for any discrepancies and discrepancies over £30 must be reported immediately to the Chief Finance Officer and Internal Audit.

### Personal Cheques

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

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### Electronic and Telephone Payments

- 5.3.18 All arrangements for the collection of income by electronic means (e.g. direct debit, bank transfer, and on-line payments) shall be subject to the approval of the Chief Finance Officer. Procedures shall ensure that electronic and telephone payments are receipted and reconciled, and the steps taken to ensure they are processed securely with regard to the Payment Card Industry Data Security Standards (PCIDSS).
- 5.3.19 For telephone payments made by credit / debit card through the Desksmart systems, customers can be given the choice of either a printed receipt, or be provided with the receipt number only, to minimise the cost of printing and postage.
- 5.3.20 Officers must ensure that any rejected transactions (e.g. Direct Debit indemnities) are promptly referred to the receiving service to enable action to be taken to collect the sum by alternative means or stop access to services and update records accordingly.

### Change Floats

- 5.3.21 The Chief Finance Officer may advance a fixed change float to an officer of the Council for use in exceptional circumstances where cash income is still collected. Each float shall be of such amount as the Chief Finance Officer may determine in consultation with the relevant Head of Service / Service Manager.
- 5.3.22 Following certification of receipt, officers holding change floats take personal responsibility for the custody of cash until such time as another authorised officer certifies takeover of responsibility.
- 5.3.23 No income is to be used as a change float.
- 5.3.24 Cash income or change floats are not to be used as petty cash in any circumstances.
- 5.3.25 Every officer holding a change float shall certify to Finance the amount of the float held at the 31<sup>st</sup> March each year.
- 5.3.26 Change floats may be inspected by Internal Audit officers at any time.

### Security

- 5.3.27 It is the responsibility of the receiving officers and their managers to ensure that all income and floats are locked away to safeguard against loss or theft, and to ensure the security of cash handling, in line with the requirements of the Council's insurers.
- 5.3.28 When remittances are passed to a second officer or cashier, a receipt must be obtained from the person to whom they are handed. When opening post, if cash is received, the signature of a second employee should be obtained to witness and verify the amount of the payment.

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### Raising Invoices (Sundry Debtors)

- 5.3.29 The control and recovery of debts is the responsibility of the Chief Finance Officer.
- 5.3.30 The relevant Head of Service / Service Manager will provide details of charges for work done, goods supplied or services rendered on behalf of the Council and of other amounts due such as leases, contracts and other agreements entered into that involve the receipt of money, as the Chief Finance Officer may require, and so ensure prompt recording of all funds receivable by the Council.
- 5.3.31 The responsible officer must ensure that invoices are raised in respect of work done, goods supplied or services rendered on behalf of the Council within 10 working days of the work having been done, goods supplied, or services rendered.
- 5.3.32 It is the responsibility of all officers raising invoices to ensure that the VAT is appropriately accounted for in an invoice, in accordance with the guidance issued by the Council's VAT officer.
- 5.3.33 Invoices must not be raised for internal transactions of the Council, even between departments.
- 5.3.34 Accounts raised are to be pursued by the Chief Finance Officer within defined timescales with the service concerned being regularly informed of recovery progress so as to ensure that further provision of goods or services is stopped until payment is forthcoming.
- 5.3.35 Heads of Service / Service Managers will ensure that all necessary documentation required by the Council's Solicitor to support legal action in pursuit of debt, will be provided promptly and in the form required.

### Bad and Doubtful Debts

- 5.3.36 The Chief Finance Officer is empowered to write off bad and doubtful debts up to £5,000 after satisfying themselves that it would be uneconomic or inappropriate for the Council to pursue them, and where appropriate a Legal representative has considered the Council's position and also takes the view that the debt is unlikely to be recovered without expenditure disproportionate to the amount involved.
- 5.3.37 For debts due to other services, the Chief Finance Officer will consider writing off the debt having first consulted with and with the written authorisation of the relevant Head of Service / Service Manager or their deputy.
- 5.3.38 No debts in excess of £5,000 may be written off without the approval of the Executive, and the total amounts of debt written off by the Chief Finance Officer under delegated powers will be reported to this body annually or more frequently if appropriate.
- 5.3.39 Debts owing to insolvency, regardless of their value, may be written off with the approval of the Chief Finance Officer.
- 5.3.40 Appropriate accounting entries shall be made only following the receipt of write off approval.

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### **Cancellations**

- 5.3.41 Invoices should only be cancelled where the income no longer falls due, such as an error or change in circumstances on the original.
- 5.3.42 Cancellation of invoices must be authorised by the relevant Head of Service / Service Manager or their appointed deputy and the Chief Finance Officer or their appointed deputy.

### **Financial Year End**

- 5.3.43 The Chief Finance Officer is to be informed of any outstanding income relating to the previous financial year as soon as possible after the 31<sup>st</sup> March. This includes outstanding income data recorded on independent billing and collection systems (both manual and computerised) held within and outside the finance function.

### **Charges for Services**

- 5.3.44 The Chief Finance Officer shall be notified promptly of all monies due to the Council under contracts, leases, tenancy agreements, agreements for the sale of property and any other agreements involving the receipt of money by the Council, and the Chief Finance Officer shall have the right to inspect any documents or other evidence in this connection as they may decide.
- 5.3.45 With the exception of those fixed nationally or delegated to officers, no new charges for services, or a revision of charges, will be made except upon a report prepared jointly by the Head of Service / Service Manager concerned and the Chief Finance Officer to the appropriate member body.
- 5.3.46 It is the responsibility of the relevant Head of Service / Service Manager, to ensure that the charges for services within their area are kept up to date and in line with the requirements of the Council's Commercial Strategy. This is especially applicable to implementing increases arising from the Council's annual review of charges. Cost recovery where possible helps towards ensuring the production of a balanced budget.
- 5.3.47 The Managing Director and Head of Place and Commercial Services shall ensure that any variation or amendment to any agreed rental shall be notified to the Chief Finance Officer.

### 5.4 Banking Arrangements

#### Why is this important?

All the Council's income and expenditure is managed through its bank accounts. Each day many transactions take place between the Council, its customers and the Council's bankers. Bank accounts are therefore exposed to risk of fraud or error. Tight control over setting them up, maintaining them and dealing with the transactions that flow through them is therefore required.

#### Risks:

- Bank accounts could be opened in the name of the Council with the aim of perpetrating a fraud;
- Unauthorised persons could gain access to the Council's bank account and carry out fraudulent transactions and
- Banking instruments, e.g. cheques, money orders etc. could be stolen and used to steal money from the Council's bank account.

#### Responsibilities and Key Controls

- 5.4.1 All arrangements with the Council's bankers regarding the Council's bank accounts and the terms on which they are conducted shall be made by the Chief Finance Officer.
- 5.4.2 Opening or closing any bank account shall require the approval of the Chief Finance Officer.
- 5.4.3 All the Council's bank accounts must be in the full name of the Council.
- 5.4.4 All cheques shall be ordered only on the authority of the Chief Finance Officer who shall ensure that arrangements are made for their safe custody.
- 5.4.5 All cheques drawn on the Council's bank accounts shall be signed by the Chief Finance Officer (S.151 Officer) or an officer designated in the Bank's mandate, or bear the facsimile signature of the Chief Finance Officer. Facsimile signature stamps may be used in the absence of a mandated signatory, but these must be held securely and their use must be authorised by the Chief Finance Officer or their deputy.

#### Separation of Duties

- 5.4.6 The Chief Finance Officer shall arrange such safeguards as they deem necessary and practicable including separation of staff duties so that as far as possible, the following responsibilities are allocated to separate officers:
- (i) The receipt and banking of income;
  - (ii) The checking of Creditors; Benefits; salaries and wages;
  - (iii) The control of cheques and BACS payments;
  - (iv) The preparation of cheques and BACS payments;
  - (v) The despatch of cheques and BACS payments; and
  - (vi) The reconciliation of bank balances.



## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### Reconciliation of Bank Accounts

- 5.4.7 The Chief Finance Officer shall nominate an officer to be responsible for reconciling all bank accounts in the name of the Council with the accounting records on a regular basis, and not less frequently than monthly. The reconciliation statement is to be signed jointly by the officer responsible for its preparation and the Chief Finance Officer or their nominated deputy.
- 5.4.8 Any discrepancy arising at the time of reconciling the accounts and records will be made known to the Chief Finance Officer and any such discrepancy clearly stated on the reconciliation statement.

### General

- 5.4.9 Crossed cheques shall only be opened with the express approval and countersignature of the Chief Finance Officer or designated authorised officer.



### 5.5 Stocks and Stores

#### Why is this important?

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

#### Risks:

- Stocks and stores could be lost or stolen; and
- Stocks and stores may be held at unreasonably high and uneconomic levels.

#### Responsibilities and Key Controls

- 5.5.1 Each Head of Service / Service Manager shall be responsible for custody and physical control of the stocks and stores of their service group.
- 5.5.2 They shall ensure that stocks and stores are not carried in excess of reasonable requirements.
- 5.5.3 Designated officers are to maintain accurate records of all receipts and issues in a form agreed by the Chief Finance Officer.
- 5.5.4 All requests for stores and materials must be made to the officer responsible for the control and issuing of those stores and materials.
- 5.5.5 Stock items are only to be issued to persons authorised to receive those materials. Requisition notes or equivalent documents approved by the Chief Finance Officer are to be used bearing the signature of the appropriate authorised receiving officer.

#### Stock Takes

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

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### Stock Certificates

5.5.10 The Head of Service / Service Manager shall certify the quantities and values of stocks at cost price held by them at the 31<sup>st</sup> March each year and forward this with a summary of the stock control system to the Chief Finance Officer.

5.5.11 Where appropriate, the Chief Finance Officer shall arrange for stock control systems to be reconciled to the Council's accounts regularly at an appropriate frequency, and annually at the 31<sup>st</sup> March as a minimum.

### Surpluses, Deficiencies and Write Offs

5.5.12 Any significant surpluses or deficiencies revealed in any items of stock at any stocktaking shall be reported immediately to the Head of Service / Service Manager or their deputy.

5.5.13 Any stock or stores items that are surplus to the Council's requirements shall only be disposed of upon the prior written authority of the relevant Head of Service / Service Manager or their nominated deputy.

5.5.14 Stocks or stores of less than £500 in value may be disposed of or exchanged at the Head of Service / Service Manager's written discretion, but a second officer shall formally witness the disposal at a local level and the appropriate financial records retained.

5.5.15 Where stocks or stores are valued above £500 but less than £3,000 sealed bids are to be sought and it shall be the responsibility of the Chief Finance Officer and the relevant Director / Business Manager or their nominated deputy, to obtain the best possible price. The Council has an EBay account for selling obsolete items. The procedure for this can be found on the intranet.

5.5.16 Disposal of items to voluntary groups whose objectives are congruous with those of the Council's may also be considered where appropriate, and with the authorisation of the Head of Service / Service Manager.

5.5.17 The disposal of any stock or stores item/s valued at more than £3,000 shall require the prior approval of the Executive.

## 5. SECTIONS APPLICABLE TO STAFF WITH ADMINISTRATIVE DUTIES

### 5.6 Inventories

#### Why is this important?

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

#### Risks:

- Holders of equipment and furniture may be unaware that items have been lost or stolen without maintaining a record of all such items; and
- The Council's insurers may reject claims to replace lost or stolen items if the Council cannot demonstrate that it maintains adequate inventory records.

#### Responsibilities and Key Controls

##### Inventories

- 5.6.1 Inventories of all property with a replacement value of greater than £100 (furniture, fittings, equipment, vehicles and plant) belonging to or in the care of the Council, other than stores, shall be prepared and maintained by the Head of Service / Service Manager concerned or an officer designated by them.
- 5.6.2 An inventory of all ICT equipment will be held by the Council's ICT provider – Strata Service Solutions Ltd.
- 5.6.3 Inventories shall be kept in a form approved by the Chief Finance Officer.
- 5.6.4 Each Head of Service / Service Manager shall nominate the officers who are responsible for compiling and maintaining the inventories of assets.
- 5.6.5 Each Head of Service / Service Manager shall also arrange for the inventory to be checked at least annually with the physical assets and shall certify the inventory to that effect. The Chief Finance Officer and / or Internal Audit shall be advised of deficiencies revealed by these checks.
- 5.6.6 An audit trail of all inventory additions and deletions must be maintained and available for Internal Audit inspection, if required.

##### Council Property

- 5.6.7 The Chief Finance Officer or their representatives and Internal Audit officers may at all reasonable times have access to the property of the Council and may make such checks and tests as they deem reasonable and necessary.
- 5.6.8 The Council's property shall not be removed unless in accordance with the ordinary course of the Council's business or as directed by the Head of Service / Service Manager concerned.
- 5.6.9 All property belonging to the Council and recorded on an inventory shall be marked as Council property.

### 6.1 The Budget and Budgetary Control

#### Why is this important?

Budget management ensures that once the budget has been approved by full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget. This section should be read in conjunction with the Council's Constitution Part A: Budget and Policy Framework Procedure Rules.

#### Risks:

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

#### Responsibilities and Key Controls

##### Budget Preparation

- 6.1.1 The S.151 Officer (i.e. the Chief Finance Officer) is responsible for ensuring that a revenue and capital budget is prepared on an annual basis and a budget plan on a five-yearly basis for consideration by the Executive, and in accordance with professional and statutory requirements.
- 6.1.2 The general format of the budget will be approved by full Council and proposed by the Executive on the advice of the Chief Finance Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.
- 6.1.3 Full Council may amend the budget or ask the Executive to reconsider it before approving it.
- 6.1.4 It is the responsibility of the Chief Finance Officer to ensure that budget estimates reflecting agreed service plans are submitted to the Executive and that these estimates are prepared in line with guidance issued by the Executive.
- 6.1.5 In practice, the Chief Finance Officer will ensure that the appropriate work is completed to fulfil the above responsibilities.

## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

### **Budget Monitoring**

- 6.1.6 After approval by the Council there must be no increase in the overall budget (see Supplementary Estimate Request below). Expenditure is to be committed only against an approved budget head.
- 6.1.7 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively.
- 6.1.8 The Chief Finance Officer must monitor and control expenditure against budget allocations and report to the Executive on the overall position on a regular basis.
- 6.1.9 It is the responsibility of Heads of Service / Service Managers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer. They should report on variances within their own areas.
- 6.1.10 For budgetary control purposes Heads of Service / Service Managers are to nominate 'Responsible Officers' who will also need to provide the relevant information for budget preparation.
- 6.1.11 Responsible Officers are to be accountable for the income and expenditure for the budgets that they control. Responsible Officers are to understand their financial responsibilities and comply with accounting guidance provided by the Chief Finance Officer and the Council's Financial Instructions.
- 6.1.12 Heads of Service / Service Managers should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

### **Budget Changes (Virement)**

- 6.1.13 The scheme of virement is to be administered by the Chief Finance Officer.
- 6.1.14 Properly approved virement request forms and requests not requiring approval must be processed by the appropriate Accountant and authorised officers who will amend the Financial Management System budget files. Approved forms must be retained for audit purposes.
- 6.1.15 Where it is proposed to transfer all or part of an estimate provision from an existing approved budget head to another, then, before such expenditure is incurred:

### **General Fund (Revenue) Budgets:**

- (i) Where the sum involved is up to £20,000, the appropriate officer (budget holder) may approve the virement. No form is required (note: this applies to virements within the budget holder's own service and virements between budget holders e.g. Leisure to Environmental Health);

## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

- (ii) Between £20,001 and £50,000, the appropriate Head of Service / Service Manager or their nominated deputy shall complete and sign a virement form in consultation with the appropriate accountant or senior accounting technician; which is to be authorised by the Chief Finance Officer or nominated deputy;
- (iii) Where the sum involved is between £50,001 and £100,000 the appropriate Head of Service / Service Manager and the Chief Finance Officer or nominated deputy shall sign a virement form in consultation with the appropriate accountant or senior accounting technician. This must then be authorised two Heads of Service and submitted to the Executive for approval or as a Portfolio Holder decision for non-Key Decisions £50,000 or less;
- (iv) Where the amount exceeds £100,000 per individual virement the appropriate Manager, the Chief Finance Officer, Managing Director, and all Heads of Service shall sign a virement form in consultation with the appropriate accountant and submit it to full Council for approval.

### Capital Budgets:

- (v) Virement forms will be required in the following circumstances to cover virements between expenditure heads within the capital programme, and to cover further use of capital receipts and external funding, grants and contributions:
- (vi) Where the sum involved is up to £20,000, the appropriate responsible budget holder may approve the virement in consultation with the appropriate accountant. No form is required;
- (vii) Between £20,001 and £50,000, the appropriate Head of Service or their nominated deputy shall complete and sign a virement form in consultation with the appropriate accountant, which is to be authorised by the Chief Finance Officer or nominated deputy; the Portfolio Holder is to be consulted;
- (viii) Between £50,001 and £125,000 (and not a Key Decision) the appropriate Head of Service and the Chief Finance Officer or their nominated deputies shall sign a virement form in consultation with the appropriate accountant. This must then be authorised by two Heads of Service and agreed by the Portfolio Holder as a Portfolio Holder decision;
- (ix) Between £125,001 and £250,000 two Heads of Service and the Chief Finance Officer or their nominated deputies shall sign a virement form in consultation with the appropriate accountant. This must then be submitted to the Executive for approval;
- (x) Where the amount exceeds £250,000 per individual virement all Business Leads and the Chief Finance Officer shall sign a virement form in consultation with the appropriate accountant and submit it to full Council for approval.

## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

- 6.1.16 Any such virements must not commit the Council to expenditure over more than the one financial year (revenue), and relate only to the intended project (capital).
- 6.1.17 In addition, the Chief Finance Officer or nominated deputy shall have the discretion whether or not to report any virement to the Executive Committee.
- 6.1.18 Responsible Officers are responsible for initiating the virement procedure if an overspend is likely to occur within the departmental budget. A virement request form is to be completed where approval is required.
- 6.1.19 Where any revenue or capital projects have initially already been submitted to, and agreed by, the Capital Review Group, SLT, Executive Committee, and Council (if applicable), a retrospective virement request form will not be required if the funding arrangements have already been agreed by the Chief Finance Officer.
- 6.1.20 Fully funded schemes (e.g. Section 106 or external funding), up to £125,000, which are in accordance with an existing agreement or approved strategy, can be initiated by the Chief Finance Officer in consultation with the appropriate Head of Service, and reported in the members' newsletter for information.
- 6.1.21 Where an urgent acquisition is required under the provisions of the Council's Commercial Strategy, the Chief Finance Officer has delegated authority to approve the purchase of assets in accordance with the procedure and criteria set out within the Strategy.

### **Supplementary Estimate Request**

- 6.1.22 If virement is not possible, for example if there is no existing budget to vire or use of reserves is inappropriate, the Head of Service / Service Manager concerned, in consultation with the Chief Finance Officer, shall submit a Supplementary Estimate Request to the Executive. No such expenditure may be incurred except on resolution of the Council after considering the proposals of the Executive.

### **Use of Reserves**

- 6.1.23 The appropriate Head of Service in conjunction with the Chief Finance Officer may approve the use of specific reserves up to £30,000, as set out in the Scheme of Delegation.
- 6.1.24 The use of reserves between £30,001 and £100,000 requires the prior approval of the Executive upon receipt of a report from the Chief Finance Officer.
- 6.1.25 The use of reserves over £100,000 requires the prior approval of the full Council upon receipt of a report from the Chief Finance Officer.

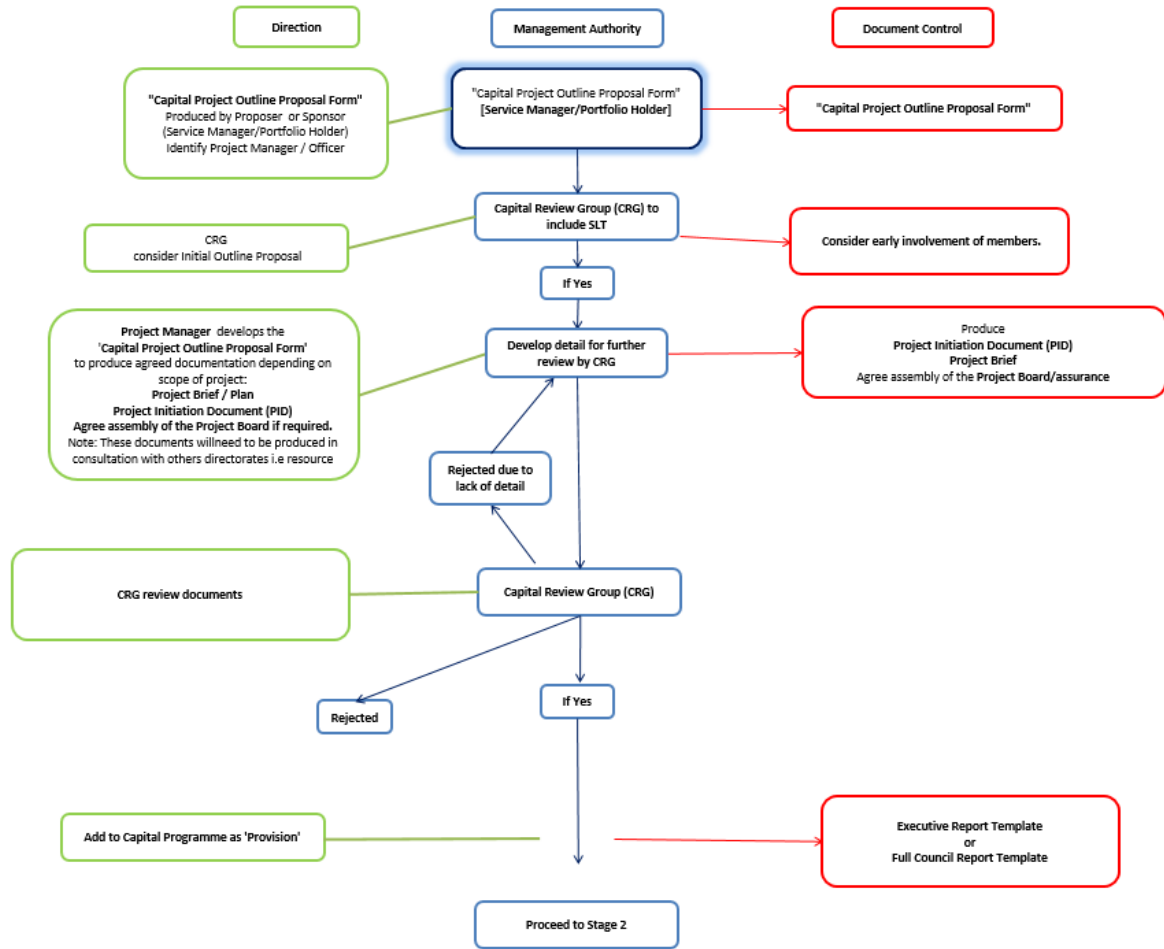


# 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

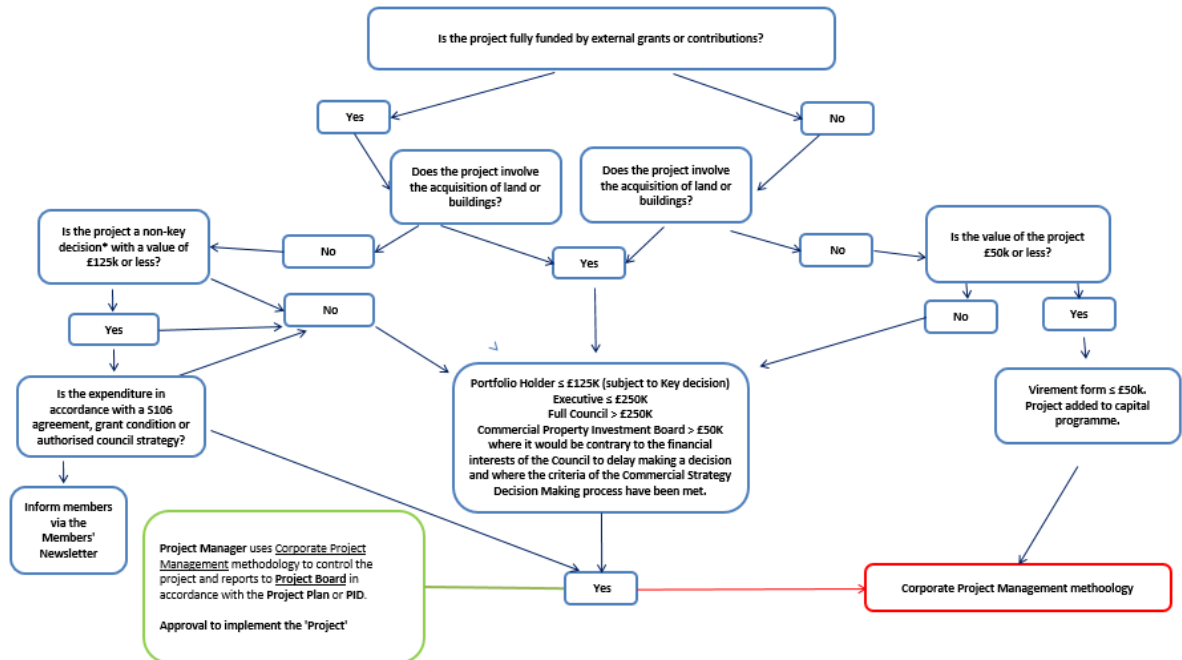
## Project Management - Reporting Flow Diagram. V5

### Project Start Up Structure

#### Stage 1 – Internal Approval by Capital Review Group and CLT



#### Stage 2 – Committee and Financial Approval



\* Key decision: For capital, results in expenditure or savings which are significant, i.e. more than £125k and is significant in terms of its effects on communities living or working in an area comprising two or more wards in the opinion of the Managing Director or the Chief Executive



## **6.2 Payroll – Officers and Members**

### **Why is this important?**

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

### **Risks:**

- Employees may be paid incorrectly;
- Payments may be made to fictitious employees; and
- Action could be taken against the Council by external agencies for failing to abide by statutory requirements in the employment and remuneration of employees.

### **Responsibilities and Key Controls**

6.2.1 The payment of all salaries, wages, gratuities, compensation and other emoluments to employees or to former employees shall be made by the Managing Director through the HR Manager and Chief Finance Officer, including those powers set out in the Scheme of Delegation.

6.2.2 The Managing Director / Head of Service shall notify the HR Manager as soon as possible and in such form as the HR Manager may prescribe of:

- (i) Appointments, resignations, dismissals, suspensions from duties and transfers;
- (ii) Periods of sickness and unauthorised absence;
- (iii) Changes in rate of remuneration (other than normal increments);
- (iv) Such other information as may be required by the HR Manager and Chief Finance Officer in connection with the calculation and payment of salaries, wages, compensation and other emoluments to the employee.

The HR Manager will subsequently pass on relevant details to the Chief Finance Officer for the purposes of processing the payroll for employees in a format agreed by both parties.

6.2.3 To ensure the payment of salaries and wages at the proper time such documents as are required for data processing are to be submitted in accordance with a timetable to be agreed with the Managing Director / Head of Service, the HR Manager, and Chief Finance Officer.

6.2.4 The control and accounting for national insurance, income tax and pension and the maintenance of related records will be under the control of the Chief Finance Officer.

**Appointment**

- 6.2.5 Appointment of employees will be made in accordance with the establishment and rates of remuneration approved by the Council.
- 6.2.6 The HR Manager and any officer who may be appointed to carry out duties in connection with remuneration or establishment will be consulted in connection with any proposal to seek approval for appointment outside the approved establishment and rates of remuneration, e.g. market forces.
- 6.2.7 In applying scales of salaries and wages, and in relation to other remunerations the Head of Service / Service Manager will consult with the HR Manager.
- 6.2.8 Upon the appointment of any member of staff, each Head of Service / Service Manager will provide the HR Manager with the relevant payroll starter letters and forms, plus information necessary to maintain records of service, pensions, income tax and national insurance liability etc. may prescribe on a timely basis.
- 6.2.9 The HR Manager and Chief Finance Officer will maintain personal files for all new and existing employees and will complete pension documentation as required, in accordance with the Local Government Pension Scheme.

**Appointment – Self-Employed Status**

- 6.2.10 To ensure that payroll transactions are processed only through the payroll system, Heads of Service / Service Managers should give formal consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis.
- 6.2.11 The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the HR Manager and / or the Chief Finance Officer. (See also 5.1.54).

**Time and Other Amendment Records**

- 6.2.12 All time records and other amendments shall be in a form approved by the HR Manager and Finance Manager.
- 6.2.13 All time records and other amendments will be certified as a true record by or on behalf of the Business Lead / Business Manager concerned. A list of officers permitted to authorise such records will be sent to the HR Manager and Chief Finance Officer, together with specimen signatures.
- 6.2.14 The authorising officer should undertake whatever checks are deemed necessary to satisfy themselves as to the authenticity and accuracy of the record.

## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

- 6.2.15 All amendments to the authorised signatory list will be notified to the HR Manager and Chief Finance Officer in writing.
- 6.2.16 All time records and other amendment pay sheets will be signed by the employee making the claim.
- 6.2.17 Electronic mailing or facsimiles are not a suitable media to notify the HR Manager or Chief Finance Officer of time or other amendments, other than in urgent cases which must be followed up with a signed original document.
- 6.2.18 Retention of documents must comply with statutory Inland Revenue and Pension requirements.
- 6.2.19 Each Head of Service / Service Manager will be responsible for keeping adequate records of annual leave, sickness or other absences of employees within their service group.

### **Payment**

- 6.2.20 Payments will be calculated by the Chief Finance Officer in accordance with the information provided, the relevant Conditions of Service, and statutory payroll legislation.
- 6.2.21 Payment will be by BACS for all employees. Pay advices will be despatched to the relevant department where a designated officer will be responsible for their distribution. Any undelivered pay advices must be returned to the HR Manager (not payroll officers).
- 6.2.22 Payment of salaries and wages in advance will not be made except in the case of persons leaving the service of the Council before the day on which their salary or wage would normally be paid or at the discretion of the HR Manager.

### **Absence**

- 6.2.23 Managers or their authorised officers are responsible for ensuring records of all absences including holidays, sickness, unpaid and other leave are maintained and monitored.
- 6.2.24 In addition, for periods of unpaid and unauthorised leave, immediate written notification to the HR Manager is required. Where staff attendance is not recorded via the corporate system, the relevant Manager or their authorised officer must regularly submit a manually completed Absence Return Form giving the required information.

### **Leavers**

- 6.2.25 The relevant Head of Service / Service Manager will notify the HR Manager immediately by completion of a Leaver's Form, of all resignations, dismissals, redundancies or retirements. On receipt of the Leaver's Form the HR Manager will notify the Chief Finance Officer who will calculate and initiate the final payment, and where applicable, forward the necessary Pension documentation, to the administering Authority.

**Pay Awards**

6.2.26 The HR Manager in consultation with the Chief Finance Officer, will be authorised to implement any nationally or locally agreed salary or wage award.

6.2.27 The HR Manager, in consultation with the Chief Finance Officer, will report to the appropriate member body on the financial implications of any pay award affecting employees of the Council.

**Verification**

6.2.28 The names and grades of all employees listed on the payroll shall be periodically checked and signed as correct by the appropriate Head of Service / Service Manager to verify the accuracy of the payroll records.

**Members Allowances**

6.2.29 Payments made to members through the payroll will be subject to the same financial control requirements as those made to officers.

6.2.30 Members' allowance returns will be certified by the Monitoring Officer or a duly authorised officer on their behalf and must be submitted on a monthly basis.

### **6.3 Insurances**

#### **Why is this important?**

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

#### **Risks:**

- The Council may be unable to meet large claims made against it, i.e. death or injury;
- The Council may be over insured, i.e. paying out higher premiums than it needs to; and
- The Council may not be aware of all risks and has not, therefore, taken steps to reduce them or their effect.

#### **Responsibilities and Key Controls**

- 6.3.1 The Chief Finance Officer shall effect all insurance cover and negotiate all claims in consultation with other officers where necessary.
- 6.3.2 Heads of Service / Service Managers shall give prompt notification to the Chief Finance Officer of all new risks, property, equipment or vehicles that require to be insured and of any alterations affecting existing insurances. Details of vehicles hired or leased for a period greater than 14 days shall be passed to the Chief Finance Officer.
- 6.3.3 Heads of Service / Service Managers shall ensure that all conditions of the Council's insurance policies that relate to their area of responsibility are adhered to.
- 6.3.4 Heads of Service / Service Managers shall immediately notify the Chief Finance Officer in writing of any loss, liability or damage or any event likely to lead to a claim in connection with their service groups together with full supporting details, papers or subsequent explanation as required.
- 6.3.5 All appropriate employees of the Council shall be included in suitable fidelity guarantee insurance.
- 6.3.6 Heads of Service / Service Managers shall consult the Chief Finance Officer or the Council's Solicitor regarding the terms of any indemnity which the Council is requested to give.
- 6.3.7 The Chief Finance Officer shall annually, or at such period as they may consider necessary, review all insurances in consultation with other Heads of Service / Service Managers as appropriate.

### Inspections

- 6.3.8 Each Head of Service / Service Manager shall keep suitable records to ensure that the inspection of engineering plant under their control normally carried out by an insurance company is carried out by that company or nominated contractor within the periods prescribed by the Health and Safety at Work or other legislation.
- 6.3.9 In the event of failure by the Insurance Company or nominated contractor to carry out inspections within the prescribed periods the Chief Finance Officer shall be notified immediately.

### Claims

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

## **6.4 Partnerships**

### **Why is this important?**

Partnerships can play a key role in delivering services to the community and in helping to promote and improve the well-being of the area. The Council's Commercial Strategy recognises partnership working as one of several alternative delivery models that may help contribute towards its commercial objectives. The Council is working in partnership with other Councils, public agencies, private companies, community groups and voluntary organisations, to bring together the contributions of the various stakeholders to deliver a shared vision of services based on user wishes.

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

### **Risks:**

- The objective of a proposed partnership may not be achieved;
- A partnership arrangement may cost the Council more than an existing or singularly administered equivalent, or the quality of service may decline, or both; and
- Important issues and problems are not addressed as roles and responsibilities were not clearly defined at the outset.

### **Responsibilities and Key Controls**

6.4.1 The Executive is responsible for approving frameworks for partnerships within the scope of its Executive functions.

6.4.2 The Chief Finance Officer will give advice on effective controls and ensure that accounting arrangements are satisfactory.

6.4.3 Before entering into agreements Heads of Service / Service Managers leading will advise the Chief Finance Officer of the key elements of funding a project. This will include:

- (i) A business case and scheme appraisal for financial viability in both the current and future years;
- (ii) Risk appraisal and management;
- (iii) Resourcing, including taxation issues;
- (iv) Audit, security and control requirements;
- (v) Carry-forward arrangements; and
- (vi) Get-out clause and exit strategy for dissolving the partnership.

6.4.4 The Heads of Service / Service Managers leading will:

- (i) Adhere to the requirements of the Council's Commercial Strategy and approved Council policies relating to partnerships;
- (ii) Maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Chief Finance Officer;

## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

- (iii) Ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority;
- (iv) Ensure that an agreement exists in respect of each partnership and governance arrangements are properly documented and reviewed by the Council's Solicitor; and
- (v) Provide appropriate information to the Chief Finance Officer to enable a note to be entered into the Council's statement of accounts concerning material items.

### 6.4.5 Partners must:

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



## **6.5 Work for Third Parties**

### **Why is this important?**

Current legislation enables the Council to provide a range of services to other bodies, but within certain parameters. Such work may enable a service area to maintain economies of scale and existing expertise. The Council's Commercial Strategy also recognises alternative working models as a means of becoming financially self-sufficient. Arrangements should be put in place to ensure that any risks associated with this work are minimised and that such work is within the Council's legal powers.

### **Risks:**

- Internal resources are tied up in providing external users a service with a resulting detrimental effect on the internal service provision; and
- The Council could be held liable for uninsured actions of its staff.

### **Responsibilities and Key Controls**

#### **Approval**

6.5.1 The Executive is responsible for approving the contractual arrangements for any work for third parties or external bodies.

#### **Legality**

6.5.2 The relevant Head of Service / Service Manager must ensure that any work carried out for third parties is not outside the Council's powers by formally seeking the opinion of the Council's Solicitor before such an arrangement is entered into.

#### **Financial Matters**

6.5.3 The Chief Finance Officer shall issue guidance on the financial aspects of providing third parties with services and in the maintenance of a contracts register.

6.5.4 The relevant Head of Service / Service Manager must ensure that:

- (i) The requirements of the Council's Commercial Strategy are met
- (ii) Proposals are costed properly in accordance with the guidance provided by the Chief Finance Officer;
- (iii) No contract is subsidised by the Council;
- (iv) Appropriate insurance arrangements are made;
- (v) The Council is not put at risk from any bad debts;
- (vi) Wherever possible, payment is received in advance of the provision of the service;
- (vii) The Chief Finance Officer is provided with the appropriate information to enable a note to be entered into the statement of accounts; and

## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

- (viii) Information held or assets owned by the Council is/are not used to the detriment of the Council.

### **Contract**

6.5.5 The relevant Head of Service / Service Manager must ensure that:

- (i) Contracts are drawn up using guidance and advice provided by the Council's Solicitor and Chief Finance Officer and that the formal approvals process is adhered to;
- (ii) All contracts are properly documented and that the documentation is kept up to date; and
- (iii) A register is maintained of all contracts entered into with third parties in accordance with the procedures specified by the Chief Finance Officer.

### **Service Provision**

6.5.6 The relevant Head of Service / Service Manager shall also ensure that:

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

## **6.6 External Funding**

### **Why is this important?**

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

### **Risks:**

- Statutory requirements are not complied with;
- Funds are acquired in respect of policies that have not been approved by full council;
- The Council signs up to long term agreements without securing match funding; and;
- Unforeseen risks could cause additional expenditure / staff time needed to manage funded projects.

### **Responsibilities and Key Controls**

- 6.6.1 The relevant Head of Service / Service Manager must complete a project mandate including risk assessment. All stakeholders must be consulted before the project commences.
- 6.6.2 They must make the Chief Finance Officer aware of any prospective funding arrangements, prior to entering into an agreement.
- 6.6.3 The Chief Finance Officer must review proposals in detail to ensure that they are viable and ensure all funding requirements are considered and future revenue or capital budgets reflect these requirements.
- 6.6.4 The relevant Head of Service / Service Manager must seek the relevant approvals, including from members where appropriate.
- 6.6.5 The officer appointed to manage the project should ensure that the funding bodies grant conditions / requirements are met.
- 6.6.6 The Chief Finance Officer is to ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts, and that the external auditor's requirements with regard to the external funding are met.

## **6.7 Land, Buildings, Vehicles, Plant and Equipment**

### **Why is this important?**

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

### **Risks:**

- Assets may be acquired without prior approval, for which there is no use and / or on financially unacceptable terms;
- Assets could be lost, stolen or used for non-Council business;
- Assets are not available when required in the provision of a service; and
- The Council may not be able to maximise the available benefits of its assets.

### **Responsibilities and Key Controls**

#### **Asset Management**

6.7.1 The Council's Managing Director and Head of Place and Commercial Services shall be responsible for the development and implementation of asset management plans.

6.7.2 The Council has also established a Commercial Property Investment Board and a Capital Review Group. The Capital Review Group's roles includes:

- (i) Considering and prioritising new capital bids;
- (ii) Reviewing Capital Project Outline Proposal forms completed in support of capital bids ensuring alternative options have been considered;
- (iii) Considering the revenue consequences of bids for affordability and sustainability and ensuring all sources of funding have been identified; and
- (iv) Recommending projects to be included in the Council's Capital Programme and the subsequent monitoring of these projects.

6.7.3 The Commercial Property Investment Board is responsible for approving commercial investments where the investment meets the criteria laid out in the Commercial Strategy and where it would be contrary to the financial interests of the Council for a decision to be delayed due to adhering to committee approval routes.

#### **Land and Buildings**

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

6.7.5 The Council's Solicitor will have custody of all title deeds under security arrangements agreed with the Chief Finance Officer.

**Vehicles, Plant and Equipment**

6.7.6 The Heads of Service / Service Managers shall ensure that up to date records exist for all vehicles and items of plant and equipment under their control. The records are to include:

- (ii) Registration or serial numbers;
- (iii) Council identification numbers;
- (iv) Description; and
- (v) Usual storage location and location of keys / key holders.

6.7.7 All Council vehicles and items of plant and equipment are to be kept under secure arrangements at all times. Each Head of Service / Service Manager shall nominate the employees who are responsible for the security arrangements.

6.7.8 No private use is permitted of any vehicle or item of plant or equipment in the ownership of or leased to the Council.

**Acquisition**

6.7.9 The acquisition of any land and buildings requires the approval of the Executive and shall be made within the context of the Council's Asset Management Plan subject to the provisions of the Council's Constitution and 6.7.9 and 6.7.11 below.

6.7.10 Minor acquisitions up to £50,000 in value may be approved by the Head of Place and Commercial Services in consultation with the Portfolio Holder, the Managing Director, the applicable Head of Service, and the Chief Finance Officer. The Head of Place and Commercial Services will sign the Decision Notice for the acquisition to evidence their agreement.

6.7.11 All purchases or the leasing of land, buildings, vehicles or items of plant or equipment shall be within the budget provision and the Chief Finance Officer must be consulted on the method of financing.

6.7.12 All purchases or the leasing of land, buildings, vehicles or items of plant and equipment shall be on the best financial terms that can be obtained for the Council. The purchasing or leasing arrangements are to be in accordance with the purchasing arrangements laid down elsewhere in these Instructions and the Contract Procedure Rules.

6.7.13 Where, for commercial reasons, a purchase is required urgently, the provisions of the Council's Commercial Strategy will apply, under which the Chief Finance Officer has delegated authority in line with the provisions specified within the Commercial Strategy, to approve the purchase of assets where their purchase meets the relevant criteria.

## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

### General

- 6.7.14 All buildings, vehicles or plant or equipment shall be appropriately insured, see also Financial Instruction 6.3. The circumstances of losses of or damage to any vehicle or item of plant and equipment must be reported immediately to the relevant Head of Service / Service Manager and the Chief Finance Officer. Losses are to be recorded in the appropriate inventory or asset register.
- 6.7.15 All assets owned by the Council are to be valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA / LASAAC).

## **6.8 Disposal of Land, Buildings, Vehicles, Plant and Equipment**

### **Why is this important?**

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

### **Risks:**

- Assets could be sold when there remains an operational use for them;
- Assets could be sold for far less than the market or expected residual value;
- Assets could be disposed of to officers, members or others at no or very little cost, which could be construed as tantamount to theft; and
- Non-compliance with Government directives such as Waste Electrical and Electronic equipment (WEEE).

### **Responsibilities and Key Controls**

#### **Asset Management**

6.8.1 See Financial Instruction 6.7 which describes the role of the Managing Director and Head of Place and Commercial Services and the management of assets.

#### **Land and Buildings**

6.8.2 The decision to agree to the disposal of assets with a value **up to £10,000** may be made by the Head of Place and Commercial Services.

6.8.3 For those with a value **above £10,000** and up to **£50,000** the Head of Place and Commercial Services must consult with the Portfolio Holder, Managing Director, and Chief Finance Officer. The Head of Place and Commercial Services and the Chief Finance Officer will sign the Decision Notice for the disposal to evidence their agreement.

6.8.4 Above **£50,000** requires the agreement of the Portfolio Holder in accordance with the rules for Portfolio Holder decisions. These Instructions are subject to the Provisions of the Council's Constitution with regard to Key Decisions, as well as having regard to the Council's Asset Management Plan. Decisions will be reported retrospectively to the next Executive committee.

6.8.5 The decision to agree to the disposal **by Lease**, where the period of the lease does not exceed **10 years**, may be made by the Head of Place and Commercial Services having regard to the requirements of the Asset Management Plan and where it does not prejudice existing land holdings or future development proposals.

6.8.6 Lease decisions which commit the Council to periods in excess of 10 years must be approved by the Executive.

## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

### Vehicles

- 6.8.7 Any vehicles that are surplus to the Council's requirements shall only be disposed of on the prior written authority of the Head of Service / Service Manager. They are empowered to dispose of vehicles by way of trade-in or, following advertisement, to the highest tenderer, and to hire additional vehicles where necessary. Where a vehicle has little or no sale value parts should be re-used where appropriate.
- 6.8.8 The disposal of any vehicle shall either be by part-exchange or by public auction. The decision on the method of disposal is the responsibility of the relevant Head of Service / Service Manager, in consultation with the Chief Finance Officer.
- 6.8.9 All documentation relating to the sale of any vehicle is to be retained in safe custody for a period of six years and is to be available for inspection by Internal Audit, if requested.
- 6.8.10 Any inventory or similar record relating to the vehicle disposed of is to be endorsed with the date of disposal and the receipt number for the income received.

### Plant and Equipment

- 6.8.11 The term equipment in this section includes all equipment of the Council including engineering, building and office equipment or machinery.
- 6.8.12 Proposed disposals shall not be separated to avoid the approval and reporting limits.
- 6.8.13 Any items of plant or equipment of up to £500 in value that are surplus to the Council's requirements may be disposed of with the written authorisation of the Head of Service / Service Manager. A second officer shall formally witness the disposal at a local level and the appropriate records retained. (See also 6.8.14 below for use of EBay).
- 6.8.14 Sealed bids are to be sought in respect of any items of plant and equipment that are surplus to the Council's requirements valued between £501 and £3,000 on the prior written authority of the relevant Head of Service / Service Manager or their nominated deputy. It shall be the responsibility of the Chief Finance Officer and the relevant Head of Service / Service Manager or their nominated deputy, to obtain the best possible price. (See also 6.8.14 below for use of EBay).
- 6.8.15 The disposal of any item of plant and equipment valued at more than £3,000, shall be advertised as a competitive tender unless the relevant Head of Service / Service Manager, after consulting the Chief Finance Officer, decides that disposal shall be by other appropriate method e.g. advertisement in local press / trade journals, or part exchange. When placing advertisements, the value must be estimated by a professional, knowledgeable and experienced officer and the process must be agreed with the relevant Head of Service. (See also 6.8.14 below).



## 6. SECTIONS APPLICABLE TO MANAGING DIRECTOR & HEADS OF SERVICE

- 6.8.16 Notices offering an item of plant and equipment for sale via tender or auction, regardless of value, are to state that any offer or tender is to be sent to a named officer within Financial Services in a plain sealed envelope endorsed only with the name of the goods to which the offer or tender relates. The name of the person or organisation tendering must not be stated on the envelope. Alternatively, see 6.8.14 below.
- 6.8.17 The Council has an EBay account which may be used for selling obsolete items by public auction electronically. The procedure for this including approval form can be found on the Council's intranet. Where EBay is not used, offers or tenders received are to be held unopened in safe custody by the officer conducting the disposal until the submission date and time has expired. Tenders must be opened simultaneously and recorded in the presence of two officers to avoid any accusations of impropriety.
- 6.8.18 No offers or tenders are to be considered after the date and time for the submission of offers or tenders has expired, unless no other bids have been received.
- 6.8.19 On acceptance of the highest offer, the purchaser must pay the Council before the item is released.
- 6.8.20 Documentation is to be retained in safe custody for a period of six years and available for inspection by Internal Audit, if requested.
- 6.8.21 Disposal of items to voluntary groups whose objectives are congruous with those of the Council's may also be considered where appropriate and with the approval of the Head of Service / Service Manager.
- 6.8.22 Any inventory or similar record relating to the item of plant and equipment disposed of is to be endorsed with the date of disposal and the receipt number for the income received.

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

- 6.8.23 The disposal of computers and computer related equipment on behalf of the Council is the responsibility of Strata Service Solutions Ltd, although the above principles will apply.
- 6.8.24 Items up to a value of £5,000 may be sold or written out of the inventory on the authority of the Strata IT Director. The method of disposal must ensure best value is obtained and evidence kept. Over £5,000, the Strata Board must authorise the disposal and details of the authority must be recorded in the minutes.
- 6.8.25 Disposal of electrical and electronic equipment including household appliances, IT / telecommunications equipment, electrical and electronic tools, leisure and sports equipment etc. should comply with the WEEE directive and must also ensure data security is not compromised (e.g. by ensuring destruction of hard drives in line with best practice).

### **General**

- 6.8.26 Wherever possible, items should be offered for re-use or recycling where there is little or no residual value.

### Head of Community Services and Improvement

#### 7.1 Grants and Loans

##### Why is this important?

Each year the Council receives applications from the public for grant aid or loans to assist them financially in renovating their property or associated work such as alterations for the installation of disabled facilities. Many of the grants or loans are for thousands of pounds and it is therefore essential that applications are correctly assessed, calculated and paid in accordance with the legal and Council requirements.

##### Risks:

- Applicants may receive and yet not be entitled to receive grant or loan monies; and
- The grant and loan scheme may be manipulated with fraudulent intent.

##### Responsibilities and Key Controls

- 7.1.1 The Head of Community Services and Improvement shall be responsible for delegating the management and processing of applications for grants and loans.
- 7.1.2 The processing of grant and loan applications shall be dealt with expeditiously in accordance with current legislation and Council policy. All applications shall be approved by the Head of Community Services and Improvement or their nominated representative, before any payments are made.
- 7.1.3 Payments shall be within the limits of the budget for grants or loans.
- 7.1.4 Payments of grants or loans shall not be made without the standard of workmanship having been first approved as satisfactory by the appointed officer in association with the applicant or their agent.

##### Declaration of Interests

- 7.1.5 Employees of the Council with a personal interest in any grant or loan application must notify the relevant Head of Service / Service Manager and record the interest.
- 7.1.6 Employees of the Council who have a personal interest in any grant or loan application are not to participate in the processing of the application or payment of the grant.

### 7.2 Payment of Housing Benefit and Council Tax Support

#### Why is this important?

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

#### Risks:

- Benefit could be paid to fraudulent claimants;
- Personal domestic and financial details relating to a claimant could be disclosed without authority to do so; and
- Benefit entitlement could be incorrectly calculated.

#### Responsibilities and Key Controls

7.2.1 The Head of Community Services and Improvement shall be responsible for the procedures, assessment and payment of benefit.

7.2.2 They shall ensure that periodic checks on the calculations and the entitlement for benefit in selected cases are carried out.

#### Personal Data / Declaration of Interest

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

7.2.4 Any information gained in the assessment and payment of benefit shall not be divulged by any member of staff to persons not authorised to receive that information. Any person seeking information on behalf of another must provide satisfactory evidence that they are authorised to do so within the confines of the Data Protection Act 2018.

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

#### Payments

7.2.6 Benefits shall be paid by BACS.

### **Chief Finance Officer**

#### **7.3 Accounting**

##### **Why is this important?**

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

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

##### **Risks:**

- The Council may not account for all income received and expenditure made;
- Financial systems could provide inaccurate or misleading information leading to poor decision making;
- Insecure accounting or financial systems could give rise to opportunities for fraud or loss; and
- Statutory requirements for reporting on the Council's financial affairs may not be met.

##### **Responsibilities and Key Controls**

7.3.1 The Chief Finance Officer shall be responsible for keeping the accounting records of the Council including cost and stores accounts for all service groups of the Council, and to select suitable accounting policies and ensure that they are applied consistently.

7.3.2 They will also be responsible for administering the Council's arrangements for underspendings to be carried forward to the following financial year.

7.3.3 Where they are satisfied that it is in the interest of administrative efficiency for any such records to be maintained in other service groups, the Head of Service / Service Manager of that service group shall have a duty to maintain a standard of financial control which is to the satisfaction of the Chief Finance Officer.

7.3.4 In all cases the Chief Finance Officer shall be consulted and shall approve the form of new accounting records, financial stationery and systems or changes to them following consultation with the Head of Service / Service Manager of the service group concerned.

7.3.5 This will include adequate records to provide a management trail leading from the source of income / expenditure through to the accounting statements.

## 7. FINANCIAL INSTRUCTIONS APPLICABLE TO SPECIFIC POSTS

7.3.6 Financial and accounting systems shall incorporate appropriate controls to ensure that, where relevant:

- (i) All input is genuine, complete, accurate, timely and not previously processed;
- (ii) All processing is carried out in an accurate, complete and timely manner; and
- (iii) Output from the system is complete, accurate and timely.

### Separation of Duties

7.3.7 The following principles should be applied when allocating accounting duties, unless good reason disallows and the prior approval of Internal Audit has been obtained:

- (i) The duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums should be separate from the duty of collecting or disbursing them; and
- (ii) Employees with the duty of examining or checking the accounts of cash transactions shall not themselves be engaged in these transactions.

### Other Information

7.3.8 Heads of Service / Service Managers shall supply requisite information to the Chief Finance Officer for financial costing and accounting purposes.

7.3.9 The Chief Finance Officer shall by arrangement with a Head of Service / Service Manager provide such costing or other financial information required to facilitate the efficient conduct of their functions by officers responsible for incurring expenditure.

7.3.10 The Head of Service / Service Manager will be responsible for advising the Chief Finance Officer of any likely overspending of their authorised budget provision.

### Working Papers and Accounting Records

7.3.11 Working papers leading to the preparation of Final Accounts are to be kept by the officer responsible for the year of audit and for preceding years in accordance with the Document Retention Policy. Adequate records to provide a management trail leading from the source of income / expenditure through to accounting statements is to be maintained.

7.3.12 The Chief Finance Officer is to ensure that accounting and financial records are held securely and procedures are in place to enable accounting records to be reconstituted in the event of a system failure. A documented and tested disaster recovery plan to allow information processing to resume quickly in the event of an interruption shall be in place.

7.3.13 All financial systems shall be documented and users trained in their operation prior to the system being used in a live environment.

## 7. FINANCIAL INSTRUCTIONS APPLICABLE TO SPECIFIC POSTS

### Reports to Member Bodies

7.3.14 Copies of all reports having financial implications shall be submitted to the Chief Finance Officer in sufficient time prior to the meeting of the member body at which such reports are to be considered to enable the Chief Finance Officer to make their observations on the financial implications to the Head of Service / Service Manager concerned. Where the Chief Finance Officer is not a signatory to the report, their observations will be appended where they think it necessary.

### Trading Accounts

7.3.15 Heads of Service / Service Managers shall observe all statutory requirements in relation to business units', including the maintenance of a separate revenue account, to which all relevant income is credited and all relevant expenditure, including overheads, is charged with an annual report being prepared in support of the final accounts.

### Annual Accounts and Report

7.3.16 The Chief Finance Officer is to report to the Executive giving comparisons of actual income and expenditure with that budgeted.

7.3.17 The Chief Finance Officer is to be notified of any outstanding income and / or expenditure relating to the previous financial year as soon as possible after the 31<sup>st</sup> March in accordance with the year end timetable.

7.3.18 The Chief Finance Officer is to administer the arrangements for under and overspendings to be carried forward to the following financial year.

7.3.19 Final accounts are to be prepared in accordance with statutory requirements, CIPFA guidance, best practice, relevant accounting codes, and in liaison with the external auditors. A timetable for their preparation shall be drawn up and staff and the external auditors advised accordingly. The S.151 Officer shall prepare and sign the statutory annual statement of accounts, and produce an annual report. There is a statutory requirement for them to sign the accounts and the Council to approve the accounts by the required date and this must be adhered to.

### 7.4 Treasury Management

#### Why is this important?

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

#### Risks:

- Money invested by the Council could be lost giving rise to the Council facing serious financial difficulty and / or failure to achieve its objectives;
- Funds could be misused by a member of staff for their own ends, resulting in a loss to the Council;
- Money could be borrowed or lent by the Council at less than advantageous interest rates thereby incurring higher than necessary expenditure or foregoing investment income; and
- The Council could fail to repay money borrowed on time thereby having penalties invoked against it.

#### Professional Standards

7.4.1 The Council adopts the latest Code of Practice for Treasury Management in Local Authorities (published by CIPFA) and these rules should be adhered to as a matter of principle.

#### Cash Position

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

#### Investments

7.4.3 All investments of money under its control shall be made in the name of the Council.

7.4.4 All securities in the name of the Council and the title deeds of all property in its ownership shall be held in the custody of the Chief Finance Officer.

7.4.5 The Chief Finance Officer shall be authorised to invest or utilise such surplus monies of the Council as may seem to them proper and in the Council's interest, within the approved Council Policy.



## 7. FINANCIAL INSTRUCTIONS APPLICABLE TO SPECIFIC POSTS

### **Borrowing**

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

7.4.7 The Chief Finance Officer shall:

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

7.4.8 The Chief Finance Officer shall prepare a report prior to the commencement of each financial year for full Council to consider and then set the borrowing limits for the ensuing year.

### **General**

7.4.9 A detailed weekly statement of lending (or borrowing) transactions including the closing balances lent (borrowed) shall be prepared by a nominated officer. At the end of each week this statement is to be presented to the Chief Finance Officer for signed approval. The signed document shall be retained for a period of 2 years for audit inspection. The Chief Finance Officer shall report at least three times a year on treasury management activities to the Executive.

7.4.10 It is the responsibility of Heads of Service and Service Managers to ensure that loans are only made to third parties where specific member approval is obtained, such as loans to social, cultural and sporting organisations etc.

7.4.11 Interests must not be acquired in companies, joint ventures or other enterprises without the approval of full Council, following consultation with the Chief Finance Officer, having regard to the Council's Commercial Strategy.

### **Trust Funds**

7.4.12 All trust funds shall wherever possible be in the name of the Council.

7.4.13 All officers acting as trustees by virtue of their official position shall deposit all securities, etc. relating to the trust with the Chief Finance Officer, or Monitoring Officer as appropriate, unless the deed otherwise provides.

7.4.14 It is the responsibility of Heads of Service / Service Managers to arrange, where funds are held on behalf of third parties, for their secure administration, and to maintain written records of all transactions as approved by the Chief Finance Officer.

7.4.15 Heads of Service / Service Managers must also ensure that trust funds are operated within any relevant legislation including the expectations of the Charity Commission, and the specific requirements for each trust.



### 7.5 Government Grants, Subsidies, Claim Forms and Statistical Returns

#### Why is this important?

Grants and subsidies are a significant source of finance to the Council. As such it is essential that the Council receives all that is due to it and on time. Statistical returns often have a significant financial impact upon the authority in respect of the allocation of future grant funding streams. This section should be read in conjunction with the Council's Data Quality Strategy.

#### Risks:

- Potential income from grants may not be received or received late, the Council thereby having to meet any shortfall in income;
- Grant claim forms may be incorrectly completed; and
- The Council could be criticised by external audit for failing to claim and / or record grant income correctly.

#### Responsibilities and Key Controls

7.5.1 The Chief Finance Officer, in association with Heads of Service / Service Managers where relevant, shall be responsible for ensuring that all forms relating to subsidies, grants and claims submitted to Government Departments or other grant paying bodies are completed on behalf of the Council.

7.5.2 The Chief Finance Officer or relevant Head of Service / Service Manager shall nominate specific officers to complete various subsidy, grant and claim forms and it shall be their duty to deal with the forms expeditiously using the most accurate information available, in accordance with the Council's Data Quality Strategy.

#### Grants Conditions

7.5.3 The Chief Finance Office or relevant Head of Service / Service Manager shall ensure that the conditions of any subsidy or grant are met, including the submission of claims on a timely basis as required by the terms of the grant paying body.

#### Receipts and Payments

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

### **Audit Requirements of the Grant Paying Body**

- 7.5.5 The Chief Finance Officer or relevant Head of Service / Service Manager shall give early consideration to the audit requirements of the grant paying body and make the necessary arrangements for auditing to ensure that relevant deadlines are met.
- 7.5.6 Copies of subsidy, grant and claim forms, together with adequate supporting working papers shall be prepared and retained and are to be made available for inspection by internal or external auditors.

### **General**

- 7.5.7 Great care shall be taken in the preparation and submission of grant claims and statistical returns in order to ensure the accuracy of their content.

### 7.6 Maintenance of Reserves

#### Why is this important?

The Council must decide the level of general reserves that it wishes to maintain before it can decide the level of Council Tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

#### Risks:

- The Council may be unable to meet its financial commitments or any unforeseen costs that may arise during the year; and
- The Council fails to comply with standard codes of practice on local authority accounting (CIPFA / LASAAC).

#### Responsibilities and Key Controls

7.6.1 The Chief Finance Officer shall advise the Executive and full Council on prudent levels of reserves for the Council and take into account the advice of the external auditor and professional advisory bodies.

7.6.2 The Chief Finance Officer will comply with CIPFA guidance notes on Local Authority Reserves and Balances (currently LAAP 77).

7.6.3 Specific reserves shall only be used for the purpose for which they were intended.

### 7.7 Treatment of Year End Balances

#### Why is this important?

Specific rules must be followed for the transfer of resources between accounting years i.e. a 'carry forward'. For the purposes of these instructions, a budget heading is a line in the estimates report, or, as a minimum, at an equivalent level to the standard service sub-division as defined by CIPFA in its service expenditure analysis.

#### Risks:

- Balances are not carried forward correctly.

#### Responsibilities and Key Controls

- 7.7.1 The Chief Finance Officer is to administer the scheme of 'carry forward' within the guidelines approved by full Council.
- 7.7.2 Heads of Service / Service Managers may be required to carry forward overspendings on service estimates to the following financial year and this will constitute first call on estimates in the following year. The extent of overspendings carried forward will be reported by the Chief Finance Officer to the Executive and to full Council.
- 7.7.3 Net underspendings on service estimates under the control of a Head of Service, may be carried forward, subject to:
- (a) the detailed constraints and completion of the official carry forward form; and
  - (b) reporting to the source of underspending or additional income and the proposed application of those resources for approval by SLT to be reported to Executive and subsequently to full Council as before.
- 7.7.4 The Chief Finance Officer is to report all overspendings and underspendings on service estimates carried forward to the Executive and to full Council.
- 7.7.5 All internal cost centre surpluses shall be retained for the benefit of the authority and their application shall require approval in accordance with virement rules or carry forward rules as appropriate.

**7. Financial Procedures  
(c) Contract Procedure Rules**

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## CONTRACT PROCEDURE RULES



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## Section 1: Introduction

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good procurement practice and public accountability and deter corruption. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

*Officers* responsible for purchasing or disposal must comply with these Contract Procedure Rules. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular *contract*. (For example, if you would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations or tender submissions. Equally, it may not always be appropriate to make use of a waiver under even if one might apply or be granted).

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail (or other e-communication systems e.g. e-tendering).

- Follow the rules whenever you purchase goods or services or works.
- Take all necessary procurement, legal, financial and professional advice.
- Declare any personal financial interest in a *contract*. Corruption is a criminal offence.
- Conduct any Value for Money review and appraise the purchasing need.
- Check whether there is an existing *Corporate Contract* or *Framework Agreement* in place you can make use of before undergoing a competitive process.
- For purchases using the RFQ procedure, consider competition between local suppliers where possible.
- For purchases below £10,000 consider local suppliers in the first instance.
- Normally allow at least four weeks for submission of *Bids* (not to be submitted by hard copy, fax or e-mail).
- Keep *Bids* confidential to minimise the risk of bid rigging and collusion
- Complete a written *contract* or Council purchase order before supply or works begin.
- Identify a contract manager with responsibility for ensuring the *contract* delivers as intended.
- Keep records of dealings with suppliers.
- Assess each *contract* during the term and afterwards to see how well it met the purchasing need and quality of delivery requirements.

In accordance with the *Constitution*, the *Section 151 Officer* may propose amendments to these Contract Procedure Rules after consultation with the *Council's*

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*Solicitor*, Internal Audit and the Corporate Procurement Officer. Proposed amendments must be submitted to the Audit Scrutiny Committee, with a recommendation to Council for approval, where appropriate.

Terms in *italics* are defined in the Definitions Appendix at the end the rules.

## 1 Basic Principles

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All purchasing procedures and the letting of *Concession Contracts* must:

- comply with these Contract Procedure Rules and Financial Instructions (both at Part 4 of the *Constitution*);
- achieve Value for Money for public money spent;
- be consistent with the highest standards of integrity, having regard to the Council's Anti-Fraud and Corruption Strategy. The Bribery Act 2010 and the Office of Fair Trading guidance on Anti-Competitive Behaviour;
- ensure fairness in allocating public *contracts*;
- comply with all legal requirements;
- ensure that Non-commercial Considerations do not influence any *Contracting Decision*;
- support the Council's corporate and departmental aims and policies;
- comply with the Council's Procurement Strategies, Sustainable Procurement Policy and Procedure and The Devon Districts Procurement Strategy; and
- be followed by *Officers* of the Council in all procurement activities including circumstances where there has been any challenge by the community.

## 2 Officer Responsibilities

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2.1 Officers responsible for purchasing or disposal must comply with these Contract Procedure Rules, Financial Instructions, the Code of Conduct and with all UK legal requirements. Officers must ensure that any Agents, Consultants and contractual partners acting on their behalf also comply.

2.2 Officers must:

- have regard to the Council's purchasing and contract guidance;
- ensure that the appropriate approved budgetary provision is in place;
- check whether a suitable Corporate Contract exists before seeking to let another contract; where a suitable Corporate Contract exists, this must be used unless there is an auditable reason not to;
- keep the records required by Rule 12;
- take all necessary legal, financial and professional advice.

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## 2.3 (TUPE) Transfer of Undertakings (Protection of Employment) Regulations 2006

When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment) (TUPE) issues are considered and obtain legal advice before proceeding with inviting Tenders or Quotations.

## 2.4 Heads of Service and Service Managers Responsibilities

*Business Leads / Business Managers* must:

- ensure that their staff comply with Rule 2.1
- keep registers of:
  - contracts completed by signature, rather than by the Council's seal (see Rule 22.3) and arrange their safekeeping on Council premises; and
  - waivers recorded under Rule 3.2.

## 3 Waivers

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3.1 The Council and its Executive have power to authorise waivers from the requirement to seek quotations or invite tenders for specific projects, and any such decision may be a Key Decision.

3.2 Where a waiver is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services (Life or Death, Increased Costs / Loss of Income, Limited Markets, Reputation or Continuity and Compatibility) the Officer must seek the approval of their Business Manager or Business Lead, Corporate Procurement Officer, Internal Audit, the Leader/Deputy Leader of the Council, and the Chief Executive, who may jointly approve the waiver. A report must be prepared for the next Executive to support the action taken. Terms are defined as:

- **Life or Death**  
Is there a significant chance that the life or health of officers, members or the public will be put at real risk?
  - **Increased Costs / Loss of Income**  
Will the Council incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service or the Council)?
  - **Limited Markets/Continuity and Compatibility**
- 

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Would the Council be wasting its time obtaining quotations as supply of the product or service is demonstrably restricted to one or few businesses (or an Approved List if it is recommended by Central Government which evidences that the market has been tested)? Does the supplier already know about the project? Are the goods being purchased only compatible with dependent parts already owned by The Council.

- **Urgent Action Required**

Would the Council be criticised for failing to act promptly?

- 3.3 No waiver can be used if the FTS Procedure applies. The latest FTS procurement limits are available from either the Corporate Procurement Officer or Internal Audit.
- 3.4 All waivers, and the reasons for them, must be recorded. These shall be completed by the Officer and signed by their Business Manager / Business Lead, Internal Audit, the Leader / Deputy Leader of the Council and the Chief Executive.
- 3.5 Waiver forms must be used and are available on the Council's intranet or from Internal Audit who will monitor the use of waivers and ensure that all waivers are reported to the next Executive and Audit Scrutiny Committees.

#### **4 Contracts between One or More Public Bodies (Teckal Exemption)**

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- 4.1 Where the Council seeks to provide goods, works or services through its own internal resources it may do so without triggering a procurement exercise (links to Financial Instructions).
- 4.2 Where the Council seeks to provide goods, works or services by entering in to a formal arrangement with another public sector body over which it has some ownership or control it may do so without triggering a procurement exercise where it can be demonstrated that three limited conditions are met, that:
- the Council must exercise over the body to be awarded the *Contract* "a control which is similar to that which it exercises over its own departments"; meaning that the Council must have a power of decisive influence over both strategic objectives and significant decisions of the body awarded the *Contract*; More than 80% of the activities of the body to be awarded the *Contract* must be carried out in the performance of tasks entrusted to it by the Council; and

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- there must be no direct private capital participation in the body to be awarded the *Contract*.

4.3 Where the public sector body that is controlled by the Council seeks to provide goods, works or services by entering in to a formal arrangement with its controlling Council or another public sector body controlled by the same Council it may do so without triggering a procurement exercise where it can be demonstrated that a limited condition is met, that:

- there is no direct private capital participation in the body being awarded the *Contract*.

4.4 Where the Council seeks to provide goods, works or services by entering in to a formal arrangement with one or more public sector bodies over which it has no control it may do so without triggering a procurement exercise where it can be demonstrated that three limited conditions are met, that:

- the Council must exercise jointly with other public sector bodies “a control which is similar to that which it exercises over its own departments” over the body to be awarded the *Contract*;
- more than 80% of the activities of the body to be awarded the *Contract* must be carried out in the performance of tasks entrusted to it by the joint public sector bodies; and
- there must be no direct private capital participation in the body to be awarded the *Contract*.

The Council and other public sector bodies can be said to exercise joint control over another body where all of the following conditions are met; that:

- the decision-making bodies of the controlled body are composed of representatives of all participating public sector bodies;
- the participating public sector bodies are able to jointly exert decisive influence over the strategic objectives and significant decisions of the body awarded the *Contract*; and
- the body to be awarded the *Contract* does not pursue any interests which are contrary to those of the controlling public sector bodies.

4.5 A *Contract* concluded exclusively between two or more public sector bodies may not trigger a procurement exercise where it can be demonstrated that three limited conditions are met, that:

- the *Contract* establishes or implements a co-operation between the participating public sector bodies with the aim of ensuring that public

services they have to perform are provided with a view to achieving common objectives;

- the implementation of that co-operation is governed solely by considering relating to the public interest; and
- the participating public sector bodies perform on the open market less than 20% of the activities with which the *Contract* is concerned.

4.6 *Officers* must proceed with caution when invoking any of the exceptions given within this section, and advice must be sought from the *Corporate Procurement Officer*.

## 5 Collaborative Arrangements

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5.1 The *Corporate Procurement Officer* must be consulted prior to commencing a procurement process using any purchasing consortia contracts or the terms and conditions of *Contract* applicable to any purchasing consortia arrangement, including the requirement to undertake competition between providers, must be fully complied with.

5.2 In order to secure *Value for Money*, the Council may enter into collaborative procurement arrangements. The *Officer* must consult the *Corporate Procurement Officer* where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.

5.3 All purchases made via a purchasing consortium are deemed to comply with these Contract Procedure Rules and no waiver is required. However, purchases above the FTS Threshold must be let under the FTS Procedure, unless the consortium has demonstrated that it has satisfied this requirement already by letting their contract in accordance with the FTS Procedures on behalf of the authority and other purchasing consortium members.

5.4 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no waiver is required. However, **advice must be sought from the *Corporate Procurement Officer***.

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- 5.5 The use of electronic procurement technology enhances the administrative process for tendering (audit trails etc.) but does not negate the requirement to comply with all elements of these contract procurement rules, particularly those relating to competition and Value for Money.

## 6 Relevant Contracts

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- 6.1 All *Relevant Contracts* must comply with these Contract Procedure Rules. A *Relevant Contract* is any arrangement made by, or on behalf of, the authority for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

- the supply of goods (for disposal of goods and assets see the *Financial Instructions*);
- the hire, rental or lease of goods or equipment;
- the delivery of services, including (but not limited to) those related to:
  - the recruitment of staff;
  - financial, legal and *Consultancy* services;
- Development Agreements under certain circumstances (see Section 31 for further details); and
- *Concession Contracts*.

and where the *Supplier* is:

- another public sector organisation, to include a town and / or parish council;
- a body wholly or jointly owned or controlled by the *Council*; and
- a third sector organisation, to include social enterprises, not-for-profit organisations or charities.

- 6.2 *Relevant Contracts* do not include:

- contracts of employment which make an individual a direct employee of the authority; or
- agreements regarding the acquisition, disposal, or transfer of land (for which *Financial Instructions* shall apply); or
- *Section 151 Officer* dealing in the money market or obtaining finance for the Council; or
- contracts made by the *Council's Solicitor* for the appointment of counsel.



## Section 2: Thresholds

### 7 Purchasing: Requirements to Obtain Quotations or Tenders

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7.1 The **Total Value** of a *Contract* is the whole of the value or estimated value (in money or equivalent value) for a single purchase in the following circumstances:

- the total amount payable, net of VAT, as estimated by the Authority, including any form of option and any renewals of the contracts as explicitly set out in the procurement documents, to include any prizes or payments that the Authority intends to make to the Applicant's;
- where the purchase is regular in nature or is intended to be renewed within a given period, the calculation of the estimated contract value shall be based on either of the following:—
  - i. the total actual value of the successive contracts of the same type awarded during the preceding 12 months or financial year adjusted, where possible, to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;
  - ii. the total estimated value of the successive contracts awarded during the 12 months following the first delivery, or during the financial year where that is longer than 12 months.
- where the *Contract* does not indicate a total price, the basis for calculating the estimated *Contract* value shall be the following:—
  - i. in the case of fixed-term contracts where that term is less than or equal to 48 months, the total value for their full term;
  - ii. in the case of contracts without a fixed term or with a term greater than 48 months, the monthly value multiplied by 48.
- where a proposed work or a proposed provision of services may result in contracts being awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots;
- where the *Contract* relates to the leasing, hire, rental or hire purchase of products, the value to be taken as a basis for calculating the estimated contract value shall be as follows:—
  - i. for fixed-term *Contracts*, where that term is less than or equal to 12 months, the total estimated value for the term of the contract or, where

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the term of the contract is greater than 12 months, the total value including the estimated residual value;

- ii. for *Contracts* without a fixed term, or public contracts the term of which cannot be defined, the monthly value multiplied by 48.
- for *Contracts* for insurance services, the premium payable and other forms of remuneration;
- for *Contracts* for banking and other financial services, the fees, commissions payable, interest and other forms of remuneration;
- for design *Contracts*, the fees, commissions payable and other forms of remuneration;
- where a Authority is comprised of separate operational units, account shall be taken of the total estimated value for all those units except where the separate operational unit is independently responsible for its procurement, or certain categories of its procurement, the values may be estimated at the level of the unit in question;
- in the case of *Framework Agreements* and *Dynamic Purchasing Systems*, the value to be taken into consideration shall be the maximum estimated value, net of VAT, of all the *Contracts* envisaged for the total term of the *Framework Agreement* or the *Dynamic Purchasing System*;
- in the case of innovation partnerships, the value to be taken into consideration shall be the maximum estimated value, net of VAT, of the research and development activities to take place during all stages of the envisaged partnership as well as of the supplies, services or works to be developed and procured at the end of the envisaged partnership;
- for *Works Contracts*, the calculation of the estimated value shall take account of both the cost of the *Works* and the total estimated value of the *Goods* and *Services* that are made available to the contractor by the Authority provided that they are necessary for executing the *Works*.

7.2 The general rules when calculated the *Total Value* of a *Contract* are as follows:

- the choice of the method used to calculate the estimated value of a *Contract* shall not be made with the intention of excluding it from the scope of the Contract Procedure Rules;
- a *Contract* shall not be subdivided with the effect of preventing it from falling within the scope of the Contract procedure Rules;
- the estimated value shall be calculated as at the moment at which the call for competition is sent or, at the moment at which the authority commences the procurement procedure; and

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- the *Total Value* shall be that part of the main *Contract* to be fulfilled by the *Nominated Supplier or Sub-contractor*.
  - The Total Value taking into account any options e.g. 3+2 years
- 7.3 The following procedures apply where there are no other procedures which take precedence (such as agency agreements with government). If in doubt, *Officers* must seek the advice of the *Corporate Procurement Officer*.
- 7.4 Where the *Total Value* for a purchase is within the values in the first column below, the *Award Procedure* in the second column must be followed. *Short listing* shall be done by the persons specified in the third column.
- 7.5 Where it can be demonstrated that there are insufficient suitably qualified *Candidates* to meet the competition requirement, all suitably qualified *Suppliers* must be invited to quote and *Tender* and the *Corporate Procurement Officer* informed. If it can be clearly demonstrated that less than the required quotations are available, then the Waiver procedure in line with paragraph 3 must be followed.
- 7.6 Where the *FTS Procedure* is required, the *Officer* shall consult the *Corporate Procurement Officer*, as appropriate, to determine the method of conducting the purchase. See tables at sections 8 and 9.
- 7.7 Where the Council procures on behalf of itself and other partners (acting as lead authority, the *Total Value* will be the overall value of the *Contract* and not the element of cost that applies to the Council itself.
- 7.8 Where procurement is for a service to be shared between authorities, it must be stated in advance both how the costs are to be apportioned between the partners and where the ownership of any assets falls.

## 8 Thresholds for Goods, Services and Works (Table 1)

Total Value (excl. VAT)	Award Procedure
£0 - £10,000	<ul style="list-style-type: none"> <li>• A minimum of 1 written quotation, however, preferably 3 quotes demonstrating best value for money. Quotes must be sought from suppliers with a Teignbridge postcode.</li> <li>• If there are no suppliers based in Teignbridge who can fulfil the requirement; Officers are asked to look at suppliers based in the Devon District.</li> <li>• If there are no suppliers based in the Devon district, Officers are asked to look at national suppliers.</li> <li>• If using national suppliers, please use their geographical location as part of your best value for money evidence e.g. a supplier closer to the Devon district is a more environmentally sustainable solution if delivering goods, or if travelling is needed for services and works.</li> <li>• Please use the supplier database in the first instance. If there are no suppliers within the database who can fulfil your requirement, please use internet searches via a search engine.</li> </ul>
£10,001 - £100,000	<ul style="list-style-type: none"> <li>• A minimum of three formal written Quotations (Request for Quotation) demonstrating best value for money.</li> <li>• <i>Please use the Supply Devon portal in the first instance to conduct your Request for Quotation.</i></li> <li>• <i>If there are no suppliers on the Supply Devon portal who can fulfil your requirement, please use the procurement portal (<a href="http://www.supplyingthesouthwest.org.uk">www.supplyingthesouthwest.org.uk</a>) to conduct your Request for Quotation.</i></li> <li>• If not using Supply Devon, Officers have the option to either directly invite specific suppliers to the opportunity via the procurement portal (ideally a minimum of 5 to guarantee 3 responses) or advertise this requirement nationally via Contracts Finder.</li> <li>• Once awarded, all awarded contracts must be awarded via Contracts Finder.</li> </ul>

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£100,000 – FTS Threshold	<ul style="list-style-type: none"> <li>• Invitation to Tender by advertisement via Contracts Finder.</li> </ul>
FTS Threshold and over	<ul style="list-style-type: none"> <li>• Invitation to Tender by advertisement via Contracts Finder and Find a Tender Service</li> </ul>

9.1 Officers must ensure that they use a variety of suppliers for various projects. Officers must not use the same supplier or contractor for purchases under £10,000.

## 9 Collaborative, Partnership Arrangements, Consultants and External Purchasers

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### Collaborative and Partnership Arrangements

10.1 Collaborative and partnership arrangements are subject to all UK procurement legislation and must follow these Contract Procedure Rules. If in doubt, *Officers* must seek the advice of the *Council's Solicitor* and the *Corporate Procurement Officer*.

### The Appointment of *Consultants* to Provide Services

10.2 Construction *Consultants*, to include architects, engineers and surveyors, financial and management *Consultants*, legal advisors and *Consultants* and any other professional persons considered *Consultants* as per the definition provided shall be selected and commissions awarded in accordance with the limits and procedures detailed within these Contract Procedure Rules and as outlined at Rule 7.1

10.3 The engagement of a *Consultant* shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be

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subject to completion of a formal letter or *Contract* of appointment to be in the form agreed by the *Council's Solicitor*.

- 10.4 Records of consultancy appointments shall be maintained in accordance with. Rule 18.
- 10.5 *Consultants* shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the Council's Insurance Officer for the periods specified in the respective agreement.
- 10.6 *Officers* must be aware of the Council's duty to assess the employment status of individuals and to assess whether they will be working for the Council in an "employed capacity" or "self-employed". The **HM Revenue and Customs checklist** must be used in the assessment of status and if the individual could be deemed as employed, the Council's recruitment and payroll procedures must be followed.

#### **Contracts to Provide Services to External Purchasers**

- 10.7 The *Council's Solicitor*, *Corporate Procurement Officer* and *Financial Instructions* must be consulted where contracts to work for organisations other than the authority are contemplated

## Section 3: Pre-procurement

### Steps Prior to Purchase

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11.1 The Officer must appraise the purchase, in a manner commensurate with its complexity and value and taking into account any *purchasing guidance*, by:

- ensuring the Social Value (Public Services) Act 2012 is complied with for all service contracts where the Total Value exceeds the FTS Threshold;
- Ensuring that sustainable procurement procedures are used where appropriate (*please refer to Sustainable Procurement Policy and Procedure*);
- taking into account the requirements from any relevant Value for Money review;
- appraising the need for the expenditure and its priority;
- defining the objectives of the purchase and consider whether it is appropriate to tender on the same basis as any existing arrangement (see also Rule 2.2);
- assessing the risks associated with the purchase and how to manage them;
- considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium;
- consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;
- drafting appropriate terms and conditions to apply to the proposed contract (if other than the Council's standard terms and conditions, the advice of the *Corporate Procurement Officer* and the *Council's Solicitor* must be sought
- setting out these matters in writing if the Total Value of the purchase exceeds quotations needed outside of the portal. i.e. £10,000 for goods and service and £15,000 for works.

11.2 The officer must also confirm that:

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- there is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the *Constitution*; and
- if the purchase is a Key Decision, all appropriate steps have been taken.

## Records and Reporting

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12.1 The following records must be kept:

- invitations to quote and Quotations;

A record:

- of any waivers and the reasons for them;
- of the reason if the lowest price is not accepted (Nb. to accept a *Quotation* other than the lowest, the *Officer* must be satisfied that the *Tender* represents the most economically advantageous *Bid* and best value for money. The *Award Criteria* for this should have been set out in advance and evaluation records must be retained. See rule 16 for further detail on *Award Criteria*); and
- written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced.

12.2 Where the *Total Value* exceeds £50,000 the *Officer* must record:

- the method for obtaining *Bids*
- any *Contracting Decision* and the reasons for it;
- any waiver under Rule 3 together with the reasons for it;
- the *Selection Criteria* in descending order of importance;
- the *Award Criteria* in descending order of importance;
- *Invitation to Tender* documents sent to and received from *Suppliers*;
- pre-tender market research;
- clarification and post-tender negotiation (including minutes of meetings);
- legal advice;
- the contract documents and any variations or extensions;
- post-contract evaluation and monitoring;
- communications with *Suppliers* and with the successful contractor throughout the period of the *Contract*; and
- ongoing checking of the financial position of the successful contractor throughout the period of the *Contract*.

Please see Appendix A for the contract award report to assist with adherence to this rule 12.2.

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12.3 Records must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful *Suppliers* must be destroyed after 12 months from award of successful contract, provided there is no dispute about the award.

12.4 Where the **Total Value exceeds the FTS Threshold** the *Officer* shall draw up a written report which shall include at least the following:

- the name and address of the *Council*, the subject-matter and value of the *Contract, Framework Agreement or Dynamic Purchasing System*;
- where applicable, the results of the *Selection* stage and reduction in *Tenderers*, namely:-
  - the names of the selected *Tenderers* and the reason for their selection; and
  - the names of the rejected *Tenderers* and the reasons for their rejection;
- The reasons for the rejection of *Tenders* found to be abnormally low; the name of the successful *Tenderer* and the reasons why its *Tender* was selected and, where known:-
  - the share (if any) of the *Contract or Framework Agreement* which the *Tenderer* intends to subcontract to third parties; and
  - the names of the main contractor's subcontractors (if any);
- for *Competitive Procedures with Negotiation* and *Competitive Dialogue* the circumstances which justify the use of those procedures;
- for *Negotiated Procedures without Prior Publication*, the circumstances which justify the use of this procedure
- where applicable, the reasons why the *Council* has decided not to award a *Contract or Framework Agreement* or to establish a *Dynamic Purchasing System*
- where applicable, the reasons why means of communication other than electronic means have been used for the submission of *Tenders*;
- where applicable, conflicts of interest and subsequent measures taken

Where the *Contract Award Notice* contains the information required above, the *Council* may refer to that notice.

## Advertising

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## Identifying and Assessing Potential Candidates

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- 13.1 The tender thresholds sections 8 and 9, and wherever practicable, *Officers* shall ensure that where the *Total Value* of the proposed *Contract* does not exceed the tender threshold they shall invite a minimum of three suppliers, one of whom must have a head office which is registered within the Council's boundaries. Officers shall be seen to alternate the Suppliers to whom quotation documentation is sent so as to ensure fair competition within the market.
- 13.2 *Officers* shall ensure that, where proposed contracts, irrespective of their *Total Value*, might be of interest to potential *Candidates*, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be.
- 13.3 For all procurements that are over the RFQ threshold, advertisements must be placed on the *Council's* electronic tendering system
- 13.4 For all procurements over £10,000, advertisements must be placed on *Contracts Finder*. <https://www.gov.uk/contracts-finder>
- 13.5 Advertisements must include at least:
- the time by which any interested *Supplier* must respond to the opportunity;
  - how and to whom the *Supplier* is to respond; and
  - any other requirements for participating in the procurement.
- 13.6 Where the *Council* published information on *Contracts Finder* it shall by means of the internet offer unrestricted and full direct access free of charge to the relevant contract documents and specify in the information published on *Contracts Finder* the internet address at which those documents are available.

In addition to the above, advertisements may also be placed in:

- the Council's website;
- the Council's social media
- the Council's electronic tendering system;
- national official journals, or
- Find a Tender Service (FTS)

Notices must be placed in Find a Tender Service for *Contracts* with a value exceeding the *FTS Threshold*

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- 13.7 For proposed contracts that are expected to exceed the RFQ threshold assessment and selection will be in conjunction with the *Corporate Procurement Officer*.

**Assessing:**

- 13.8 The *Council* shall not include a pre-qualification stage in a procurement under the *FTS Threshold*.

In any event the *Council* may ask *Suppliers* to answer *Selection* questions to assess their ability to meet requirements or minimum standards of suitability, capability, legal status or financial standing, only if each such question is:

- relevant to the subject-matter of the procurement; and
- proportionate

**Approved Lists**

- 13.9 *Approved Lists* will not be maintained due to the costs of proper administration and the need to ensure that competition is maximised.
- 13.10 Suppliers interested in doing business with the Council must register on the Council's electronic tendering system, which is available at:  
[www.supplyingthesouthwest.org.uk](http://www.supplyingthesouthwest.org.uk)
- 13.11A register of pre-qualified contractors and *Consultants* maintained by or on behalf of central government (e.g. Constructionline, Accredited) will not be deemed to be an *Approved List* for the purpose of these Contract Procedure Rules.

**Framework Agreements and Dynamic Purchasing Systems (DPS)**

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**Framework Agreements**

- 14.1 A *Framework Agreement* is an arrangement of one or more contracting authorities with one or more suppliers in order to establish the terms governing the contracts awarded during a given period.
- 14.2 The term of a *Framework Agreement* must not exceed four years. There must be one (a single-provider framework), or more than two (2) (multi-provider framework) *Suppliers* within an agreement under UK procurement law. The Council's *Corporate Procurement Officer* must always be consulted before any action is taken.
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- 14.3 Contracts based on *Framework Agreements* may be awarded by either:
- applying the terms laid down in the *Framework Agreement* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition (also known as a *direct award*); or
  - where the terms laid down in the *Framework Agreement* are not precise enough or complete for the particular call off by holding a **mini competition** in accordance with the following procedure:
    - inviting the organisations within the *Framework Agreement* that are capable of executing the subject of the contract to submit written *Tenders*;
    - fixing a time limit which is sufficiently long to allow *Tenders* for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract; and
    - awarding the contract to the tenderer who has submitted the best *Tender* on the basis of the *Award Criteria* set out in the specifications of the *Framework Agreement*.
- 14.4 Contracts based on a *Framework Agreement* may under no circumstances entail substantial modifications to the terms laid down in that *Framework Agreement*.
- 14.5 When a *Framework Agreement* has been selected for use, only the *Suppliers* that appear on the agreement may be approached to provide the Contract. Multiple *Framework Agreements* may not be selected for use to procure one single *Contract*.
- 14.6 Contracts may be awarded beyond the life of a *Framework Agreement* provided that such contracts are not awarded improperly or in a way that seeks to distort competition. As an example it would serve to distort competition to award a *Contract* that significantly exceeded the life of the *Framework Agreement* where it was not common practice or expected by the market to do so.
- 14.7 A *Contract* procured under a *Framework Agreement* by another user may not be used by way of avoiding running a further competition, unless expressly permitted by the terms of the *Framework Agreement* or resultant call-off contract.
- 14.8 The *Standstill* obligations need only be applied to contracts awarded against a *Framework Agreement* that will exceed the *FTS Threshold*.

### **Dynamic Purchasing Systems (DPS)**

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14.9 A *Dynamic Purchasing System* is similar to a *Framework Agreement* insofar as it is an arrangement of one or more contracting authorities with one or more suppliers in order to establish the terms governing the contracts awarded during a given period, the term must not exceed four years and its *Total Value* must be the total of all contracts that are anticipated to be awarded under it.

The way in which the *Dynamic Purchasing System* is different to a *Framework Agreement* is that additional *Suppliers* can be added throughout the life of the arrangement and the life of the arrangement can be for a period, which is proportionate to the nature of the works, services or goods to be procured under it, as specified by the *Council*.

14.10 In opening up access to *Suppliers* to the *Dynamic Purchasing System* the *Officer* must:

- offer unrestricted, direct and full access to the procurement documents by electronic means at all times throughout the life of the *Dynamic Purchasing System*;
- allow new applications to be submitted throughout the life of the *Dynamic Purchasing System*;
- complete the evaluation of a newly submitted application within ten days of its receipt;
- admit to the *Dynamic Purchasing System* all new *Suppliers* that satisfy the *Selection criteria*, and
- notify *Suppliers* of their admission to the *Dynamic Purchasing System* or rejection of their application.

14.11 In awarding a *Contract* under the *Dynamic Purchasing System* the *Officer* must:

place an advertisement against the *Dynamic Purchasing System* to notify *Suppliers* of the requirement to award a *Contract*. Where the *Dynamic Purchasing System* has been established in accordance with the UK procurement rules, i.e. where the *Total Value* exceeds the *FTS Threshold*,

- evaluate any new applications in response to the advertisement prior to issuing *Invitations to Tender* under the *Dynamic Purchasing System*.

All *Suppliers* admitted to the *Dynamic Purchasing System* must be given an opportunity to respond to the *Invitation to Tender*, and the *Contract* shall be awarded to the *Supplier* that submits the best *Bid* in accordance with the *Selection and Award Criteria* set out in the original advertisement

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14.12 The Council's *Corporate Procurement Officer* must always be consulted before any action is taken to establish a *Dynamic Purchasing System*.

### **Early Market Engagement and Consultation (Soft Market Test)**

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- 15.1 The *Officer* responsible for the purchase: may, prior to the issue of the *Invitation to Tender* or *Quotation*, consult potential suppliers in general terms about the nature, level and standard of the supply, *Contract* packaging and other relevant matters, provided this does not prejudice any potential *Supplier*.
- 15.2 The *Officer* may seek or accept advice from potential *Suppliers* that can be used in the planning and conduct of the procurement procedure, provided that it does not have the effect of distorting competition and does not result in the violation of the principles of non-discrimination and transparency.
- 15.3 The *Officer* shall take appropriate measures to ensure that competition is not distorted, including:
- communicating to the other *Tenderers* any relevant information exchanged resulting from the involvement of the *Supplier's*; and
  - fixing adequate time limits for the receipt of *Tenders*.
- 15.4 *Supplier's* that have assisted the *Officer* in preparing the procurement procedure shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to treat all *Supplier's* equally and *Supplier's* shall be given the opportunity to prove that their involvement in preparing the procurement procedure is not capable of distorting competition.
- 15.5 A Soft Market Test exercise can be conducted via [www.supplyingthesouthwest.org.uk](http://www.supplyingthesouthwest.org.uk), advice must be sought from the Corporate Procurement Officer before conducting any such exercise.
- 15.6 For service contracts where the *Total Value* will exceed the *FTS Threshold* the *Officer* must give due consideration to the Social Value (Public Services) Act 2012 prior to the commencement of the procurement process.

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# Section 4: The Procurement

## Standards and Award Criteria

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16.1 The *Officer* must define the *Selection Criteria* that are related and proportionate to the subject matter of the *Contract*. These shall form a stage one assessment of whether a Tenderer may progress with a *Tender* process, whether from the *Pre-Qualification Questionnaire (PQQ)* to *Tender* stage or from the *Selection* stage evaluation to the *Award* stage evaluation in an open *Tender*. The criteria to be assessed against may be chosen from the following:

- criteria for the mandatory exclusion of the *Supplier*; such as conspiracy, prior criminal convictions, evidence of corruption, bribery, fraud, terrorism, money laundering, tax evasion, etc. (this list is not exhaustive);
- criteria for the discretionary exclusion of the *Supplier*, such as bankruptcy, grave professional misconduct, evidence of distorting competition, conflict of interest, significant deficiencies in the delivery of a prior public contract, etc. (this list is not exhaustive);
- information as to economic and financial standing; such as, insurances, statements of accounts, statements of turnover, etc. (this list is not exhaustive); and
- information as to technical or professional ability; such as
  - the *Supplier's* professional ability, taking into account in particular that economic operator's skills, efficiency, experience and reliability;
  - evidence of a sufficient level of experience demonstrated by suitable references from contracts performed in the past; and
  - evidence that the *Supplier* possesses the necessary human and technical resources and experience to perform the contract to an appropriate quality standard (this list is not exhaustive).

16.2 The *Officer* shall include within its procurement procedures the Crown Commercial Services Standard Pre-Qualification Questionnaire for the purposes of assessing the *Selection* criteria. This shall apply to all procurement procedures with the exception of contract for *Works*, which can include the PAS 91 standard for assessing the *Selection* criteria.

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**The *Corporate Procurement Officer* must be consulted where the *Total Value* of the *Contract* is likely to exceed the *FTS Threshold* and in any event to provide advice and guidance concerning the *Crown Commercial Services Pre-Qualification Questionnaire* to ensure that the questions are related and proportionate to the subject matter of the contract.**

16.3 *Selection Criteria* must not include:

- *Award Criteria*;
- *Non-commercial Considerations* (See Definitions Appendix); and
- criteria that is not related and proportionate to the subject matter of the *Contract*.

16.4 The *Officer* must ascertain what are the relevant British or equivalent European or international standards which are linked to the subject matter of the *Contract* and are appropriate to define characteristics of the *Works, Goods* or *Services* that are the subject-matter of the *Contract*. The *Officer* must include those standards which are necessary properly to describe the required quality. This includes sustainability, environmental, and health and safety standards. The *Council's Solicitor* and *Corporate Procurement Officer* must be consulted if it is proposed to use standards other than European standards.

16.5 The *Officer* must set out the technical specification in the procurement documents that lay down the characteristics required of the *Works, Services* or *Goods*, which can include the following:

- levels of environmental and climate performance;
- design for all requirements (including accessibility for disabled persons);
- performance;
- safety or dimensions;
- procedures concerning quality assurance;
- packaging;
- rules relating to design and costing; and
- inspection and acceptance conditions, etc. (this list is not exhaustive).

16.6 The *Officer* must define *Award Criteria* that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the authority. The basic criteria shall be:

- 'Lowest price' where payment is to be made by the authority when the *Award Criteria* is price alone;

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- 'Highest price' if payment is to be received; or
- 'Most economically advantageous', where considerations in addition to price also apply.

If the former criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. The criteria to be assessed against may be chosen from the following:

- quality, including technical merit, aesthetic and functional characteristics, social, environmental and innovative characteristics;
- organisation, qualification and experience of staff assigned to perform the contract;
- after-sales service and technical assistance; and
- cost, on the basis of a fixed price or life-cycle costing, etc. (this list is not exhaustive)

*Award Criteria* must be accompanied by the relative weightings ranked in order of importance to the Council in the context of the specific procurement and must be linked to the subject-matter of the *Contract*.

16.7 *Award Criteria* must not include:

- *Selection Criteria*;
- Non-commercial Considerations;
- matters which discriminate against suppliers, irrespective of size, from the
- criteria that is not related and proportionate to the subject matter of the *Contract*.

## Procurement Documentation

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17.1 Council *Officers* must prepare their *Procurement Documentation* using the Council's standard templates, which are available on the Council's Intranet site or via the *Corporate Procurement Officer*.

17.2 The *Procurement Documentation* shall state that no *Bid* will be considered unless it is received by the date and time stipulated. No *Bid* delivered in contravention of this clause shall be considered under any circumstances.

17.3 All *Procurement Documentation* shall include the following:

- a specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers;
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- a requirement for *Suppliers* to declare that the *Bid* content, price or any other figure or particulars concerning the *Bid* have not been disclosed by the *Supplier* to any other party (except where such a disclosure is made in confidence for a necessary purpose);
- a requirement for *Suppliers* to complete fully and sign all *Bid* documents including a form of Tender and certificates relating to canvassing and non-collusion;
- notification that *Bids* are submitted to the Council on the basis that they are compiled at the *Supplier's* expense;
- in the event that the *Contract* will not be divided in to separate *Lots*, the procurement documents will indicate the main reasons why not
- a description of the *Award Procedure* and, unless defined in a prior advertisement, a definition of the *Award Criteria* in objective terms and if possible in descending order of importance;
- notification that no *Bid* will be considered unless it is submitted via the Council's approved electronic tendering system;
- a stipulation that any Tenders submitted by fax or e-mail shall not be considered,
- the method by which any arithmetical errors discovered in the submitted *Bids* is to be dealt with. In particular, whether the overall price prevails over the rates in the *Tender* or vice versa;
- instructions to *Suppliers* concerning the procurement process and *Procurement Documentation* and information concerning the contract opportunity;
- the pricing schedule, schedule of rates, whole life costing schedule or other such appropriate pro-forma for gathering the *Supplier's* pricing;
- a requirement for *Suppliers* to indicate in its *Tender* any share of the *Contract* that it intends to subcontract to third parties and details of those subcontractors, if known; and
- a requirement for *Suppliers* to indicate in its *Tender* whether it is bidding as part of a consortium and details of the other consortia members.

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- 17.4 All *Suppliers* invited to *Bid* must be issued with the same information at the same time and be subject to the same conditions. Any supplementary information must be given on the same basis.
- 17.5 All *Procurement Documentation* must specify the goods, service or works that are required, together with the terms and conditions of *Contract* that will apply
- 17.6 The *Procurement Documentation* must state that the Council is not bound to accept any *Quotation* or *Tender*, either as a whole or in part.

### Shortlisting

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- 18.1 The *Officer* will not include a Pre-Qualification stage in any procurement under the relevant *FTS* Threshold. *Officers* may reject *Bids* from *Suppliers* submitted against procurement procedures under this threshold only in accordance with the mandatory or discretionary rejection *Selection* criteria.
- 18.2 Where the procurement exceeds the *FTS* Threshold, any *shortlisting* must be done in accordance with the permitted *Selection Criteria*.
- 18.3 Evaluation criteria must be transparent and any sub-criteria specified. *Shortlisting* records must be kept and held for the period specified in the Council's Document Retention Policy and Rule 18.
- 18.4 Where the *Contract* is subdivided in to *Lots* the procurement documents shall indicate whether *Tenders* may be submitted for one, for several or for all of the *Lots*.
- 18.5 Where the *Contract* is subdivided in to *Lots* the procurement documents may state the number of *Lots* that may be awarded to one *Supplier* and any criteria or rules that will be applied in determining the way in which the *Lots* will be awarded.
- 18.6 *Officers* must contact the *Corporate Procurement Officer* prior to implementing *shortlisting* criteria in to their procurement documents.
- 18.7 The *officers* responsible for *shortlisting* are specified in Rule 7.1

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## Submission, Receipt & Opening of Tenders

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- 19.1 *Suppliers* must be given an adequate period in which to prepare and submit a proper *Quotation* or *Tender*, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of *Tenders*. The *Pub Contracts Regulations 2015* lays down specific time periods
- 19.2 All *Tenders* must be submitted electronically, through the Council's approved and secure electronic tendering system.
- 19.3 *Tenders* received by fax or other electronic means (e.g. email) must be rejected.
- 19.4 Each *Tender* must be:
- suitably recorded so as to subsequently verify the date and precise time it was received;
  - adequately protected immediately on receipt to guard against amendment of its contents; and
  - recorded immediately on receipt in the *Tender Register*.
- 19.5 *Tenders* received after the set date and time must not be accepted and the *Corporate Procurement Officer* informed of late submissions. For the purposes of these rules the time will be deemed to be at the first stroke e.g. noon will be 12.00.00.
- 19.6 The *Corporate Procurement Officer* shall ensure that all *Tenders* are opened at the same time when the period for their submission has ended.
- 19.7 Upon opening, a summary of the main terms of each *Tender* (i.e. significant issues that are unique to each *Tender* submission and were not stated in the *Tender* invitation documents such as *Tender* sum) must be verified on the electronic tendering system

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## Clarification Procedures & Post-Tender Negotiation

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- 20.1 Providing clarification of an *Invitation to Tender* to potential or actual *Suppliers* is permitted:
- in writing via the Council's electronic tendering system;
  - at a meeting/site visit, provided that a written record is made of the meeting; and
  - in a way that is fair, transparent and equal to all participants.
- 20.2 Discussions with tenderers after submission of a *Tender* and before the award of a *Contract* with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) **must be the exception** rather than the rule. In particular, they must not be conducted in an *FTS Procedure* where this might distort competition, especially with regard to price. If in doubt, seek professional advice from the *Corporate Procurement Officer*.
- 20.3 If post-tender negotiations are necessary after a single-stage *Tender* or after the second stage of a two-stage *Tender*, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best *Tender* and after all unsuccessful *Suppliers* have been informed. *Officers* appointed by a *Business Lead* to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 18.4 Post-tender negotiation must only be conducted in accordance with the guidance issued by the *Corporate Procurement Officer* who must be consulted wherever it is proposed to enter into post-tender negotiation. Negotiations must be conducted by a team of at least two *Officers*, one of whom must be from a division independent to that leading the negotiations.
- 20.5 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the *Contract* must not be awarded but re-tendered.

## Evaluation, Award & Debrief

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- 21.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of *Quotations*, *Tenders* and the identity of *Suppliers*
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must be preserved at all times and information about one *Supplier's* response must not be given to another *Supplier*.

- 21.2 *Tenders and Quotations* must be evaluated and awarded in accordance with the *Selection and Award Criteria*. During this process, *Officers* shall ensure that submitted *Tender* prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.
- 21.3 The arithmetic in compliant *Tenders* must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their *Tender*.
- 21.4 *Officers* may use *Electronic Auctions* as a means of driving additional *Value for Money* and as part of the *Award Criteria*, where this process is completed using the Council's electronic tendering portal. Where the *Officer* wishes to use such a tool, the *Corporate Procurement Officer* must be contacted to offer assistance. *Electronic Auctions* may also be used for seeking *Bids* in sale transactions, such as land, where the highest possible price is sought from an applicant. (Links to 'Disposals' in Financial Instruction).
- 21.5 *Officers* may accept *Quotations* and *Tenders* received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these Contract Procedure Rules. Awarding of contracts that are expected to exceed the approved budget sum shall be referred back to the *Executive* or the *Section 151 Officer* as appropriate, in line with the Scheme of Delegation.
- 21.6 Where the *Total Value* is over the Request for Quotation threshold, the *Officer* must notify all *Suppliers* in writing simultaneously and as soon as possible of the intention to award the contract to the successful *Supplier* and include the reasons why for unsuccessful bidders. Where an unsuccessful *Supplier* requests debrief information the *Officer* may use their discretion in deciding whether or not to comply with the request; there is no legal obligation imperative on the *Officer* to do so.
- 21.7 Where the ***Total Value will exceed the FTS Threshold*** the *Officer* must notify all *Suppliers* in writing simultaneously and as soon as possible of the intention to award the *Contract* to the successful *Supplier*, unless it is known sooner in the procurement process that a *Supplier* has been unsuccessful, in which case the *Officer* must notify the *Supplier* soonest with as much of the information required at 21.8 below as possible. The latter applies most

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particularly, but not exclusively, in the case of a Restricted Procedure whereby the *Officer* must communicate the list of shortlisted *Suppliers* to those that have not been shortlisted.

21.8 The letters to the unsuccessful *Suppliers* must contain:

- the criteria for the award of the *Contract*;
- the reasons for the decision, including the characteristics and relative advantages of the successful *Tender*, the score (if any) obtained by:
  - the Supplier which is to receive the notice; and
  - the Supplier to be awarded the *Contract*; or to become a party to a *Framework Agreement* or *Dynamic Purchasing System*;
- the name of the Supplier to be awarded the *Contract*; or to become a party to a *Framework Agreement* or *Dynamic Purchasing System*; and
- a precise statement of either:
  - when the *Standstill Period* is expected to end and, if relevant, how the timing of its ending might be affected by any and, if so what, contingencies; or
  - the date before which the Council will not enter into the *Contract* or conclude the *Framework Agreement* or *Dynamic Purchasing System*.

21.9 The *Officer* must provide a *Standstill Period* of at least ten working days, where the communication is made electronically (fifteen days if not) to allow unsuccessful *Suppliers* the opportunity of challenging the decision before the *Officer* awards the *Contract*. The *Standstill Period* shall end at midnight on the final day of *Standstill* and no sooner. Where the last day of the *Standstill Period* is not a working day, the *Standstill Period* is extended to midnight at the end of the next working day. If the decision is challenged by an unsuccessful *Supplier* then the *Officer* shall not award the *Contract* and shall immediately seek the advice of the *Council's Solicitor* and *Corporate Procurement Officer*.

21.10 Where the *Supplier* has been informed of the fact that they have not been successful at an early stage in the procurement process, they must be provided within fifteen days of any request in writing from said *Supplier*, with the reasons that they were unsuccessful.

# Section 5: The Contract

## Contract Documents

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### 22.1 Relevant Contracts

22.1.1 All *Relevant Contracts* above £10,000 shall be **in writing** in a form approved by the *Council's Solicitor*.

22.1.2 All *Relevant Contracts*, irrespective of value, shall clearly specify:

- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- The provisions for payment (i.e. the price to be paid and when);
- The time, or times, within which the *Contract* is to be performed; and
- The provisions for the Council to terminate the contract.

22.1.3 The Council's purchase orders or standard terms and conditions issued by a relevant professional body must be used for simple purchases of goods. If any doubt exists, the advice of the *Council's Solicitor* and *Corporate Procurement Officer* must be sought.

22.1.4 In addition, every *Relevant Contract* of purchase **over £50,000** must also state clearly as a minimum:

- Health and Safety requirements (where applicable and proportionate);
- sustainability and environmental management requirements (where applicable and proportionate);
- Social Value Act requirements (where applicable, i.e. for service *Contracts* with a *Total Value* in excess of the *FTS Threshold*);
- Equality Act 2010 requirements (where applicable and proportionate);
- that the contractor may not assign or sub-contract without prior written consent;
- any insurance requirements;
- Ombudsman requirements;
- data protection requirements, if relevant;
- that charter standards are to be met if relevant;
- Freedom of Information Act requirements;
- where *Agents* are used to let contracts, that *Agents* must comply with the Council's Contract Procedure Rules;
- a right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant;
- any confidentiality requirements;
- tax evasion and avoidance requirements;



- a prompt payment clause stating that payment of undisputed invoices will be made within 30 days by contractors and subcontractors;
- a clause concerning technical staff where these are inherent to the successful outcome of the *Supplier's Bid* giving a requirement for the *Supplier* to notify the Authority where they intend to replace those members of staff; and
- termination clauses compliant with the Public Contracts Regs 2015.

22.1.5 The formal advice of the *Council's Solicitor* must be sought for contracts where any of the following apply:

- where the Total Value exceeds £50,000; or
- below £50,000 if other than the Council's standard terms and conditions are to be used; or
- those involving leasing arrangements (*Section 151 Officer* to be advised); or
- where it is proposed to use a supplier's own terms; or
- those involving the purchase of application software with a Total Value of more than £50,000; or
- those that are complex in any other way.

## 22.2 Contract Formalities

22.2.1 Agreements shall be completed as follows:

Total Value	Method of Completion	By
Purchase orders - up to £50,000	Electronic Order or Signature	Authorised officer
Contracts and licences up to £50,000 with the Council's Standard Terms and Conditions	Signature	<i>Business Lead / Business Manager</i> or Nominated Deputy (Rule 22.2.3)
Contracts and licences up to £50,000 with Non Standard Terms and Conditions	Signature	<i>Business Lead / Business Manager</i> , on the advice of the <i>Council's Solicitor</i>
Above £50,000 or if any of para 16.1.5.	Signature or Sealing (unless advised by the <i>Council's Solicitor</i> that sealing is not necessary)	<i>Business Lead</i> or the <i>Council's Solicitor</i>
ICT - system developments and purchases of ICT equipment or software	Method of completion in line with limits above	As above, except in all cases to involve the <i>Council's designated ICT Manager</i> (Currently Strata Service Solutions Ltd).

22.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the *Council's Solicitor* or *Section 151 Officer*. An award letter is insufficient.

22.2.3 The *Officer* responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it. The use of Letters of Intent (which are binding for the Council) should be avoided, but in exceptional circumstances they may be used with the approval of and review by the *Council's Solicitor* before issue. The same rules relating to signatures apply.

22.2.4 Any new *Contract* should not be signed until the *Contract* it replaces is either ended or under notice.

22.2.5 Depending on the circumstances an officer of the Council may be subject to disciplinary action if they sign a *Contract* without being specifically authorised to do so.

22.2.6 All original contracts must be must given to the *Council's Solicitor* for secure storage and recording in the Council's Contract Register. It is the responsibility of the *Officer* to ensure that this happens, only copies of contracts should be held within services. An electronic copy must be sent to the *Corporate Procurement Officer*.

22.2.7 Contract award notices must be placed on the *Council's* electronic tendering system and *Contracts Finder*.

### **22.3 Sealing**

22.3.1 Where appropriate contracts are completed by each side adding their formal seal. The fixing of the Council's seal must be witnessed by a further officer on behalf of the *Council's Solicitor*.

22.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed except in accordance with the Council's *Constitution*.

22.3.3 A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end;
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services, or
- there is any doubt about the authority of the person signing for the other contracting party.

## Bonds and Parent Company Guarantees (PCGs)

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23.1 The *Officer* must consult the *Section 151 Officer* about whether a *Parent Company Guarantee* is necessary when a *Supplier* is a subsidiary of a parent company and:

- the Total Value exceeds £50,000, or
- award is based on evaluation of the parent company, or there is some concern about the stability of the *Supplier*.

23.2 The *Officer* must consult the *Section 151 Officer* about whether a *Bond* is needed:

- where the Total Value exceeds £1,000,000, or
- where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the Candidate i.e. following a formal risk assessment.

## Prevention of Corruption and Anti-Competitive Behaviour

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### Prevention of Corruption

- 24.1 The *Officer* needs to be aware of the Bribery Act 2010 which introduces general offences of offering or receiving bribes, a specific offence of bribing a foreign public official, and the new corporate offence of failing to prevent bribery; and the Council's Anti-Fraud and Corruption Strategy.
- 24.2 The *Officer* must comply with the Council's *Code of Conduct* and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the *Officer* to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 24.3 below.
- 24.3 The following clause must be put in every written Council contract:

*"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:*

(a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or

(b) commit an offence under the Bribery Act 2010 or Section 117 of the Local Government Act 1972, or

(c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. Any clause limiting the Contractor's liability shall not apply to this clause."

### Anti-Competitive Behaviour

- 24.4 In their guidance for public sector procurers, the Office of Fair Trading has highlighted practical steps to take to reduce the risks of anti-competitive behaviour, which should be followed where practical:
- use non-collusion clauses, certificates of independent *Bids* and requests;
  - ensure sufficient credible bidders;
  - look for suspicious bidding patterns; and
  - keep good notes of all discussions and potential bidders and systematically scrutinise them for suspicious patterns e.g. geographical prevalence of certain suppliers' areas.
- 24.5 If there is any doubt during a procurement exercise, or for further guidance, the *Officer* should contact the *Corporate Procurement Officer* or Internal Audit.
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## Declarations of Interest

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- 25.1 If it comes to the knowledge of a member or an employee of the authority that a contract in which they have an *Interest* has been or is proposed to be entered into by the Council, they shall immediately give written notice to the *Monitoring Officer*.
- 25.2 *Officers* must comply with the *Officers' Code of Conduct*, as discussed at paragraph 24.2
- 25.3 All Councillors must comply with the *Members' Code of Conduct* and register all contracts for goods, services or works made between the Council and:
- the councillor;
  - a firm in which s/he is a partner;
  - a company in which s/he is a remunerated director;
  - a member of the Councillor's family or a person with whom they have a close association, or a partnership or company employing or operated by such a person; and
  - any person or body who has a place of business in the Teignbridge District Council area and in which the Councillor has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 (or one hundredth of the total issued share capital) whichever is the lower.
- 25.4 The *Monitoring Officer* shall maintain a record of all declarations of interests notified by members and *Officers*.

# Section 6: Contract Management

## Managing Contracts

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- 26.1 **Business Leads / Business Managers must appoint contract managers for all new contracts** . All contracts must have a named Council contract manager for the entirety of the contract.
- 26.2 Contract managers must follow best practice in the area of supplier relationship and contract management.
- 26.3 **Extensions** should not be made unless this is provided for in the *Invitation to Tender* and the *Contract* itself. *Business Leads / Business Managers* must contact the *Council's Solicitor* and the *Corporate Procurement Officer* before any extension is actioned. Any **extensions** to contracts are to be in writing in the form approved by the *Council's Solicitor*, sequentially numbered and stored with the original *Contract*.
- 26.4 **Payments** to contractors will only be made on certification of the designated contract manager, in line with the *Financial Instructions*.
- 26.5 Ongoing checking of the financial position of the successful contractor throughout the period of the *Contract*. The level of any review will vary depending on the type of *Contract* and contractor involved, so the advice of the *Section.151 Officer* must be sought. The Contractor's insurance should also be checked annually through the life of the *Contract* and details passed to the Council's insurance officer for comment.
- 26.6 **Liquidated and ascertained damages** must be deducted for all periods of delay in line with the terms of the contract. Any instance, where in the opinion of the *Officer / Contract Manager*, this does not apply must be fully justified to, and authorised by, the responsible *Business Lead, the Council's Solicitor and the Section 151 Officer*.
- 26.7 The *Officer / Contract Manager* will consult with the responsible *Business Lead, the Council's Solicitor and the Section 151 Officer* promptly on becoming aware of any significant **dispute, claim for additional payment** in connection with a contract. No liability shall be accepted without the approval of the *Executive* in such cases.
- 26.8 Please refer to the Gold, Silver & Bronze Contract register to know how often to have your contract management meetings.

## Modification of Contracts During Their Term

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- 27.1 Contracts and Framework Agreements may be modified during their term without the need for a new procurement procedure in the following limited cases:
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- where the change has already been provided for in the original procurement documents in clear, precise and unequivocal review clauses, provided that they state the scope and nature of the possible modifications or options and the conditions under which they may be used and they do not alter the overall nature of the *Contract or Framework Agreement*;
- for additional Works, Services or Goods by the original Supplier that have become necessary and were not included in the initial procurement, where a change of *Supplier* cannot be made for economic or technical reasons or would cause significant inconvenience or substantial duplication of costs;
- where the need for change follows circumstances that could not have been foreseen;
- where the modification does not alter the overall nature of the *Contract*
- where an increase in the price does not exceed 50% of the value of the original *Contract or Framework Agreement*
- where a new *Supplier* replaces the one to which the Authority originally awarded the *Contract*; and
- where the change is not substantial.

Where a change is proposed to a *Contract* that exceeds the *FTS Threshold* the *Officer* must contact the *Corporate Procurement Officer*.

## Risk Assessment, Contingency and Planning

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28.1 A business case must be prepared for all procurements with a potential value over the *FTS Threshold*. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

28.2 For all contracts with a value of over £50,000, contract managers must:

- maintain a risk register during the contract period in accordance with the Council's Risk Management Strategy;
- undertake appropriate risk assessments and for identified risks (in consultation with the Council's Lead Officer for Risk Management and Risk Management Strategy as appropriate);
- ensure mitigation and contingency measures are in place;
- monitor the financial performance of the contractor or any parent; and company and alert the *Section151 Officer* if there are any concerns.

## Contract Monitoring, Evaluation and Review

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29.1 All *Contracts* that have a value higher than the *FTS Threshold* limits, or which are *High Risk*, are to be subject to formal review(s) by the contract manager with the

contractor. The review may be conducted at a frequency that is determined by the risk value and profile of the *Contract*.

- 29.2 As a minimum, for all contracts with a value higher than the *FTS Threshold* limits, or which are *High Risk*, an annual report must be submitted to the Council's Corporate Leadership Team detailing the financial and service performance.
- 29.3 A contract review process must be applied to all contracts deemed to be *High Risk*, *High Value*, or *High Profile*. This process must be applied at key stages of major procurements.
- 29.4 During the life of the contract, the *Officer* must monitor and take any necessary corrective action in respect of:
- performance;
  - compliance with specification and contract;
  - cost;
  - any *Value for Money* requirements; and
  - user satisfaction and risk management.
- 29.5 When the *Contract* is completed the Contract Manager must submit a report to the *Corporate Leadership Team*. The report must evaluate the extent to which the purchasing need and the contract objectives (as determined in accordance with Rule 11.1) were met by the contract. Where the contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent contract.

### **Additional Requirements for Contracts Financed from the Capital Programme**

- 29.6 Any *Officer* proposing a project for inclusion in the Capital Programme must complete a Project Initiation Document (PID), and have this signed as approved by their *Business Lead / Business Manager* and *Portfolio Holder*. The PID must then be submitted to the *Section 151 Officer*, who will refer the project to the Capital Review Board and the Executive for approval.
- 29.7 The Project Initiation Document will include the objectives of the project; a risk assessment and contingency plan; details of how the project will be controlled including appointment of a Project Manager; funding required and any revenue impact that the project may incur.
- 29.8 The *Section 151 Officer* will provide the Executive with a quarterly report on the overall progress of the Capital Programme including any variations. Monthly reports will also be provided to the Corporate Leadership Team.
- 29.9 **Overspends** – in monitoring expenditure on a project, the *Officer / Project Manager* shall notify the *Section 151 Officer*, Corporate Leadership Team and Members at



the earliest opportunity where the approved expenditure appearing in the capital programme is likely to be exceeded. Authorisations for additional spend should be requested in accordance with the *Financial Instructions* (Virement Rule)

## **SECTION 7: OTHER RELEVANT CONSIDERATIONS**

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## **State Aid**

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### **Definition**

State aid can be defined as any assistance offered by a public sector body in any form whatsoever that distorts or threatens to distort competition by favouring certain organisations and / or *Suppliers* or the production of certain goods. Such aid may take the form of a grant (capital injection), business tax relief, a reduction in rent or preferential finance (this is not an exhaustive list).

Where the Council wishes to administer aid in this manner careful consideration must be given prior to such a grant so as to ensure that it is compatible with EU law. Aid that is not compatible with EU law may be recovered from the beneficiary with interest.

For a grant to be considered as State Aid the following cumulative criteria must be met:

- the beneficiary receives a grant of a benefit or advantage; and
- the aid is given by a Member State or through state resources; and
- the beneficiary receives the aid on a selective basis; and
- the aid granted distorts or threatens to distort competition; and
- the aid is capable of affecting trade between Member States

Granted aid must fulfil all of these criteria in order to be deemed as a State Aid for the purposes of EU law.

Where a grant is defined as State Aid it must be notified in sufficient time to the European Commission. Aid will not be permitted to be bestowed upon the beneficiary until the Commission has reached a decision as to whether it can be deemed as compatible with EU law or not. Where Aid is incompatible the Council will not be permitted to grant it.

### **Exemptions for State Aid**

Besides seeking approval from the European Commission, State Aid can be said to be compatible with EU law and can therefore be granted legally if:

- for the most part the total de minimis Aid given to a single recipient is less than €200,000 over a 3-year fiscal period;
- aid in favour of Small, Medium Enterprises, research, innovation, regional development, training, employment of disabled and disadvantaged workers, risk capital and environmental protection; and
- aid measures promoting female entrepreneurship, such as aid for young innovative businesses, aid for newly created small businesses in assisted regions, and measures tackling problems like difficulties in access to finance faced by female entrepreneurs.

Such Aid must still be notified to the European Commission and as a result Council *Officers* are advised to seek the advice and guidance of the *Council's Solicitor* and / or *Monitoring Officer* and *Corporate Procurement Officer* where State Aid may be said to exist on a particular project or procurement.

## **Development Agreements**

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### **Definition**

A development agreement can be defined as an arrangement between a public sector body and a third party about the use or development of land or property, the nature of which invariably involves the transfer of land that would be otherwise be considered commercially undesirable, which becomes commercially desirable as a result of incentivisation by the public sector body.

Where the Council wishes to establish a development agreement that meets the definition above, again careful consideration must be given prior to such an agreement being established so as to ensure that it is compatible with EU law. A development agreement that is not compatible with EU law may be said to be a public works or *Concession Contract* and may therefore be subject to the legislation on public procurement.

For a development agreement to be considered as not triggering the public procurement legislation some or all the following characteristics must be met:

- the proposed development (or a significant part) is to be undertaken at the initiative and autonomous intention of the developer. (This may be particularly likely if the developer already owns or has control of land to be developed);
- the development agreement is ancillary or incidental to a transfer or lease of land or property from the Council to the developer, and is intended to protect the interests of the Council which is the lessor or otherwise retains an interest in the land or property;
- the development agreement is based on proposals put forward by the developer, rather than requirements specified by the Council, albeit that these proposals may be sought, and the “winner” chosen by the Council;
- there is no pecuniary interest passing from the Council to the developer as consideration for undertaking the development, either through direct payment or indirectly, for example by the assumption of obligations such as contributions towards project finance or guarantees against possible losses by the developer;
- the development agreement does not include specific contractually enforceable obligations on the developer to realise a work or works (even if that work or works is recognised as being the general intent of the parties to the agreement); and

- the development does not consist of or contain works for the direct economic benefit of the Council. The involvement of the Council consists only in the exercise of statutory land-use planning powers.

**Where a development agreement cannot be said to meet the criteria defined above a public works or *Concession Contract* must be awarded in accordance with the public procurement legislation**

## Section 8: Appendices

### Appendix A: Documents

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Double click on the picture/icon to open the document.

## **Sustainable Procurement Policy and Procedure**



### **RFQ Template**



180410 RFQ  
template v2.docx

### **Tender Templates**



180405 1

Instructions and InfApplicant's Offer SC



180405 2

### **Terms and Conditions**



181114 Terms and Conditions of Good



181114 Terms and Conditions of Servic



171205 Contract front sheet.docx

### **Contract Award Report**



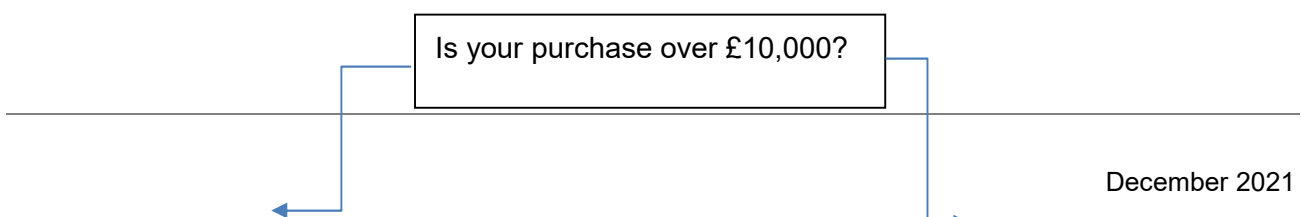
170220 Contract  
Award Report Temp

### **Waiver Form**



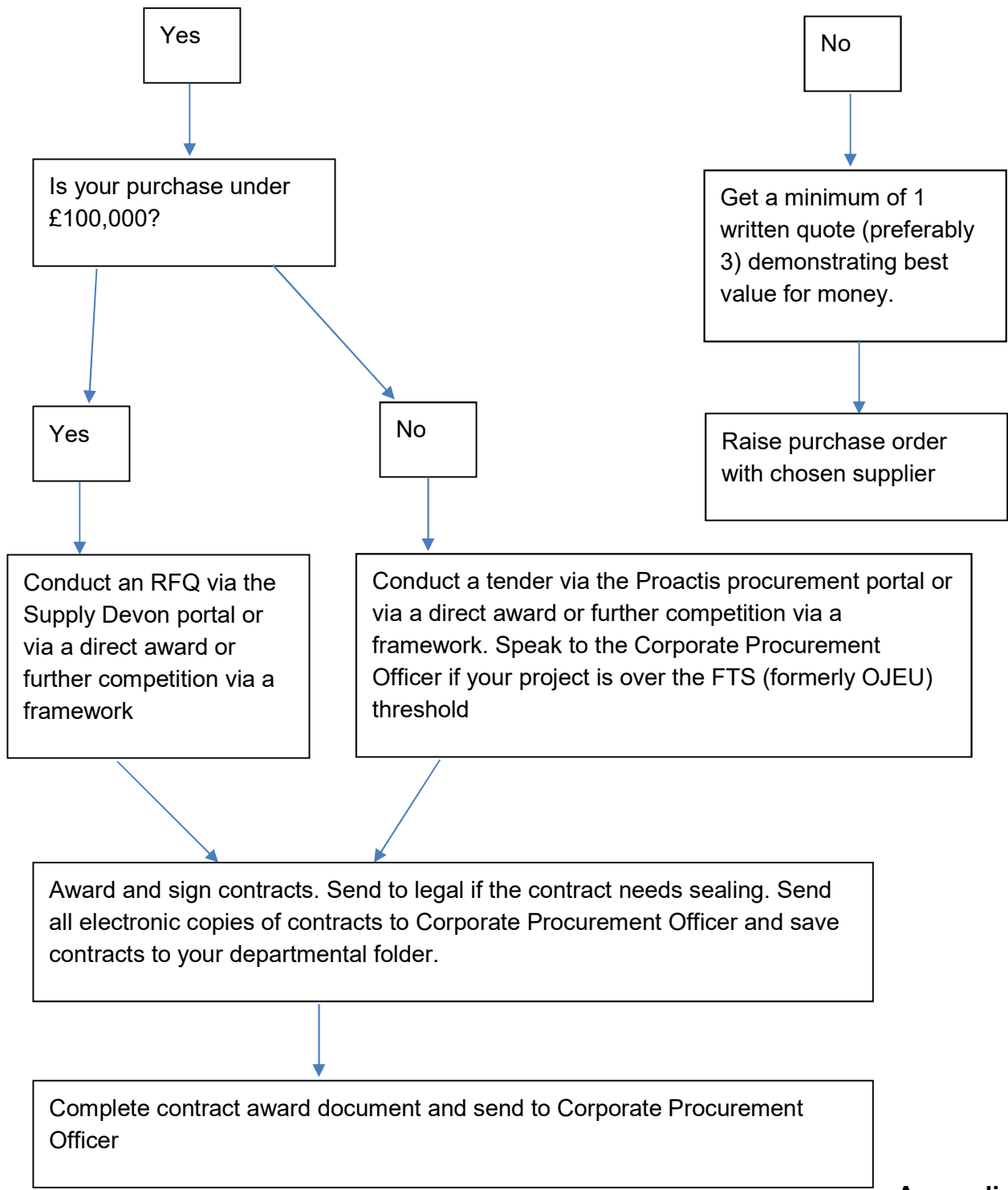
Waiver form v5  
August 2019.docx

### **Appendix B: Procurement Flow Chart**



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**Appendix C:**

**Definitions**

<b>Agent</b>	A person or organisation acting on behalf of the Council or on behalf of another organisation.
<b>Approved List</b>	A list drawn up in accordance with Rule 7.2.

<b>Award Criteria</b>	The criteria by which the <i>Contract</i> is to be awarded to the successful Tenderer
<b>Award Procedure</b>	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
<b>Best Value</b>	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by <i>Value for Money</i> .
<b>Bid</b>	A <i>Supplier's</i> proposal submitted in response to the <i>Procurement Documentation</i> .
<b>Bond</b>	An insurance policy: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from the contractor's failure.
<b>Business Lead</b>	The officers defined as such in the <i>Constitution</i> as members of the Corporate Leadership Team.
<b>Business Manager</b>	The <i>Officer</i> designated by the <i>Business Lead</i> to exercise the role reserved to the <i>Business Lead</i> by these Contract Procedure Rules.
<b>Candidate</b>	Any person who asks or is invited to submit a <i>Quotation</i> or <i>Tender</i> .
<b>Code of Conduct</b>	The code regulating conduct of Officers, available on the Council's Intranet.
<b>Concession Contracts</b>	Shall mean a public contract under which <i>Supplier/s</i> are given the (exclusive) right to exploit the works or services provided for their own gain and where the <i>Supplier's</i> income is generated solely from third parties or as a combination of revenue streams from both third parties and the Council.
<b>Constitution</b>	The constitutional document approved by the Council which: <ul style="list-style-type: none"> <li>• allocates powers and responsibility within the Council and between it and others;</li> <li>• delegates authority to act to the Executive, Other Member Bodies and Officers; regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</li> </ul>
<b>Consultant / Consultancy</b>	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work.
<b>Contract</b>	Is a legally binding agreement concluded in writing for consideration (whatever the nature of the consideration, whether by payment or some other form of reward) under which a contracting authority engages a person or organisation to provide goods, works or services.

<b>Contracting Decision</b>	Any of the following decisions: <ul style="list-style-type: none"> <li>• withdrawal of <i>Invitation to Tender</i>;</li> <li>• whom to invite to submit a <i>Quotation</i> or <i>Tender</i>;</li> <li>• <i>short listing</i>;</li> <li>• award of <i>Contract</i>;</li> <li>• any decision to terminate a <i>Contract</i>;</li> <li>• any decision to extend or vary a <i>Contract</i>.</li> </ul>
<b>Contracts Finder</b>	A web-based portal provided for the purpose of under- <i>FTS Threshold Contracts</i> on behalf of the Cabinet Office
<b>Corporate Contract</b>	A <i>contract</i> let by the <i>Corporate Procurement Officer</i> to support the Council's aim of achieving <i>Value for Money</i> to include <i>Contracts</i> let by the Council and / or <i>Contracts</i> or <i>Framework Agreements</i> let by other organisations to which the Council has access.
<b>Corporate Procurement Officer</b>	The Council's central procurement officer charged with providing strategic direction and advice to secure <i>Value for Money</i> in the Council's procurement activities.
<b>Council's Solicitor</b>	As identified in the <i>Constitution</i> .
<b>Dynamic Purchasing System</b>	A completely electronic system of limited duration which is: <p>(a) established by a contracting authority to purchase commonly used goods, work, works or services; and</p> <p>(b) open throughout its duration for the admission of economic operators which satisfy the selection criteria specified by the contracting authority; and</p> <p>(c) submit an indicative <i>Tender</i> to the contracting authority or person operating the system on its behalf which complies with the specification required by that contracting authority or person.</p>
<b>Electronic Auction</b>	Is a means of seeking the <i>Supplier's</i> pricing in an electronic format in a live competitive environment, the aim of which is to achieve greater <i>Value for Money</i> than traditional tendering.
<b>Executive</b>	The Council's Executive as defined in the <i>Constitution</i> .
<b>European Economic Area</b>	The 15 members of the European Union, and Norway, Iceland and Liechtenstein.
<b>Financial Instructions</b>	The <i>Financial Instructions</i> outlining <i>Officer</i> responsibilities for financial matters issued by the <i>Section 151 Officer</i> in accordance with the <i>Constitution</i> (Financial Procedure Rules).
<b>Find a Tender Service (FTS)</b>	The government portal that has replaced Tender Electronic Daily (TED) in relation to OJEU (Pre-Brexit)
<b>Framework Agreement</b>	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing <i>contracts</i> to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
<b>FTS Threshold</b>	The contract value at which the public procurement directives apply.



<b>High Profile</b>	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
<b>High Risk</b>	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
<b>High Value</b>	A high-value purchase is where the value exceeds the <i>FTS Threshold</i> values.
<b>Interests</b>	Is a connection to another person or organisation that meets any of the following criteria: (a) Ownership of shares in a Supplier or any other financial interest in a Supplier whether held by the relevant individual or by a close relative of the individual or by any corporate entity in which the individual has an interest; and / or (b) Employment by a Supplier of the individual or a close relative of the individual; and/or (c) Provision of services to a Supplier by the individual or by the firm the individual is associated with, and / or (d) Connection with, whether prejudicial or otherwise, any person/s said to be affected by the outcome of a procurement process.
<b>Invitation to Tender (ITT)</b>	<i>Invitation to tender</i> documents in the form required by these Contract Procedure Rules.
<b>Key Decision</b>	Decisions that are defined as key decisions in the <i>Constitution</i> .
<b>Lots</b>	One of a number of categories of goods, works or services which a single procurement process has been divided into with a view to awarding to multiple suppliers
<b>Nominated Suppliers and Sub-Contractors</b>	Those persons specified in a main <i>contract</i> for the discharge of any part of that <i>contract</i> .
<b>Non-commercial Considerations</b>	(a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters'); (b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of <i>contracts</i> with individuals, <i>contracts</i> for the provision by them as self-employed persons of their services only; (c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy; (d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes'); (e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors;
<b>Non-commercial Considerations (continued)</b>	

	<p>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;</p> <p>(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support;</p> <p>(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 1981 (<i>TUPE</i>) may apply.</p>
<b>Officer</b>	The officer designated by the <i>Business Lead / Business Manager /</i> to deal with the <i>contract</i> in question.
<b>Parent Company Guarantee</b>	A <i>contract</i> which binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a <i>contract</i> with the Council, the Council can require the parent company to do so instead.
<b>Portfolio Holder</b>	A member of the <i>Executive</i> to whom political responsibility is allocated in respect of specified functions.
<b>Pre-Qualification Questionnaire (PQQ)</b>	The <i>PQQ</i> is a questionnaire issued to ascertain the suitability of potential suppliers to provide goods, services or works as identified in the tender advertisement.
<b>Procurement Documentation</b>	Shall mean the documents dispatched to <i>Suppliers</i> as part of the procurement process; comprised of the instructions and information to applicants, <i>contract</i> information, specification, pricing schedule and certificates for signature.
<b>Procurement Strategy</b>	The document setting out the Council's approach to procurement and key priorities for a specified period of time.
<b>Purchasing Guidance</b>	The suite of guidance documents, together with a number of standard documents and forms, which supports the implementation of these Contract Procedure Rules. The guidance is available on the Council's intranet and Procurement Tool.
<b>Quotation</b>	A quotation of price and any other relevant matter (without the formal issue of an <i>Invitation to Tender</i> ).
<b>Relevant Contract</b>	<i>Contracts</i> to which these Contract Procedure Rules apply
<b>Section 151 Officer</b>	The Chief Finance Officer or such other officer as may be designated Section 151 Officer by the Council, including the appointed Deputy Section 151 Officer.



<p><b>TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)</b></p>	<p>Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the authority is transferred from one organisation (e.g. private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>
<p><b>Value for Money</b></p>	<p>Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.</p>

## **8. Member Procedures**

### **(a) Teignbridge District Councillor Role Definition**

**Responsible to:** Teignbridge District Council and the local community

**Role purpose:** To represent the views of the communities of the Teignbridge District within and outside the Council.

**Main Role:**

1. Collectively to be the ultimate policy-makers and carry out a number of strategic and corporate, decision-making functions;
2. Represent the community and bring their views into the Council's decision-making processes, and become an advocate of and for your community;
3. Consider different interests within your Ward and represent the Ward as a whole.
4. To represent the interests of the district as a whole by contributing to the strategic representation and decision-making that affects Teignbridge;
5. Contribute to the good governance of Teignbridge and actively encourage community participation and citizen involvement in decision-making. Local people can expect to be informed about:
  - a. services in their area;
  - b. decisions that affect them;
  - c. the reasons why decisions are taken by the Council;
  - d. the rights of constituents of Teignbridge;
  - e. how decisions are made and what access is available to the public.
6. Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
7. Be available to represent the Council on outside bodies; and
8. Every councillor will have the opportunity to serve on either the Executive or a scrutiny committee. Part of the process is to undertake reviews and councillors will be expected to participate fully in these.
9. Note that the main Council bodies are set out in Section 3 of the Constitution and comprise:
  - a. Executive;
  - b. Scrutiny Committees; and
  - c. Regulatory Committees.
10. Maintain the highest standards of conduct and ethics.

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## **8. Member Procedures**

### **(b) Call-in Procedure for Scrutiny Committees**

1. When a decision is 'called-in' the Team Leader (Democratic Services) will prepare a report for the next available meeting. It will detail the decision that has been called-in, the names of the councillors making the call in, and the reason(s) given, a copy of the Executive decision and report that was considered by the Executive. This will normally be sent out as part of the agenda.
2. The relevant Executive Member(s) will be advised of the call-in to ascertain if they wish to submit any written observations for the relevant call-in committee to consider. There will be a right for the relevant Executive Member(s) to attend and speak about the decision, which is the subject of the call-in, if they choose.
3. Additionally, in advance of the meeting the Chair of the Committee needs to consider whether they wish the Leader/Deputy Leader or other Executive Member to attend to be questioned by the committee over the decision which has been called-in. If attendance is requested and the Member was not intending to attend under 2 above, a reasonable period of notice needs to be given.
4. In advance of the meeting the Members who have made the call-in can request the Team Leader (Democratic Services) to provide specific information in support of the call-in if those Members feel additional information is needed to adequately consider this matter and this was not available in the original Executive report. In addition, any of the Members who made the call-in may request that an officer of the Council or external specialist attend to provide further information or to be questioned. A reasonable period of notice needs to be given.
5. At the Committee meeting the call-in will be determined by a two-phase provision. Firstly, an initial information gathering and questioning: secondly a debate and decision.
6. The Chair will briefly introduce the item and begin the information gathering and questioning phase. The mover of the call-in will be invited to speak on the call-in and to propose the action they wish to be taken. At this stage the scrutiny committee Members may question the mover of the call-in.
7. The Executive Member(s) and/or officers in attendance for the call-in will then address the call-in scrutiny committee Members who will then ask questions.

Section 8(b) –Call-in Procedure for Scrutiny Committees

8. Following this information and questioning phase, the Chair will open up the debate to all scrutiny committee Members.
9. Following debate the Chair shall invite any Executive Member in attendance to respond to the issues raised during the debate of the call-in prior to inviting the first named person on the call in to make a concluding statement and propose a recommendation for the Committee to consider.
10. The committee will then make a decision on the item which could be:
  - the decision should not be challenged and that it will then be implemented in accordance with the Executive’s original decision, or
  - a different course of action can be recommended for the Executive to consider with any available supporting evidence, or
  - the matter should be referred to the full Council if it is a matter of significance for the whole district (this will only apply in exceptional circumstances).



## **8. Member Procedures**

### **(c) Protocol for Shadow Executive Members**

#### **1. Appointments**

A Shadow Executive Member may be appointed by the Leader of any opposition group i.e. one that is not represented on the Executive and which holds at least 20% of Council seats (10 in the current council make-up).

The portfolios of shadow executive members must exactly match the Executive's portfolios. Fewer shadow executive member may be appointed than serve on the Executive.

Appointments and removals shall be notified to the Monitoring Officer.

#### **2. The purpose of the role of Shadow Executive Member and the key tasks**

2.1 To pay particular attention to the work of an Executive Member and decisions made by the Executive on matters affecting that Portfolio.

2.2 To be the opposition party's expert on matters concerning the Portfolio.

#### **3. Powers of a Shadow Executive Member**

3.1 Shadow Executive Members in common with other Councillors are entitled to access to information required to carry out their functions. The powers are set out in 10(b) of the Constitution in the section Officer and Member Relations Protocol. Paragraph 6 specifically deals with Councillor access to documents and information.

3.2 In addition Shadow Executive Members may request a briefing from Service Leads on particular topics concerning their Portfolio. These briefings may be held together with the Executive Members if this can be agreed or separately if it cannot. Service Leads will alert Shadow Executive Members to issues of major importance affecting their shadow portfolio.

If Shadow Executive Members are given information which is confidential the Service Lead will alert the Shadow Executive Member as to the confidentiality of the subject matter and the reasons for it being considered confidential. In these circumstances Shadow Executive Members will have regard to the confidentiality provisions in the Code of Conduct.

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## **8. Member Procedures (d) Councillor Call for Action**

### **Guidance**

#### **1. What is a Councillor Call for Action?**

Councillor Call for Action (CCfA) is a process for councillor to act on behalf of residents to resolve a local issue of concern, acting as a last resort for people who cannot get issues resolved through any other means. Ward councillors should be looking to identify CCfAs in their community, but CCfAs can also be raised by local people directly with their ward councillors. It will still be up to councillors to recognise whether an issue is a CCfA and whether it is appropriate to champion that issue. You are asked to consider using CCfA as a last resort when all other avenues have been explored.

The decision to raise and champion a CCfA lies with you as the councillor. The CCfA, alongside proposals which will require a much wider range of agencies to formally cooperate with scrutiny in the future, is intended to provide greater emphasis to the work undertaken by you in your community as community advocates and champions, and to further increase the accountability of public service providers to local communities.

To make provision for CCfA is a legal requirement from 1 April 2009 and councillors are under a duty to consider requests from members of the public on certain issues.

#### **2. What's new about the CCfA?**

What distinguishes the CCfA from items and topics already raised by councillors for consideration by scrutiny is:

- Any member can raise a CCfA issue for scrutiny to consider.
- The focus of the CCfA is on neighbourhood or locality issues and specifically the quality of public service provision at a locality level.
- The CCfA represents a genuine local community concern (based on local councillors' judgements) and
- It is a persistent problem which the local councillor has been unable to resolve through local action and discussion with relevant services and agencies.

Scrutiny reviews resulting from CCfA will be undertaken by scrutiny committees which will include councillors from the affected locality. There is an expectation that any scrutiny reviews resulting from CCfA on the ward-based scrutiny issues will be 'short and sharp', focused reviews – it is important that the public see

this as a responsive and unbureaucratic process which delivers tangible outcomes.

### 3. What is expected of you?

Essentially a Councillor Call for Action (CCfA) is a recognition of the work you undertake as a ward councillor in taking up local issues on behalf of your community. You are expected to identify issues of local concern and act with and on behalf of your community to resolve those issues. It is up to you using this guidance to decide:

- Which issues you take forward as CCfAs and champion;
- When an issue should be referred to one or more of the Scrutiny Committees; and
- When to reject an issue.

It is a matter of judgement which requests you agree to “champion”. As a local councillor you are accountable to your local community for these judgements. Championing a request will mean taking the issue up on behalf of the resident(s) concerned and trying to resolve the problem by liaising with council officers, and/or outside agencies.

Councillors deal with issues of concern on behalf of their constituents as an everyday part of their constituency case work. The CCfA is not intended to add additional bureaucracy to these ward councillor requests, which will continue to be dealt with in the same way as they are now. If you are uncertain about whether a request might be appropriate, the Team Leader (Democratic Services) can provide advice and assistance to you and to the member(s) of the public making the request.

### 4. Checklist for Councillors using a CCfA

#### Initial consideration and actions

1. Discuss with other ward councillors (check their actions and intentions and whether they can help).
2. Take steps to resolve the issue through existing mechanisms such as contacting Council officers, or liaising with other organisations, or securing consideration of the matter by the County Council, or checking whether it can be fed into an existing or review already being undertaken.
3. If the issue is resolved, inform the resident of the outcome and the steps taken, including any difficulties or learning points.
4. If the issues remain unresolved, consult the Team Leader (Democratic Services) and, if appropriate, formally request that the item be considered by the relevant scrutiny committee.

A flowchart of the CCfA process is provided as Annexe 1 and takes you through each step of the process.

**Reject** the request for a CCfA if it is any of the following:

1. An individual complaint.
2. An issue relating to an “excluded” matter such as planning or licensing matter or another issue where individuals or entities have a right of appeal (other than a complaint to the Ombudsman).
3. Vexatious, discriminatory or not reasonable.
4. It is being used as a “second bite of the cherry” e.g. where a previous call-in has failed, or a petition has already been considered.

**Accept** if it is:

1. An issue of genuine local concern; and
2. All other avenues for resolution have been followed, and
3. You believe that this is now the most appropriate way to deal with it.

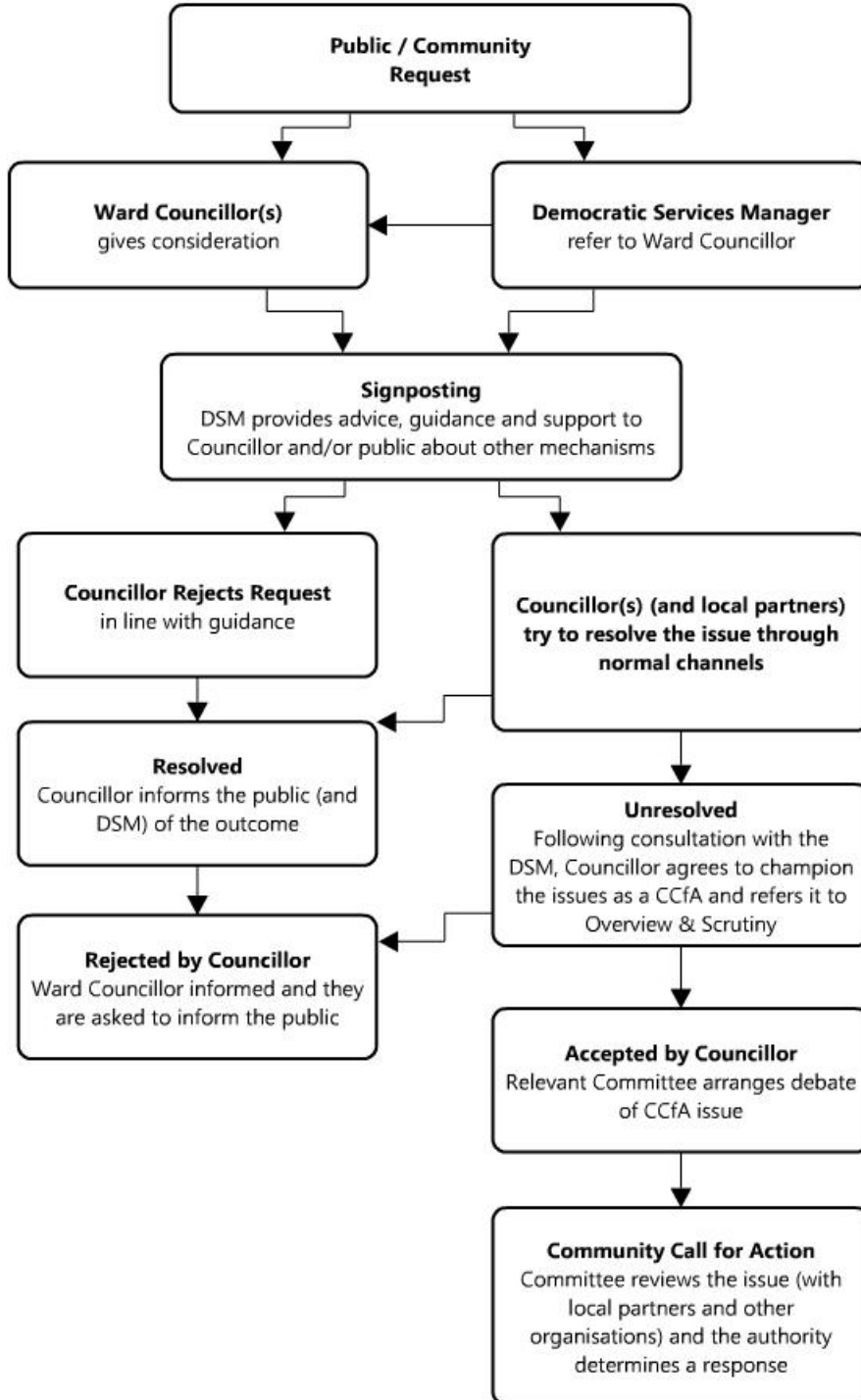
#### **How does CCfA fit with the Scrutiny Work Programme?**

Currently members can put an item on the scrutiny committee agendas. These arrangements remain unchanged. The public have the opportunity to suggest topics and reviews through contacting the Democratic Services Team or by contacting their local councillor.

The aim of Scrutiny is to be as strategic as possible, championing issues on behalf of the community so it is possible that a CCfA topic may already be included in a Review Committee work programme.

It is valuable for CCfA issues to feed into the broad scrutiny work programme, and vice versa. The purpose of CCfA is to give members more of a voice, and scrutiny itself is a member-led process. CCfA can sit comfortably alongside existing methods for placing items on the scrutiny work programme. CCfA should make the work programme more relevant and timely.

## Councillor Call for Action Flow Chart



Made with [lovelycharts.com](https://www.lovelycharts.com)

## **8. Member Procedures (e) Guidance for Planning**

### **Introduction: The Need for Guidance**

This Guidance has been written to inform all parties of Teignbridge District Council's standards in its operation of the town and country planning system within the district.

The Guidance applies to all Teignbridge District Councillors and staff involved in operating the planning system within Teignbridge. It is not restricted to the Council's planning officers and members of the Planning Committee, but applies also to meetings of the full Council when taking planning decisions.

The successful operation of the planning system in Teignbridge District depends upon the Council always acting in a way which is clearly seen to be fair and impartial. This relies upon a shared understanding of the respective roles of Councillors and officers, and upon trust between them. The following quotation from the Local Government Association serves to illustrate the point:

“The role of an elected member on a planning committee involves balancing representing the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals. It is this dual role which, can give rise to great tensions”. (Source: Probity in Planning, Local Government Association, 2002).

The Local Government Association has advised local planning authorities, such as Teignbridge District Council, to set out clearly their practices and procedures on handling planning matters in a local Code of Conduct.

Councillors and staff should read this Code thoroughly and to put it into practice consistently. Failure to do so without good reason could be taken into account in investigating allegations of breach of the code of conduct adopted following the requirements of the Local Government Act 2000 or maladministration.

**This Guidance does not form part of the Code of Conduct but is complementary to it.**

It is intended to review the Guidance regularly to keep it up-to-date and relevant. If there are any points which are unclear or which need review, please contact the Council's Solicitor (the Council's Monitoring Officer) or the Deputy Monitoring Officer as soon as possible. They will be pleased to help you.

## **1. GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS**

- 1.1 Councillors and officers have different, but complementary, roles. Both serve the public but Councillors are responsible to the electorate, while officers are responsible to the Council as a whole. A successful relationship between Councillors and officers can only be based upon mutual trust and understanding of each other's position. This relationship, and the trust which underpins it, must never be abused or compromised.
- 1.2 Legislation emphasises the overriding requirement that the public are entitled to expect the highest standards of conduct and probity by all persons holding public office. There are a number of statutory provisions and codes setting standards which must be followed if the public perception of the integrity of public service, particularly town and country planning, is to be maintained and improved.
- 1.3 While this Guidance deals primarily with planning applications, its principles apply with equal vigour to consideration of Structure Plans, Local Plans, Development Briefs, enforcement cases and all other planning matters. An overriding principle is that when local authorities are dealing with planning matters, they should only take into account material planning considerations.
- 1.4 Section 54A of the Town and Country Planning Act 1990 established a plan-led system whereby all planning applications are determined by primary reference to the Development Plan. Thus, if the Development Plan is material to the application, then the statutory requirement is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 1.5 Officers involved in the processing and determination of planning matters must also act in accordance with the Council's Procedure Rules, The Officer Code of Conduct and (for officers who are Chartered Town Planners) with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.
- 1.6 This Guidance supplements the provisions referred to above and provides further specific advice and guidance for Councillors and officers involved in planning matters. A key principle is that Councillors should represent their constituents as a body and vote in the interests of the District as a whole. Councillors should take account of all views expressed, they should not be biased towards any person, company, group or locality.
- 1.7 A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is based upon valid planning reasons which can be substantiated.
- 1.8 Councillors and officers should not accept gifts, nor should they accept hospitality. However, if a degree of hospitality is truly unavoidable, (e.g. receipt



of tea, coffee or other light refreshments) gifts with a value of over £50 have to be declared to the Monitoring Officer under the Code of Conduct

- 1.9 Officers must always act impartially and seek permission from the appropriate senior officer for any private work or interest which they wish to take up.
- 1.10 Training events will be provided for Councillors to assist them to carry out their planning roles.

## **2. DECLARATION AND REGISTRATION OF INTERESTS**

### **Councillors**

- 2.1 The rules concerning the declaration of interests is contained in the Code of Conduct. Councillors will need to make themselves familiar with the Code and understand the distinction between personal interests which must be declared but which do not lead to the councillor having to withdraw and prejudicial interests which require withdrawal.

### **Officers**

- 2.2 Where Council Officers have a pecuniary, or non-pecuniary interest, in a planning application or other planning matter, they should declare their interest in writing to the Service Manager – Development Management immediately. This written record will then be retained on the relevant file.
- 2.3 An officer declaring such as interest should subsequently play no part in processing an application, or considering the planning matter, nor in any decision making on it.
- 2.4 In determining whether an interest should be declared, officers should use the same tests as Councillors. Examples of interest which should be declared are relatives or friends submitting applications; belonging to a church, club or other social group who has submitted an application; or living in proximity to a site which is at issue.

## **3. DEVELOPMENT APPLICATIONS SUBMITTED BY COUNCILLORS, OFFICERS AND THE COUNCIL**

- 3.1 Serving Councillors and officers should never act as agents for individuals (including a company, group or body) pursuing a planning matter. This includes not only pursuing development proposals, but also works under related legislation such as works to protected trees. If Councillors or officers submit their own proposals to the Council, they should take no part in processing the application, nor take part in the decision making. The Council's Monitoring Officer should be informed of all such proposals as soon as they are submitted.
- 3.2 Proposals submitted by Councillors and officers should be reported to the Planning Committee as written agenda items and not dealt with by officers under delegated powers.

3.3 Proposals for the Council's own development (or development involving the Council and another party) should be treated strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating all such applications on an equal footing with all other applications, as well as actually doing so.

#### **4. LOBBYING OF AND BY COUNCILLORS, AND ATTENDANCE AT PUBLIC MEETINGS BY OFFICERS AND COUNCILLORS**

4.1 When Councillors undertake their constituency roles, it is inevitable that they will be subject to lobbying by interested parties and the public on planning matters and specific planning applications. When Councillors are lobbied, they need to exercise great care to maintain the Council's, and their own integrity, and to uphold the public perception of the town and country planning process.

4.2 Councillors who find themselves being lobbied (either in person, over the telephone, or by post, fax or e-mail) should take active steps to explain that, whilst they can listen to what is said, it would prejudice their impartiality if they expressed a conclusive point of view or any fixed intention to vote one way or another.

4.3 Councillors involved in the determination of planning matters should listen to all points of view about planning proposals and are advised to refer persons who require planning or procedural advice to planning officers. Councillors should not indicate conclusive support or opposition to a proposal, or declare their voting intention before the meeting at which a decision is to be taken. Nor should Councillors advise other parties that permission will be granted or refused for a particular development or that land will, or will not, be allocated for development in a Local Plan. To do so without all relevant information and views, would be unfair, prejudicial and may amount to maladministration.

4.4 Taking account of the need to make decisions impartially, Councillors must weigh up all the material considerations reported at each Committee meeting. They should not be biased towards any person, company, group or locality.

4.5 If planning applications are referred by a Planning Committee to Council (or meetings of different organisations attended by Councillors), each consideration will require the Councillor to weigh up, afresh, all the reported material factors before reaching a decision at that particular meeting.

4.6 By law, the District Council has to seek comments from the Town/Parish Councils on planning applications and other planning matters so that their comments can be taken into account when the District Council makes planning decisions. Some District Councillors are also Town/Parish Councillors and they take part in Town/Parish Council debates about planning applications and other planning matters. Merely taking part in Town/Parish Council debates on planning matters does not automatically debar District Councillors from decision-taking at the District Council. However, with few exceptions

Town/Parish Councils do not have professional planning advice or complete information on the application and other planning matters when they make their recommendations to the District Council. Therefore, District Councillors who are also Town/Parish Councillors should be careful not to state that they have reached a conclusive decision when they consider planning issues at their Town/Parish Council meeting. Nor should they declare to the Town/Parish Council what their future voting intention will be when the matter is considered at the District Council.

- 4.7 While Councillors involved in making decisions on planning applications will begin to form a view as more information and options become available, a decision can only be taken at the Planning Committee, and Council when all available information is to hand and has been considered.
- 4.8 Any relevant papers (including letters, photographs, drawings, petitions etc) passed only to Councillors by applicants or objectors prior to a committee meeting should be notified to officers and reported to the Committee.
- 4.9 Individual Councillors should reach their own conclusions on an application or other planning matter rather than follow the lead of another councillor. In this regard, any political group meetings prior to Committee meetings should not be used to decide how Councillors should vote. Decisions can only be taken after full consideration of the officers' report and information and discussion at the Committee.
- 4.10 A Planning Committee member who represents a ward affected by an application is in a difficult position if it is a controversial application around which a lot of lobbying takes place. If the councillor responds to lobbying by deciding to go public in support of a particular outcome - or even campaign actively for it - it will be very difficult for that councillor to argue convincingly when the Committee comes to take its decision that they have carefully weighed the evidence and arguments presented at Committee. A Councillor should avoid organising support for or against a planning application if they intend to participate in its determination at Committee. However, it should be possible for a councillor to say that they will make the views of the public known at the Committee whilst themselves waiting until the Committee and hearing all the evidence before making a final decision upon how to vote.
- 4.11 Councillors should not lobby other Councillors on proposals in a way that could lead to their failing to make an impartial judgement on the planning merits of these cases when making decisions at Council Committees. Nor should Councillors put undue pressure on officers for a particular recommendation nor do anything which compromises, or is likely to compromise the impartiality of officers.
- 4.12 Officers who are wholly or partly involved in the processing or determination of planning matters should not attend public meetings in connection with pre-application development proposals or submitted planning applications unless

their attendance has been agreed by their Director. To do so could lead to allegations of prejudice or bias to a particular point of view. If put in such a position, officers should avoid prejudicing the Committee's decision.

- 4.13 When attending public meetings, Councillors should take great care to maintain their impartial role, listen to all the points of view expressed by the speakers and public and not state a conclusive decision on any pre-application proposals and submitted planning applications.
- 4.14 If Councillors consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer.

## **5. DISCUSSIONS WITH APPLICANTS**

- 5.1 It is generally recognised that discussions between potential applicants or applicants and the Council prior to the submission of an application can be of considerable benefit to both parties. Discussions can take place for a variety of reasons, for example to establish whether an application can be improved in design, or to overcome planning objections or to meet relevant neighbour concerns. Such discussions will normally take place at District Council offices.
- 5.2 Councillors involved in any discussions should maintain an independent position and avoid committing themselves to either supporting or opposing the application at committee if Councillors feel that they are being put under pressure to support or oppose an application they should suggest to the applicant/objector that they put their views to the planning officer. Planning officers should always make clear at the outset of discussions that they cannot bind the Council to make a particular decision, and that any views expressed are their provisional professional opinions only.
- 5.3 Advice given by planning officers will aim to be consistent and based upon the Development Plan (Structure and Local Plan) and other material considerations. Senior officers will make every effort to ensure that there are no significant differences of interpretation of planning policies between planning officers.
- 5.4 Planning officers will ensure that their advice, and reports, in the sense that they should not favour any particular applicant or objector are impartial. This is because a consequent report must not be seen as advocacy for a particular point of view. A written note should be made of pre-application discussions and important telephone conversations. The involvement of Councillors in such discussions will be noted by officers as a written file record. A follow-up letter should be sent, particularly when material has been left with the Council by the applicant or agent for comment.
- 5.5 Councillors who also serve on Town & Parish Councils should make clear their separate roles in each Council regarding Teignbridge District planning policies. The councillor and other interested parties should be clear at all times when the

Councillors are acting as a Town or Parish Councillor, and when they are acting in their role as a District Councillor.

## **6. REPORTS BY OFFICERS TO COMMITTEES**

- 6.1 Many planning applications are determined by the Service Manager – Development Management. These are the smaller and less controversial applications.
- 6.2 Where decisions on applications fall to be made by the Planning Committee or Council, they will be the subject of full written reports, except where the applications are to be determined by the Committee simply because the application is from a District Council Member, a member of staff, the District Council, the County Council or falls within the Dartmoor National Park.
- 6.3 Reports on planning matters aim to be accurate and will contain a description of the development proposed in the application (including dimensions and areas). They will refer to the provisions of the Development Plan and all other planning considerations including a full description of the site, any relevant planning history, and the substance of objections and other views received.
- 6.4 All reports requiring a decision will have a written recommendation. Oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur. All reports will contain a technical appraisal which clearly justifies the stated recommendation. All reasons for refusal and conditions to be attached to permissions must be clear and unambiguous.
- 6.5 Any additional information which is material to a planning decision, and which is received after publication of agendas, will be reported to the meeting.

## **7. THE DECISION MAKING PROCESS AND DECISIONS CONTRARY TO OFFICER RECOMMENDATIONS AND/OR THE DEVELOPMENT PLAN**

- 7.1 The law requires that, where the Development Plan is relevant, planning decisions should be made in accordance with it unless other material considerations indicate otherwise (Section 54A of the Town and Country Planning Act 1990).
- 7.2 The relevant Development Plan, and other material considerations, will be identified in officers' reports. Material considerations will vary from case to case. In arriving at a decision, it is a matter of judgement for the Planning Committee (or Council) as to the weight to be attached to the various material considerations.
- 7.3 In discussing, and determining a planning application or other planning matter, Councillors should confine themselves to the planning merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits.

- 7.4 Members should consider the advice of the officers but ultimately they are free to vote as they choose. If Councillors wish to determine an application contrary to officer advice, or to impose additional conditions to a permission, an officer should explain the implications of such action. The Councillors' grounds for any contrary determination, or for wishing to impose additional conditions, must be clearly stated at the time the propositions are made and votes taken at the meeting. The personal circumstances of an applicant will rarely provide such grounds.
- 7.5 If a resolution is passed which is contrary to a recommendation of the Service Manager – Development Management (whether for approval or refusal) a Minute of the Committee's reasons will be made and a copy placed on the application file.
- 7.6 If the report of the Service Manager – Development Management recommends approval of a departure from the Development Plan, the full justification for this recommended departure should be included in the report.
- 7.7 Senior planning officers (and legal officers as necessary) should attend meetings of the Planning Committee to ensure that procedures are properly followed and planning issues properly addressed.
- 7.8 It is important that Councillors who determine planning applications do so only after having considered all the material planning considerations. They must take all relevant matters into account and they must disregard irrelevant considerations. It is important that they are seen to do this. For this reason, it is important that Councillors only participate in the debate and vote on a planning application if they have been present throughout the whole of the officers' presentation and the subsequent committee debate. Councillors who arrive at a meeting part-way through consideration of an application or who are absent from the meeting for any part of that consideration may not be aware of all the relevant considerations. In any event, their participation can be seen to be unfair – it could amount to maladministration as well as giving rise to a legal challenge that the decision-making process was flawed.

## **8. SITE VISITS BY COUNCILLORS**

The need for committee site visits

- 8.1 It is important for the District Council's Planning Committee to have a clear rationale for undertaking organised site visits in connection with planning applications and that any visits are conducted properly and consistently.
- 8.2 The purpose of a site visit is for Councillors to gain knowledge of the development proposal, the application site and its surroundings. A decision by a Planning Committee to carry out a site inspection should normally only be taken where the impact of the proposed development is difficult to assess from the plans and any supporting information submitted by the applicant, or additional material provided by officers.

- 8.3 Site visits cause delay and additional costs, and should only be carried out where Councillors believe a site visit is necessary.

**Procedure on Site**

- 8.4 A detailed explanation of the proposals, and a summary of the officers' report and recommendations, will be made by the planning officer. Councillors will then be given the opportunity to ask questions and to view the site and surroundings from all relevant vantage points.
- 8.5 Site visits will normally involve District, Parish or Town Councillors and officers only, except for any consultee whose attendance has been specifically requested by the Planning Committee (e.g. the County Highway Authority or an Environmental Health Officer) to assist their understanding of the proposals.
- 8.6 Applicants or objectors will not be invited to attend site visits. Chair of Parish Meetings may attend site visits provided they have signed up to the Code of Conduct for Members issued under the Local Government Act 2000. Councillors should keep together during site visits and not allow themselves to be addressed separately by applicants or objectors.
- 8.7 No decisions are made at site visits although recommendations may be made to the Committee. The committee administrator will prepare a written note of the key planning issues and information obtained from the site visit, to be reported to the subsequent meeting of the Planning Committee. The recommendation will remain confidential until the committee report is prepared.
- 8.8 Where a site meeting is attended by a Parish or Town Councillor they will be invited to advise on the views of the Parish or Town Council rather than their views as an individual.
- 8.9 The Service Manager – Development Management and the Service Lead – Legal and Democratic Services will ensure that all correspondence in relation to site visits clearly identifies the purpose of a site inspection together with the format and conduct of the inspection, so that applicants/agents and interested parties are aware of it.

**Informal Site Visits**

- 8.10 There are advantages in Councillors making their own individual site visits to gain knowledge of the development proposal, the application site and its surroundings. In doing so, Councillors should observe sites from public vantage points (highways, rights of way or public open space) and should not enter onto private land without permission.
- 8.11 Whilst on individual site visits, Councillors should as far as possible avoid engaging in discussion with applicants, objectors or other interested parties.

This can lead to accusations of partiality if the views of one party only are heard.

- 8.12 Where application sites are not visible without entering onto private land – for example, rear extensions or country houses in larger plots – officers will make an additional effort to provide appropriate visual information at Committee.

## **9. REVIEW OF PLANNING DECISIONS**

- 9.1 Arrangements will be made for Councillors to visit a sample of implemented planning permissions annually, so that a regular review of the quality of planning decisions can be undertaken. This will include examples from a broad range of categories such as major and minor development, permitted departures, upheld appeals etc.
- 9.2 The outcome of this review will be reported to the Planning Committee and to the Overview and Scrutiny Committee and may lead to identification of possible amendments to existing policies or practice.

## **10. COMPLAINTS AND RECORD KEEPING**

- 10.1 The Council has a complaints procedure, which can be used by any party to the planning process (applicants, objectors or others) to complain about the way in which a matter has been handled (the complaints procedure is not intended to reopen the planning decision). Copies of a leaflet on the complaints procedure are available on request.
- 10.2 In order to ensure that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by Councillors.
- 10.3 The same principles of good record keeping will be observed in relation to all enforcement and Development Plan matters. Monitoring of record keeping will be undertaken regularly by the senior planning staff.
- 10.4 Where a planning application is dealt with under the delegated procedure a complete record will be kept of the planning considerations taken into account in determining the application for 5 years after the decision.

## **11. CONTRAVENTION OF THIS GUIDANCE**

- 11.1 Where there is any by a Councillor the matter should be referred to the Monitoring Officer who will report the matter to the Standards Committee.
- 11.2 Where any breach of this Code constitutes misconduct by an officer, then it is to be dealt with in accordance with the Council's disciplinary procedure.



## 8. Member Procedures

### (f) Scheme of Members’ Allowances

- 1.1 The Council, in exercise of the powers conferred by the Local Authorities (Members’ Allowances) Regulations 2003, hereby makes the following scheme.
- 1.2 This scheme may be cited as the Teignbridge District Council Scheme of Members’ Allowances and shall have effect from 1 April 2023 as agreed at the Council meeting held on 29 November 2022.

#### 2. Basic Allowance

- 2.1 For the 2022/23 municipal year, a basic allowance of £5,990 shall be paid to each Councillor. For the purpose of carrying out District Council duties, elected Members are provided with IT devices and IT support for those devices. Members are required to meet the cost of their internet access from this allowance.

#### 3. Special Responsibility Allowances

- 3.1 An annual Special Responsibility Allowance (SRA), will be paid in addition to the Basic Allowance to those councillors who hold the special responsibilities listed below. The SRA is paid to recognise the additional commitment and time required to fulfil each role **and covers subsistence and travel for attending meetings not listed in Appendix A below**. Only one Special Responsibility Allowance can be paid to each Councillor, with the exception of the Group Leaders Allowance:

Leader of the Council	£20,967
Deputy Leader of the Council	£10,484
Chair of the Planning Committee	£8,387
Executive Members	£8,986
Executive Member without Portfolio	£6,590
Chair of the Overview & Scrutiny Committee(s)	£6,590
Chair of the Council	£5,991
Chair of Licensing & Regulatory Committee	£4,493
Chair of Audit Scrutiny	£2,995
Vice Chair of Planning Committee	£2,995
Vice Chair of the Council	£2,396
Vice Chair of Overview & Scrutiny Committee(s)	£1,797
Vice Chair of Licensing & Regulatory Committee	£2,396

Chair of Standards Committee £2,995

Group Leaders % calculation of Basic Allowance based upon & of members of the group out of maximum number of Council Members (47)

**4. Co-optees Allowance**

4.1 A Co-optees Allowance is payable to the independent members appointed to advise under the standards code.

Per half day £50

**5. Suspension of Allowances**

5.1 Regulations permit the suspension of allowances though it is accepted that a suspended Member may be in a position to undertake some duties within their Ward.

5.2 If a Member is wholly suspended, both Basic and Special Responsibility Allowances will be withdrawn. If a Member is partially suspended, the recommendations of the Standards Committee will be sought as to the degree of intent and they will then make a recommendation to Democratic Services, who will take the decision over the payment of the allowance.

5.3 In the event of a Councillor with special responsibilities being unable to carry out their additional duties due to maternity/paternity leave or sickness, the Special Responsibility Allowance will cease and will instead be paid to the Councillor undertaking the duty, in accordance with the one Special Responsibility Allowance remuneration rule.

**6. Travel and Subsistence Allowances**

6.1 The Council has adopted the rules and rates set by HMRC for travel and subsistence.

6.2 To qualify for payment the duties must fall within the definition of an approved duty set out in Appendix A.

**a) Travelling Allowances**

**i) Motor Vehicles, Motorcycles and Bicycles**

The rates applies to all types within the class.

Car/van first 10,000 miles	Car/van over 10,000 miles	Passenger (each)	Motorcycles	Bicycles
45p per mile	25p per mile	5p per mile	24p per mile	20p per mile

The actual cost of any necessarily incurred tolls and car parking fees can also be claimed.

ii) Public Transport

The rate of travel shall be reimbursed at the actual cost of the cheapest available fare. Where more than one class of fare is available, only the standard class will be payable.

For long distance journeys, where there is a direct rail link, Councillors should use the railway network. If there is no direct rail link then travel will be at the normal travel rate for a car.

iii) Travel by Taxi

Taxi fares will only be paid provided a medical certificate is produced which certifies the Member could not for medical reasons use public transport.

iv) Hired Motor Vehicles

Rates payable shall not exceed the rates of Councillors own motor vehicle unless previously approved by the Council.

v) Travel by Air

Please refer to Democratic Services.

**b) Subsistence Allowance**

Minimum journey time	Maximum amount of meal allowance
5 hours	£5
10 hours	£10
15 hours (and ongoing at 8pm)	£25

Where a scale rate of £5 or £10 is paid and the qualifying journey in respect of which it is paid lasts beyond 8pm, a supplementary rate of £10 can be paid to cover the additional expenses necessarily incurred as a result of working late.

**6.3** Expenses such as accommodation and travel for courses and conferences will normally be arranged by Democratic Services.

**7. Dependant’s Allowance**

**7.1** The Dependants’ allowance may be claimed when a carer for a dependant has been engaged to enable a Councillor to carry out an approved duty as defined in Appendix A.

**7.2** A dependant, for the scheme, is defined as a person needing the presence of a responsible adult, for example a child under the age of 14 years, or a person with a recognised physical or mental disability. The dependant must reside with the Councillor and either be a child of which the Councillor is the legal guardian, or the spouse/civic partner of the Councillor.

- 7.3** The allowance may not necessarily cover the whole cost of care but will provide the reimbursement of expenditure up to the current National Minimum Wage hourly rate for 25+. If the actual hourly rate is lower, the actual sum paid by the Councillor would be reimbursed to the Councillor. The allowance will be paid for the duration of the approved duty, plus an allowance for up to one hour’s total travelling time before and after the meeting.
- 7.4** The care of the dependant does not necessarily have to be provided by a registered or professionally qualified provider, but it cannot be claimed for care carried out by a member of the same household. In addition, it may not be claimed if the care is already paid for by another body or if claimed elsewhere. A receipt is required with the cost of the care, counter-signed by both the Councillor and the carer.
- 7.5** Special circumstances could be considered on an individual basis.
- 7.6** Payment of the allowance will be made under the powers of Section 111 of the Local Government Act 1972.

## **8. Claims and Payments**

- 8.1** The Basic Allowance and Special Responsibility Allowances shall be paid in twelve monthly instalments. The Chair of Standards and Co-optees Allowance will need to be claimed. Payment will be made direct to the bank or building society account of the Member’s choice.
- 8.2** Payments shall be commensurate to the length of appointments and period of office.
- 8.3** A claim for travelling, subsistence and care under this scheme shall be made on the appropriate claim form within one month of the date of the meeting, in respect of which the entitlement to the allowance arises. Claims which do not comply with this timescale will only be accepted by Democratic Services in exceptional circumstances. Fuel receipts should be attached to the claim form whenever possible. Receipts for claims for other methods of travel, subsistence and care must be attached. Allowances will be restricted to 50% of the approved scale or refused if no receipt is attached.

## **9. Automatic Increases of Allowances**

- 9.1** From 2023 Basic and Special Responsibility Allowances will automatically increase at the start of the municipal year based on the percentage applied to the majority of Local Government grades.
- 9.2** Travel and subsistence allowances and will automatically be updated with changes made by HMRC.
- 9.3** The Dependants Allowance will be updated in line with National Minimum Wage.



## **APPENDIX A**

### **Approved Duties**

The following duties are recognised as approved duties for the payment of Travel and Subsistence Allowances and Childcare and Dependent Carers' Allowances.

- i) attendance at meetings either as:
  - As an observer or
  - A duly appointed member of:
    - (a) the Council and any committee of the Council;
    - (b) any sub-committee appointed by a committee;
    - (c) the Executive or committee of the Executive (if appointed);
    - (d) working parties (including the Member Development Group and Leadership Group);
    - (e) scrutiny review panels;
    - (f) policy development groups;
    - (g) any outside organisation and their sub-groups appointed by the Council or the Cabinet, provided that the organisation does not pay any such expenses (these are listed at Appendix B below).
- (ii) attendance at site visits for planning or licensing purposes or as part of overview and scrutiny by committee members;
- (iii) attendance at member development sessions;
- (iv) attendance at seminars and all member briefings organised by Teignbridge Council, except for those held immediately prior to a meeting of Council;
- (v) attendance at non-political conferences/seminars, subject to prior approval by the relevant Group Leader and Head of Governance Support and funding for the conference being available.
- (vii) attendance at a meeting of the Council.

### **Representation on Outside Bodies**

Representation on the following organisations will qualify as an approved duty.

Travel may be claimed for these:

Connecting Devon and Somerset Board  
Dartmoor National Park Authority  
Dartmoor National Park Community Forum  
Dartmoor National Park Site Inspections  
Devon Authorities Strategic Waste Committee  
Devon Building Control Partnership  
Devon playing Fields Association

Devon Rail Authority  
Exe Estuary Steering Committee  
Heart of SW Coastal Productivity Plan-Coastal Strategy Group  
Local Government Association  
Local Government Association Coastal Special Interest Group  
Local Government Association District Councils’ Network Assembly  
Newton Abbot Community Interest Company  
PATROL (Parking and Traffic Regulations Outside London)  
Police and Crime Panel  
South East Habitats Mitigation Executive Committee  
South West Councils  
South West Provincial Council  
Stover Canal Trust  
Stover Park Advisory Board  
Teign Estuary & Coastal Partnership  
Teignbridge Citizens Advice Bureau  
Teignbridge Highways and Traffic Orders  
Committee (HATOC)  
Teignbridge Locality Committee (County)  
Teignbridge Rural Aid Committee  
Teignmouth Town Centre Partnership  
Torbay and South Devon NHS Foundation Trust

## **Appendix B**

### **PARENTAL LEAVE POLICY**

#### **Introduction**

This Policy sets out Members’ entitlement to maternity, paternity, shared parental and adoption leave and relevant allowances.

The objective of the policy is to ensure that insofar as possible Members are able to take appropriate leave at the time of birth or adoption, that both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave taken.

Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of local authority councillors. It will also assist with retaining experienced councillors – particularly women – and making public office more accessible to individuals who might otherwise feel excluded from it.

There is at present no legal right to parental leave of any kind for people in elected public office. This applies to MPs as well as councillors and has been the subject of lengthy debate. These policies can therefore only currently be implemented on a voluntary basis. Discussions are ongoing about changing the law to enable compulsory provision.

Legal advice has been taken on these policies, and they conform with current requirements.

1. Leave Periods

- 1.1 Members giving birth are entitled to up to 6 months maternity leave from the due date, with the option to extend up to 52 weeks by agreement with the Monitoring Officer or Deputy Monitoring Officer.
- 1.2 In addition, where the birth is premature, the Member is entitled to take leave during the period between the date of the birth and the due date in addition to the 6 months’ period. In such cases any leave taken to cover prematurity of 28 days or less shall be deducted from any extension beyond the initial 6 months.
- 1.3 In exceptional circumstances, and only in cases of prematurity of 29 days or more, additional leave may be taken by agreement, and such exceptional leave shall not be deducted from the total 52 week entitlement.
- 1.4 Members shall be entitled to take a minimum of 2 weeks paternity leave if they are the biological father or nominated carer of their partner/spouse following the birth of their child(ren).
- 1.5 A Member who has made Shared Parental Leave arrangements through their employment is requested to advise the Council of these at the earliest possible opportunity. Every effort will be made to replicate such arrangements in terms of leave from Council.
- 1.6 Where both parents are Members leave may be shared up to a maximum of 24 weeks for the first six months and 26 weeks for any leave agreed thereafter, up to a maximum of 50 weeks. Special and exceptional arrangements may be made in cases of prematurity.
- 1.7 A Member who adopts a child through an approved adoption agency shall be entitled to take up to six months adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement with the Monitoring Officer or Deputy Monitoring Officer.
- 1.8 Any Member who takes maternity, shared parental or adoption leave retains their legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.
- 1.9 Any Member intending to take maternity, paternity, shared parental or adoption leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.
- 1.10 Any member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and that they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

2. Basic Allowance



2.1 All Members shall continue to receive their Basic Allowance in full whilst on maternity, paternity or adoption leave.

3. Special Responsibility Allowances

3.1 Members entitled to a Special Responsibility Allowance shall continue to receive their allowance in the case of maternity, paternity, shared parental or adoption leave as follows:

- Weeks 1 to 6 – 90% of SRA
- Weeks 7 to 18 – 50% of SRA
- Weeks 19 to 52 – no payment but retain the right to return to same position or an alternative position with equivalent status and remuneration.

3.2 Where a replacement is appointed to cover the period of absence that person shall receive an SRA on a pro rata basis for the period of the temporary appointment.

3.3 The payment of Special Responsibility Allowances, whether to the primary SRA holder or a replacement, during a period of maternity, paternity, shared parental or adoption leave shall continue for a period of six months, or until the date of the next Annual Meeting of the Council, or until the date when the member taking leave is up for election (whichever is soonest). At such a point, the position will be reviewed, and will be subject to a possible extension for a further six month period.

3.4 Should a Member appointed to replace the member on maternity, paternity, shared parental or adoption leave already hold a remunerated position, the ordinary rules relating to payment of more than one Special Responsibility Allowances shall apply.

3.5 Unless the Member taking leave is removed from their post at an Annual General Meeting of the Council whilst on leave, or unless the Party to which they belong loses control of the Council during their leave period, they shall return at the end of their leave period to the same post, or to an alternative post with equivalent status and remuneration which they held before the leave began.

3.6 The Member be kept in the loop with KIT (keeping in Touch) meetings in line with officer procedure undertaken by the Group Leader.

4. Resigning from Office and Elections

4.1 If a Member decides not to return at the end of their maternity, paternity, shared parental or adoption leave they must notify the Council at the earliest possible opportunity. All allowances will cease from the effective resignation date.

4.2 If an election is held during the Member’s maternity, paternity, shared parental or adoption leave and they are not re-elected, or decide not to stand for re-election, their basic allowance and SRA if appropriate will cease from the Monday after the election date when they would technically leave office.

4.3 In the event of the political control of the Council changing and a member no longer holds the same position, the member’s leave will end at that time.

4.4 Where a replacement is appointed to cover the period of absence that member shall receive an SRA for the period of the temporary appointment.

5. Disptes

5.1 Should any dispute arise over the interpretation of this policy, reference will be to the Monitoring Officer, in consultation with the Section 151 Chief Finance Officer, will determine the position.

Appendix 1

**HANDLING CASEWORK DURING PARENTAL LEAVE**

Wherever possible, political groups will put arrangements in place to help with casework and related issues.

Democratic Services will provide help and advice where appropriate, and arrange for officers in service areas to respond to enquiries.

The Group Leader has a discussion with the councillor to establish;

- a. A formal agreement of relevant dates for start and end of period of leave (end date could be amended) and an agreement to notify this and any changes to Democratic Services;
- b. Whether the councillor would like to maintain any councillor responsibilities during this period and, if so, which ones;
- c. How and how often the councillor would like to be contacted;
- d. How they would like their Councillor Contact webpage to be amended regarding contact details;
- e. Record keeping arrangements during the period of leave;
- f. A review and handover of open issues at the start of the period of parental leave;
- g. Return/settling back in review at the end of the leave (work handover, whether further support is needed)
- h. Any other relevant considerations including undertaking a risk assessment as required;
- i. The Group Leader or Political Assistant then communicates the above information to Democratic Services and they jointly agree what is needed. Understandably, each case will be individual, and so a flexible approach will be needed, and the arrangements may need to adapt with circumstances.
- j. Advice and support will be available from Democratic Services.

## **9. Officer Procedures**

### **(a) Officer Employment Procedure Rules**

#### **1.1 Definitions: The Head of Paid Services is the Council’s Senior Officer**

**(a)** Chief Officers are employed under the Conditions of Service of the Joint Negotiating Committee for Chief Officers of local authorities. They are directly responsible to the Head of Paid Service. Their responsibilities include the management of a group of major services.

**(c)** The “Proper Officer” under these rules is the Service Manager for Human Resources.

**(d)** An “Independent Person” is a person appointed by the Council pursuant to the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

#### **1.2 Recruitment and Appointment**

##### **(a) Declarations**

The Council requires any candidate for employment to state in writing whether they are the parent, grandparent, spouse, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of any existing Councillor or officer of the Council; or of the partner of such persons.

No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by them.

##### **(b) Seeking support for appointment**

(i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.

(iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### **1.3 Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a)** draw up a statement specifying:
  - (i) the duties of the officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b)** make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c)** make arrangements for a copy of the statement mentioned in paragraph **(a)** to be sent to any person on request.

### **1.4 Appointment of Head of Paid Service/ Chief Officers/ 151Officer/ Monitoring Officer**

- (a)** The appointment panel will be the Appointments & Remuneration Committee appointed by the Proper Officer - the Service Manager – Human Resources.
- (b)** The Proper Officer communicates the Committee's recommendations to each Member of the Executive giving a deadline for responses.
- (c)** If no Member of the Executive objects, the recommendation then goes forward before the Council for approval.
- (d)** If any Member of the Executive objects they must notify the Leader. The Leader is then required to consult the Executive. If the Executive wishes to pursue the objection the Leader notifies the Proper Officer. The Proper Officer then reconvenes the appointment panel to consider whether the objection is material and well founded. Following this process the appointment panel either reconsiders its recommendation or affirms its recommendation. Any revised recommendation is subject to paragraph 3.4 (c), (d) and (e).
- (e)** The appointment panel's recommendation is placed before the Council for approval prior to any offer being made.

### **1.5 Other Appointments**

All other officer appointments shall be made by the relevant Chief Officer or their nominee.

## **1.6 Disciplinary Action**

**(a)** No dismissal or disciplinary action against the Council's statutory officers, namely Head of Paid Service, Section 151 Officer and Monitoring Officer is permitted except in accordance with the procedures set out in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

**(b)** Councillors will not be involved in the disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of disciplinary action.

**(c)** Further details of disciplinary procedures are contained in the Officers' Disciplinary Procedure and Code of Conduct Rules.

## **1.7 Appeals**

See the Staff Disciplinary and Grievance Procedures and Code of Conduct Rules for further details.

## **1.8 Training**

Officers and Members taking part in any interview process must have had in-house training regarding the recruitment process.

## **1.9 Appraisal of the Managing Director**

There shall be an annual appraisal of the Managing Director unless circumstances require appraisal to be on a more frequent basis. The Appraisal Panel shall consist of the Leader, Deputy Leader and Chair of Overview and Scrutiny.

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Senior Leadership  
Team members

**MANAGING DIRECTOR & HEAD OF PAID SERVICE, Phil Shears**  
Responsible for: Elections & HR & Organisational Development

**HEAD OF CORPORATE SERVICES & CHIEF FINANCE OFFICER**  
**Martin Flitcroft**  
Responsible for:  
Legal, Democratic, Audit, Procurement, Finance and Payroll

**HEAD OF OPERATIONS**  
**Lorraine Montgomery**  
Responsible for:  
Waste & Recycling, Street Cleansing, Leisure, Open Spaces & Countryside, Cemeteries, Environmental Protection

**HEAD OF SERVICE DELIVERY & IMPROVEMENT**  
**Amanda Pujol**  
Responsible for:  
Business Improvement & Development, Communications, Community Safety, Customer Services, Housing, Revenue & Benefits

**HEAD OF PLACE & COMMERCIAL SERVICES**  
**Neil Blaney**  
Responsible for:  
Car parking, Drainage & Coastal, Economy & Assets, Estates & Property Management, Building Control, Development Management, Spatial Planning

Corporate Management  
Team members

Solicitor to the Council & Monitoring Officer,  
Audit Manager,  
Team Leader (Democratic Services),  
Procurement

Waste Manager,  
Leisure Manager,  
Environmental Protection Manager,  
Food Safety Manager,  
Resorts Manager

Revenue Benefits and Fraud Manager,  
Communications & Marketing Manager

Business Manager (Development Management),  
Business Manager (Devon Building Control Partnership),  
Principal Growth Point Officer,  
Principal Planner (Spatial),  
Projects Manager,  
Assets Manager

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## **CODE OF CONDUCT FOR MEMBERS (Adopted: 22.04.2021)**



### **A. Introduction**

**This Code applies to you, if you are an elected councillor or a co-opted member of the Council** (together referred to as “Members”).

A “co-opted member” is a person who is not an elected member of the Council but who is a member of:

- (a) any committee or sub-committee of the Council; or
- (b) a member of, and who represents the Council on, any joint committee or joint sub-committee of the Council;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee of the Council, including joint committees.

### **B. Purpose of this Code**

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, Council officers and the reputation of local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The Local Government Association encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Members and local government.

### **C. General Principles**

Everyone in public office at all levels, all who serve the public or deliver public services (including ministers, civil servants, councillors and local authority officers) should uphold the Seven Principles of Public Life, also known as the Nolan Principles. These principles are:

1. **Selflessness:** Holders of public office should act solely in terms of the public interest.
2. **Integrity:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

3. **Objectivity:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
4. **Accountability:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
5. **Openness:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
6. **Honesty:** Holders of public office should be truthful.
7. **Leadership:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs

Building on these principles, the following general principles have been developed specifically for the role of Members. In accordance with the public trust placed in Members, on all occasions you must:

- act with integrity and honesty;
- act lawfully;
- treat all persons fairly and with respect; and
- lead by example and act in a way that secures public confidence in your role as a councillor or co-opted member.

In undertaking the role of a Member, you must:

- impartially exercise your responsibilities in the interests of the local community;
- not improperly seek to confer an advantage, or disadvantage, on any person;
- avoid conflicts of interest;
- exercise reasonable care and diligence; and
- ensure that public resources are used prudently in accordance with the Council's requirements and in the public interest.

#### D. **Application of the Code**

This Code of Conduct applies to you if you have signed your declaration of acceptance of the office; or if you are a co-opted member, as soon as you attend your first meeting as a co-opted member. The Code continues to apply to you until you cease to be a Member.

This Code of Conduct applies when you are acting in your capacity as a councillor or co-opted member which may include when:

- You misuse your position as a councillor or co-opted member; or

- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor or co-opted member.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings;
- at online or telephone meetings;
- in written communication;
- in verbal communication;
- in non-verbal communication; and
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor or co-opted member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

## **E. Standards of Conduct**

**The remainder of this Code sets out your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.**

Guidance is included below each of the requirements to help explain the reasons for them and how they should be followed.

## **1. RESPECT**

**You must:**

- (a) treat other Members and members of the public with respect; and**
- (b) treat Council employees, employees and representatives of partner organisations and those volunteering for the Council with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the Council, the relevant social media provider or the police. This also applies to fellow councillors or co-opted members, where action could then be taken under this Code of Conduct and Council employees where concerns should be raised in line with the Council's Member / Officer Protocol.

## **2. BULLYING, HARRASSMENT AND DISCRIMINATION**

- (a) You must not bully any person.**
- (b) You must not harass any person.**
- (c) You must promote equalities and not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Council's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. IMPARTIALITY OF OFFICERS OF THE COUNCIL**

**As a Member you must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Council.**

Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. A Member can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. CONFIDENTIALITY AND ACCESS TO INFORMATION**

##### **4.1 You must not disclose information:**

- (a) given to you in confidence by anyone; or**
- (b) acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature unless (i) you have received the consent of a person authorised to give it; (ii) you are required by law to do so; (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or (iv) the disclosure is reasonable and in the public interest, made in good faith and in compliance with the reasonable requirements of the Council and you have consulted the Monitoring Officer prior to its release.**

##### **4.2 You must not improperly use knowledge gained solely as a result of your role as a Member for the advancement of yourself, your friends, your family members, your employer or your business interests.**

##### **4.3 You must not prevent anyone from getting information that they are entitled to by law.**

Councils must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5 DISREPUTE**

**You must not bring your role or the Council into disrepute.**

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and/or the Council and may lower the public's confidence in you or the Council's ability to discharge your / its functions. For example, behaviour that is considered dishonest and / or deceitful can bring your council into disrepute.

You are able to hold the Council and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.



## **6. USE OF POSITION**

**You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else.**

Your position as a member of the Council provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. USE OF COUNCIL RESOURCES AND FACILITIES**

**7.1 You must not misuse Council resources.**

**7.2 You must, when using the resources of the Council or authorising their use by others:**

- (a) act in accordance with the Council's requirements; and**
- (b) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which you have been elected or appointed.**

You may be provided with resources and facilities by the Council to assist you in carrying out your duties as a Member. Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms

These are given to you to help you carry out your role as a Member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Council's own policies regarding their use.

## **8. COMPLYING WITH THE CODE OF CONDUCT**

**8.1 You must undertake Code of Conduct training provided by the Council.**

**8.2 You must cooperate with any Code of Conduct investigation and / or determination.**

**8.3 You must not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4 You must comply with any sanction imposed on you following a finding that you have breached the Code of Conduct.**

It is extremely important for you as a Member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Council or its governance. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise this with your Monitoring Officer at [monitoringofficer@teignbridge.gov.uk](mailto:monitoringofficer@teignbridge.gov.uk).

## **9. GIFTS AND HOSPITALITY**

- 9.1 You must not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on your part to show favour from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.**
- 9.2 You must register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 9.3 You must register with the Monitoring Officer any significant gift or hospitality that you have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance at [monitoringofficer@teignbridge.gov.uk](mailto:monitoringofficer@teignbridge.gov.uk) .

Gifts and hospitality may be registered by sending details to [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk).

## 10. INTERESTS

**You must register and disclose your interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the Council. At the Council, your notification of registration should be sent to [comsec@teignbridge.gov.uk](mailto:comsec@teignbridge.gov.uk) .

You need to register your interests so that the public, Council employees and fellow Members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a Disclosable Pecuniary Interest as set out in the Appendix to this Code, is a criminal offence under the Localism Act 2011.

**“Disclosable Pecuniary Interest”** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the Appendix to this Code. The interests are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”. For the purposes of Disclosable Pecuniary Interests the term **“partner”** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

The detailed provisions on registering and disclosing interests are set out below. If in doubt, you should always seek advice from your Monitoring Officer at [monitoringofficer@teignbridge.gov.uk](mailto:monitoringofficer@teignbridge.gov.uk) .

### REGISTERING INTERESTS

1. Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer Disclosable Pecuniary Interests and Other Registerable Interests.

“Disclosable Pecuniary Interests” are defined above. **“Other Registerable Interests”** means your other personal interests which fall within the categories set out in the Appendix under the heading Other Registerable Interests.

2. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

A '**sensitive interest**' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.

### **NON PARTICIPATION IN THE CASE OF DISCLOSABLE PECUNIARY INTERESTS**

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests (see Appendix), you must:
  - (a) disclose the interest;
  - (b) not participate in any discussion or vote on the matter; and
  - (c) not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest' (see paragraph 3 above), you do not have to disclose the nature of the interest, just that you have an interest. Dispensations may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a Disclosable Pecuniary Interest.

5. Where you have a Disclosable Pecuniary Interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must:
  - (a) notify the Monitoring Officer of the interest; and
  - (b) not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### **DISCLOSURE OF OTHER REGISTERABLE INTERESTS**

6. Where a matter arises at a meeting which **directly relates** to one of your 'Other Registerable Interests' (see Appendix), you must disclose the interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### **DISCLOSURE OF NON-REGISTERABLE INTERESTS**

7. Where a matter arises at a meeting which **directly relates** to:

- (a) your financial interest or well-being (and is not a Disclosable Pecuniary Interest); or
- (b) a financial interest or well-being of a relative or close associate,

you must disclose the interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which **affects**:

- (a) your own financial interest or well-being; or
- (b) a financial interest or well-being of a friend, relative, close associate; or
- (c) a body included in those you need to disclose under Disclosable Pecuniary Interests

you must disclose the interest.

In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

9. Where a matter affects your financial interest or well-being:

- (a) to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision; and
- (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

you may speak on the matter only if members of the public are also allowed to speak at the meeting, but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

- (c) Where you have a personal interest in any business of your Council and you have made an Executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

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**APPENDIX  
CODE OF CONDUCT FOR MEMBERS  
(Adopted: 22.04.2021)**



**Disclosable Pecuniary Interests**

This provides an explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which councillors are required to register with the Monitoring Officer regarding themselves and their partners.

**“Employment, office, trade, profession or vocation”**: means any employment, office, trade, profession or vocation carried on for profit or gain; any unpaid directorship.

**“Sponsorship”**: means any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

**“Contracts”**: means any contract made between the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director<sup>i</sup> or a body that such person has a beneficial interest in the securities<sup>ii</sup> of) and the council (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

**“Land and Property”**: means any beneficial interest in land which is within the area of the council. ‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.

**“Licences”**: means any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.

**“Corporate tenancies”**: means any tenancy where (to the councillor’s knowledge) (a) the landlord is the Council; and (b) the tenant is a body that the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director\* of or has a beneficial interest in the securities<sup>ii</sup> of.

**“Securities”**: means any beneficial interest in securities<sup>ii</sup> of a body where (a) that body (to the councillor’s 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<sup>ii</sup> exceeds £25,000 or 1/100<sup>th</sup> 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 the shares of any one class in which the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses / civil partners has a beneficial interest exceeds 1/100<sup>th</sup> of the total issues shared capital of that class.

### **Other Registerable Interests**

These are:

- (a) a body of which you are in general control or management and to which you are nominated or appointed by the Council
- (b) a body exercising functions of a public nature
- (c) a body directed to charitable purposes
- (d) a body whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

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<sup>i</sup> **‘director’** includes a member of the committee of management of an industrial and provident society.

<sup>ii</sup> **‘securities’** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

## **10. Conduct**

### **(b) Officer and Member Relations Protocol**

#### **1. PRINCIPLES UNDERLYING MEMBER/OFFICER RELATIONS**

- 1.1 This protocol seeks to reflect the principles underlying the respective codes of conduct which apply to members and officers. The shared object of these codes is to maintain and enhance the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct by all parties.
- 1.2 The purpose of the protocol is to guide members and officers of the Council in their relations with one another.

#### **2. THE ROLES OF MEMBERS AND OFFICERS**

- 2.1 Officers should respect the code of conduct of the authority's members and treat them with courtesy at all times. The principle also applies to members in their relationships with officers.
- 2.2 A relevant extract from the "National Code of Local Government Conduct" for members is reproduced below:
- "23. Both Councillors and Officers are servants of the public and they are indispensable to one another but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, their Committees and sub-committees.
24. Mutual respect between Councillors and Officers is essential to good local government. Close personal relationships between individual Councillors and Officers can damage this relationship and prove embarrassing to other Councillors and Officers."
- 2.3 If a relationship exists between Councillors and officers which could give the appearance of bias, advice should be sought from the Managing Director or from the Monitoring Officer.

#### **3. RELATIONSHIPS BETWEEN OFFICERS AND CHAIR / VICE-CHAIR**

- 3.1 It is important that there should be close working relationship between certain Councillors e.g. the Leader, Chair and Vice Chair and senior officers. Such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers ability to deal impartially with other members. While the Leader and Chair may be consulted as part of the process of drawing up the agenda for a forthcoming meeting, in some situations a senior officer would be under a duty to submit a report on a particular matter. If there

is a disagreement between the chair and officer about what items should, or should not, be included in an agenda, the matter should be referred to the Managing Director for resolution in conjunction with the Council.

#### **4. OFFICER RELATIONSHIPS WITH PARTY GROUPS**

- 4.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport) to members is to assist them in discharging their role as members of the Council. Such support services must, therefore, only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

#### **5. MEMBERS IN THEIR WARD ROLE AND OFFICERS**

- 5.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward member should be notified at the outset of the exercise.
- 5.2 Officers have a duty to keep members informed about issues which may be of particular interest to ward members and should not rely simply on reporting items to committees. Officers should particularly bear in mind the importance of ensuring ward councillors, chair and vice-chair are given early notice of something which is likely to be reported in the media imminently and in which they will probably have an interest. Officers should try to avoid the situation where the first that members know of a problem is when they are approached by the media for comment.
- 5.3 In a multi member ward, any case work raised by an individual member should not normally be disclosed by officers to other members in that ward until it requires a Portfolio Holder (i.e. Executive Member) decision when it can be communicated to other members in that ward as part of the consultation, if appropriate.
- 5.4 Where a Portfolio Holder is considering something in a members ward they should liaise with the local member(s). The use of email will be central to the officer delivery of information and there will be an on-going obligation on members to provide and ensure a fully functioning email link.

#### **6. COUNCILLOR ACCESS TO DOCUMENTS AND INFORMATION**

- 6.1 Members are free to approach any department for such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a department's activities to a request for specific information on behalf of the constituent. Such approaches should normally be directed to the manager of the particular service concerned.

However, if a planning matter, Councillors are encouraged to contact the case officer.

- 6.2 The legal rights of members to inspect Council documents are covered partly by statute and partly by common law. The statutory framework includes the Local Government Act, 1972 and the Data Protection Acts, 1985 and 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- 6.3 Members have a statutory right to inspect any council document which contains material relating to any business which is to be transacted at the Council, the executive, a committee or sub-committee meeting. This right does not apply to documents which appear on the exempt agenda for meetings. The items are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigation.
- 6.4 The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council. This principle is commonly referred to as the “need to know” principle.
- 6.5 The exercise of this common law right depends, therefore, upon the members ability to demonstrate that they have the necessary “need to know”. A member has no right to a “roving commission” to go and examine documents. Mere curiosity is not sufficient. The crucial question is the determination of the “need to know”. The question will initially be determined by the manager of the service involved with the advice from the solicitor. In the event of a dispute, the question will be determined by the standards committee.
- 6.6 In some circumstances, e.g. a member wishing to inspect documents relating to the functions of that committee, a members “need to know” will be presumed. In other circumstances e.g. a member wishing to inspect documents which contain personal information about third parties, a member will be expected to justify the request in specific terms.

## **7. OTHER INDIVIDUALS WHO ARE MEMBERS OF COUNCIL BODIES**

- 7.1 The protocol applies equally to co-opted members of council bodies in their relationship with officers where appropriate.

## **8. PRESS RELEASES**

- 8.1 The Council’s press releases are co-ordinated by the Service Manager – Communications. If members are proposing a press release on behalf of the Council, rather than in their own name, they should consult the Service Manager – Communications.

- 8.2 Wherever possible, a press release for ward related publicity will include the views of the local member(s). Due to the often very short deadlines available, invitation for local members to comment will be by email, often with very tight and non-negotiable deadlines.

Note: There is further guidance in the Council’s Communications Strategy for Members and officers

**9. CORRESPONDENCE**

- 9.1 Correspondence, including e-mails between an officer and a member is not confidential and shall be open for inspection by other members on the “need to know” basis referred to in 6 above.

**10. ELECTION PURDAH**

- 10.1 Any proactive work by existing members leading up to an election should be suspended. During the election period, i.e. the date from the publication of the Notice of Election to the Election itself, any requests from Councillors for new work in a ward should be referred to the Managing Director, or their Deputy for determination.

## **10. Conduct**

### **(c) Officers’ Code of Conduct**

#### **1. INTRODUCTION**

- (i) This document sets out the general standards of conduct expected of Council employees, with examples of how Management might deal with misconduct. It should be read in conjunction with the Council's Disciplinary Procedure.
- (ii) Disciplinary action in Teignbridge is relatively rare. Standards of conduct are high, and the vast majority of employees is unlikely to behave in any way that is unacceptable or likely to provoke disciplinary action. This code is not intended to imply anything to the contrary.
- (iii) Its first purpose is guidance to help us all avoid unacceptable conduct.
- (iv) From time to time in an organisation, there are likely to be a few individuals who are tempted to do something that an employer will find unacceptable. This code aims to make them aware of what "unacceptable" is and what level of penalty such action may attract. This might prevent the problem in the first place, but it also acts as a guide to Managers and Strategic Managers to ensure that the same type of behaviour attracts the same disciplinary action - for everyone throughout the Council's employment.

#### **2. MANAGEMENT ACTION**

- (i) Management action following cases of misconduct might include:
  - (a) Counselling, advice or instruction by supervisors;
  - (b) Informal reprimands by the supervisor;
  - (c) Formal warnings or dismissal, in accordance with the Disciplinary Procedure; and / or
  - (d) Disciplinary Transfer to alternative work and/or an alternative workplace.

#### **3. GENERAL CONDUCT**

- (i) Council employees are expected to be honest, conscientious and courteous in their dealings with Councillors, colleagues and the public, to behave in a proper manner and to obey the law.

#### **4. REPORTING**

- (i) Employees are obliged to report to the appropriate level of Management:
  - any deficiency in the provision of Council services;
  - any impropriety; and / or
  - any breach of this Code of Conduct.

**5. MISCONDUCT**

- (i) Set out below are indications of conduct likely to be regarded as misconduct, and examples of the action that may be taken by Management as a result.

NOTE: This is not an exhaustive or exclusive list and can only be a general guide.

- (ii) The examples below indicate typical penalties. However, in reaching disciplinary decision, Strategic Managers may take into account:
  - The nature of the individual's job and the impact of the misconduct on the employment relationships;
  - Previous service and conduct; and
  - Any mitigating circumstances.

**6. GROSS MISCONDUCT**

- (i) In general, no employee will be dismissed for misconduct, unless they have been given a warning about the type of misconduct involved and they have had the chance to improve.
- (ii) However, there may be occasions when an act of misconduct is so serious that the employee can no longer be tolerated in the Council's employment. Such cases will be regarded as Gross Misconduct, the penalty for which is dismissal without notice.
- (iii) Examples of behaviour, that would be regarded as gross misconduct, are shown in the following sections.

NOTE: This is not an exhaustive or exclusive list and can only be a general guide.

**6.1 Criminal Offences**

Standards Expected	Examples of Disciplinary Action
<p>The Council expects that employees will not commit any criminal offence, either at work or outside work.</p>	<p>A criminal offence committed in the course of work is likely to be regarded as gross misconduct.                      The treatment of criminal offences committed outside work will vary considerably. If a criminal act does not damage the Council's confidence in the employee or the Council's good reputation and the employee's work does not provide opportunity for repeating the act, an informal warning may be given.</p>



Standards Expected	Examples of Disciplinary Action
	<p>If a criminal act outside work has a significant effect on the Council's confidence in the employee, it will be treated far more seriously. For example, if an employee is responsible for money or valuable resources for the Council and is believed to be guilty of fraud or theft, it would be treated as gross misconduct, and the employee will be dismissed without prior warning or notice. Similarly, if an employee deals with clients for the Council and is believed to be guilty of violence, this would also be regarded as gross misconduct.</p>

## 6.2 Supervisor's Instructions

Standards Expected	Examples of Disciplinary Action
<p>The Council requires employees to comply with all lawful instructions given by the appropriate supervisor or Senior Officer.</p>	<p>The way Management deals with failure to comply with instructions will vary considerably. A direct refusal to carry out a clear and direct instruction, relating to action required immediately, may lead to a final warning.</p> <p>At the other end of the scale, where an omission results from pressure of other priorities and the consequences are not serious, informal counselling or advice is likely to be appropriate.</p>

## 6.3 Administrative and Financial Procedures and the Falsification of Records

Standards Expected	Examples of Disciplinary Action
<p>The Council expects that employees comply with all appropriate administrative and financial procedures and make honest and true statements on the documents involved.</p> <p>Attention is particularly drawn to the Council's Standing Orders and Financial</p>	<p>Deliberate falsification of any record or fraudulent abuse of any of the Council's procedures, to gain benefit in money or kind for the employee concerned or any other person will, depending on the circumstances be regarded by the Council as an act of gross misconduct,</p>

Standards Expected	Examples of Disciplinary Action
<p>Regulations. However, there are various other departmental procedures, which the employees concerned need to observe.</p> <p>The Council requires and expects all of its employees to complete records including attendance, leave, sickness etc accurately and within the appropriate procedure for the matter concerned. This applies to all records where the employee has the responsibility to complete the records or provides information to someone else to complete the record on their behalf e.g. annual leave record, flexi-leave, attendance, time-off-in-lieu, sickness absence etc.</p>	<p>which if proven will result in the employee being dismissed. Examples include false claims for wages and expenses, false time claims through time sheets or the flexible working hours system, breach of cash handling procedures and computer fraud.</p> <p>Other instances of failure to comply with procedures, where there is clearly no intention to defraud the Council, may lead to an oral or written warning in the first instance.</p> <p>Unwitting transgression, which does not have a significant impact, is likely to lead to informal supervisory action.</p>

#### 6.4 Conflict of Interest

Standards Expected	Examples of Disciplinary Action
<p>It is most important that no employee deals on behalf of the Council with matters, in which they (or anyone with whom they have a close personal relationship) have a private or business interest.</p> <p>Where an employee has an ongoing relationship of a business or private nature, which may give rise to a conflict with the Council's interest, they must notify their Senior Officer and the Chief Executive, who will record that notification in the Register of Employees' Interests.</p> <p>Similarly, when a potential conflict of interest situation arises unexpectedly (e.g. a friend or neighbour applies to the employee's section for a service), the employee must notify their Senior Officer and the Chief Executive for the record.</p>	<p>If it comes to light that an employee has become exposed to potential conflict of interest, without first declaring their interest to their Senior Officer, the matter may lead to an appropriate warning.</p> <p>If a conflict of interest situation has an effect in the way an employee conduct their duties or influences any decisions, the matter will be treated as gross misconduct.</p>

Standards Expected	Examples of Disciplinary Action
<p>In considering whether a conflict of interest situation exists, a judgement needs to be made as to whether a member of the public might perceive that unbiased action is likely to happen in the circumstances. If not, the situation must be reported.</p> <p>In a situation where a potential conflict of interest has been recognised, the employee concerned must not deal with the matter on behalf of the Council, which might activate that conflict, unless directed to do so by the appropriate Senior Officer.</p>	

### 6.5 Relationship with Contractors

Standards Expected	Examples of Disciplinary Action
<p>Any employee, who has or has had a private or business relationship with any contractor who may provide goods or services to the Council, must declare the fact to their Manager.</p> <p>Order and contracts must be awarded on merit, without special favours to friends or relatives of employees, or disfavour to any person, group or firm.</p>	<p>Failure to declare a private or business relationship with a contractor or potential contractor to the Council will lead to an appropriate warning, depending on the employee's position and ability to affect the Council's relationship with contractors.</p> <p>If an employee allows a personal relationship with a contractor to affect the relationship between the Council and that contractor (by showing special favour or disfavour), the matter is likely to be treated as gross misconduct.</p>

### 6.6 Management and Appointment of Staff

Standards Expected	Examples of Disciplinary Action
Decision on recruitment and promotion	If an employee deliberately abuses their position to gain employment for a relative or friend in the Council's

Standards Expected	Examples of Disciplinary Action
<p>must be based on merit and ability to fulfil the requirements of the position. No employee may be involved in an appointment, where they have a close personal relationship with a candidate.</p> <p>No employee may be involved in making any decision relating to discipline, promotion, pay and conditions of employment for any other employee who is a relative or partner or otherwise has a close personal relationship with them.</p>	<p>service, the matter is likely to be treated as gross misconduct.</p> <p>Similarly, if an employee abuses their position to gain special favour (or disfavour) for another employee because of a personal relationship rather than merit, the matter may be treated as gross misconduct.</p>

### 6.7 Preparing Plans

Standards Expected	Examples of Disciplinary Action
<p>No member of the Teignbridge Council Staff, either personally or through another person, shall prepare plans which come to be submitted to the Council for any purpose, unless for their own private use with the express permission of the Chief Executive.</p>	<p>If any plans prepared privately by a member of staff are submitted to the Council, for example for Planning Consent, Building Regulations or Improvement Grants, it will be treated as gross misconduct.</p>

### 6.8 Hospitality and Gifts

Standards Expected	Examples of Disciplinary Action
<p>Employees should not accept offers of hospitality, unless there is a genuine need:</p> <p>(i) to impart information: or</p> <p>(ii) for the Council to be represented.</p> <p>Sensitivity is required as to timing of accepting hospitality in relation to any decisions the Authority may make affecting the provider of the hospitality. Invitations should be reported to the employee's Senior Officer and recorded on their personal file.</p>	<p>If an employee accepts hospitality in return for favours or in a way that brings the Council into disrepute, the matter may be treated as gross misconduct. However, if hospitality is accepted in circumstances outside the criteria opposite, without any significant impact, the initial response from Management is likely to be an appropriate warning. Similarly, if an employee in their official capacity receives a significant gift reward or advantage for showing favour or disfavour to any person, the matter will be regarded as gross misconduct, unless the employee can demonstrate</p>

Standards Expected	Examples of Disciplinary Action
<p>Acceptance by employees of hospitality at relevant conferences and courses is acceptable, where:</p> <p>(i) it is clear the hospitality is corporate, not personal;</p> <p>(ii) Senior Management gives consent in advance; and</p> <p>(iii) no purchasing decisions are compromised.</p> <p>Any visits to potential suppliers or contractors or to inspect equipment etc. should be at the Council's expense, to avoid influence on subsequent purchasing decisions.</p> <p>Also, it is important that no employee accepts any personal gift or gratuity from anyone they deal with, or might foreseeably deal with, on Council business, except that items of token value, e.g. pens, diaries and calendars) may be kept but not sought.</p>	<p>the rewards have not been corruptly obtained.</p>

**6.9 Separation of Roles during Tendering**

Standards Expected	Examples of Disciplinary Action
<p>Where the law requires a separation of Client and Contractor roles, confidential information must not be disclosed to those not authorised to receive it. Employees in contractor or client units must exercise fairness and impartiality in dealing with customers, suppliers, other contractors and sub-contractors.</p>	<p>Any action, which leads to a major distortion of the competitive tendering process, may be treated as gross misconduct. However, if the impact is less significant, a warning may be appropriate.</p>

**6.10 Sponsorship**

Standards Expected	Examples of Disciplinary Action
<p>No Council employee, nor anyone with a close personal relationship with an employee, should benefit in a direct way from sponsorship, grant aid or other similar financial support, provided:</p>	<p>Any employee accepting benefit in these circumstances will be liable to disciplinary action. This action will depend on the extent, to which they were instrumental in the sponsorship arrangement and the extent of the</p>

Standards Expected	Examples of Disciplinary Action
<p>(i) by the Council; or</p> <p>(ii) to the Council;</p> <p>unless the situation has been reported to and approved by the appropriate Director.</p>	<p>benefit to them. If they have a major influence in establishing the sponsorship and gained significant benefit from it, the matter would be regarded as gross misconduct. On the other hand, if the employee had no part in establishing the sponsorship and obtained marginal benefit from it, an oral warning is likely to be appropriate.</p>

**6.11 Disclosure of Information**

Standards Expected	Examples of Disciplinary Action
<p>Employees should not use any information obtained in the course of their employment for personal gain or benefit, or pass it to others, who might use it in such a way. Similarly, employees must not disclose information to a third party (including the media) that could result in adverse publicity or financial loss against the Council. Any information personal to a Councillor and received from them, should not be disclosed without their consent, except as required or sanctioned by law.</p> <p>(Amended April 2000)</p>	<p>Deliberate misuse of such information to achieve gain or benefit, or deliberately disclosing information that is detrimental to the Council, will depending on the circumstances to be treated as gross misconduct, which if proven will result in the employee being dismissed.</p>

**6.12 Political Neutrality**

Standards Expected	Examples of Disciplinary Action
<p>Employees must follow every lawfully expressed policy of the Council and not allow their own personal or political opinions to interfere with their work. Advice to political groups should not compromise the political neutrality of employees. Services to individual Councillors must be available to all, ensuring that the rights of all Councillors are respected.</p> <p>Section 1 of the Local Government and</p>	<p>Any deliberate attempt to subvert the Council’s legitimate democratic processes will be treated as gross misconduct. Any overt political activity to support or act against particular Councillors or political groups, by any employee, will initially warrant at least a final warning, but may be regarded as gross misconduct.</p> <p>Failure to comply with the restrictions imposed by the Local Government and</p>

Standards Expected	Examples of Disciplinary Action
<p>Housing Act 1989 introduced the general principle of the “politically restricted post” and of restricting the political activity of local government employees. All postholders on spinal column point 44 or above are automatically designated as politically restricted posts. Various political restrictions apply to these postholders, i.e., you are not permitted to engage in political activities or stand for election, other than for a Parish Council.</p>	<p>Housing Act 1989 will, depending on the circumstances, be dealt with as a disciplinary matter.</p> <p>(Amended May 1998)</p>

### 6.13 Relationship with Councillors

Standards Expected	Examples of disciplinary action
<p>Employees and Councillors should display mutual respect. Familiarity, which changes the relationship and proves embarrassing to other employees and Councillors, should be avoided.</p> <p>Employees should become familiar with the Protocol on Member/Officer Relations which is available from Committee Services.</p> <p>(Amended April 2001)</p>	<p>If an employee displays close personal familiarity with a Councillor in a work situation, which damages proper working relationships, or a disrespectful attitude, the matter is likely to lead to a formal oral or written warning in the first instance.</p>

### 6.14 Use of Resources

Standards Expected	Examples of Disciplinary Action
<p>The Council expects employees to use public funds and resources entrusted to them responsibly and lawfully, to strive for good value for money and to minimise the risk of legal challenge for the Council.</p>	<p>The response to any example of misuse of resources will depend on:</p> <ul style="list-style-type: none"> <li>(i) the effect of the action; and</li> <li>(ii) the level of responsibility, training and knowledge of the employee concerned.</li> </ul> <p>For example, if a senior employee well</p>

Standards Expected	Examples of Disciplinary Action
	<p>versed in financial procedures negligently causes a major waste of money, the matter is likely to be treated as gross misconduct. On the other hand, if a junior employee wastes a small amount of money through error or lack of training, an informal warning might be appropriate.</p> <p>(Amended June 1999)</p>

### 6.15 Systems of Work

Standards Expected	Examples of Disciplinary Action
<p>The Council expects employees to comply with systems of work laid down, approved or recognised for the job concerned.</p>	<p>The treatment of cases of failure to comply with a laid down or recognised way of working will depend on the consequences of the failure. If it results in severe danger to people, or a high cost, it may be regarded as gross misconduct. In less extreme cases an appropriate warning will be given.</p>

### 6.16 Diligence

Standards Expected	Examples of Disciplinary Action
<p>The Council expects employees to carry out their allocated duties diligently, avoiding waste of time or other resources.</p>	<p>Normally if an employee does not make reasonable efforts to carry out their work in an efficient way, the first response from management will be an informal warning. Persistent lack of diligence will result in increasingly severe formal warnings.</p>

### 6.17 Time Keeping and Unauthorised Absence

Standards Expected	Examples of Disciplinary Action
<p>The Council requires employees to attend work at times in accordance with the terms and conditions of their contract of employment, without lateness, extended breaks or unauthorised absences.</p>	<p>The treatment of lateness will vary according to its effect. If it causes no disruption to the service and is not a persistent problem, no formal action will be taken (although an informal warning may be given). However, if it has a</p>



Standards Expected	Examples of Disciplinary Action
<p>The Council requires and expects all of its employees to be present at their workplace or other work location unless prior permission has been granted by their manager to be involved in non-work activity. Authority to be absent from work must be in accordance with the Council's rules and procedures i.e. with regard to annual leave, flexi-leave, attendance at training courses, sickness absence etc.</p>	<p>serious effect on the service or makes some special arrangements necessary it will be treated much more seriously. This could be a final written warning which if repeated, would lead to dismissal.</p> <p>If an employee is absent from their work base or other work location engaged in a non-work activity without prior authority, or genuine mitigating circumstances, this will be regarded by the Council as an act of misconduct and may result in a formal written warning. If the absence has been a deliberate act to "steal time" from the Council it will (depending on the circumstances); be regarded by the Council as an act of gross misconduct, which if proven will result in the employee being dismissed.</p> <p>(Amended January 1998)</p>

**6.18 Use of Time, Equipment, Materials**

Standards Expected	Examples of Disciplinary Action
<p>Employees are expected to use Council time, equipment or materials only for the work of the Council, unless authorised to do otherwise.</p> <p>Unauthorised use of any equipment e.g. computer equipment is prohibited. Staff must not maliciously add, delete or amend information held on computers, or interfere with computer software programmes.</p> <p>Private phone calls must be logged using the appropriate PIN number.</p> <p>(Amended December 2000)</p>	<p>Any employee, who is found to carry out personal business (or leisure) activity during working hours, or to use Council materials or equipment for personal purposes without permission from the appropriate Manager, will be subject to the disciplinary procedure. This type of misconduct may be seen as tantamount to theft or fraud, and so may be treated as gross misconduct.</p> <p>The loading of illegal, pirated or unauthorised software or data, or the loading of software or data prior to it being virus checked, will depending on the circumstances be regarded as a disciplinary matter.</p> <p>Deliberate interference with data held on a computer or with computer software programmes, without prior</p>

Standards Expected	Examples of Disciplinary Action
	<p>authority, will also depending on the circumstances, be treated as a disciplinary matter.</p> <p>If the consequences of the action result in additional costs or cause embarrassment or serious disruption to the Council, it could be regarded by the Council as an act of gross misconduct, which if proven will result in the employee being dismissed.</p> <p>Employees not logging private phone calls will be subject to disciplinary action, which in extreme cases and depending on the circumstances, could be treated as gross misconduct. If proven, this will result in the employee being dismissed.</p>

**6.19 Health, Safety and Security**

Standards Expected	Examples of Disciplinary Action
<p>The Council expects employees to be careful and observe rules and procedures for health, safety and security, and to make proper use of appropriate safety precautions, equipment and protective clothing.</p>	<p>A serious breach of health and safety is a criminal offence and is likely to be regarded as gross misconduct.</p> <p>Any breach of the Council's health and safety rules and procedures is likely to lead to a formal or informal warning depending on the level of risk resulting (but see paragraph 6).</p>

**6.20 Activity Outside Work**

Standards Expected	Examples of Disciplinary Action
<p>Employees are expected not to take part in any activity outside work, which reduces their ability to carry out duties efficiently for the Council or brings the Council into disrepute.</p> <p>Secondary employment may only be undertaken if it does not:</p> <p>(i) involve work being done at times when work for the Council is</p>	<p>The seriousness of misconduct under this section could vary considerably. An isolated occurrence of reporting for work when over-tired, which does not have significant safety implication, may lead to an informal warning.</p> <p>Repeatedly being in an unfit state to work efficiently will lead to increasingly severe warnings, ultimately leading to dismissal.</p>

Standards Expected	Examples of Disciplinary Action
<p>required;</p> <p>(ii) prevent the employee working for the Council outside normal working hours when this could be reasonably required;</p> <p>(iii) adversely affect their ability to carry out Council duties efficiently or safely;</p> <p>(iv) affect the public image of the employee as a responsible and impartial public servant.</p> <p>Employees should not take part in leisure activities which adversely affect their ability to carry out their Council duties efficiently and safely. This includes drink or substance abuse, and activities causing fatigue or health deterioration.</p> <p>Employees should not enter into any relationship with an individual or organisation which could be viewed by the public or other staff as affecting their impartiality (see also 6.4 – Conflict of Interest.).</p> <p>If an employee is contemplating entering into any activity covered by this section, they should consult the appropriate Manager.</p>	<p>However, undertaking work for another employer (or working on the employee's own account) when the employee is required to be at work for the Council, or a serious case of bringing the Council into disrepute, will be regarded as gross misconduct which if proven will lead to the employee being dismissed.</p>

### 6.21 Decency

Standards Expected	Examples of Disciplinary Action
<p>The Council expects its employees to conduct themselves in a decent manner.</p>	<p>Any act of indecency or sexual misconduct on Council premises and/or in working hours is likely severely to embarrass or offend others. It can damage working relationships and be a serious abuse of working time. The Management response is likely to be a final warning and, in the event of repetition, dismissal</p>

**6.22 Sobriety**

<b>Standards Expected</b>	<b>Examples of Disciplinary Action</b>
<p>Council employees are expected to be sober while at work.</p>	<p>Misuse of drink or drugs can lead to a range of problems, from loss of efficiency to physical danger. The initial Management action will depend on the type of problem created, from an informal warning if the effect is slight, to dismissal if it results in physical danger or brings the Council into disrepute. However, if an employee feels in need of help and support to deal with a problem, their Manager or the Service Lead – Policy, Resources and Communications should be approached, in strict confidence. They will give sympathetic support and put them in touch with specialist assistance. If problem drinking or drug misuse significantly affects work performance or causes risks, continued employment may be conditional on the employee accepting appropriate treatment.</p> <p>(Amended January 1998)</p>

**6.23 Trust, Helpfulness and Equality**

<b>Standards Expected</b>	<b>Examples of Disciplinary Action</b>
<p>Council employees are expected to be helpful and trustworthy, and to treat their colleagues and all members of the community with fairness and equity. Employees must not discriminate in the manner in which services are provided or in their attitude or treatment of colleagues.</p> <p>All employees are required to comply with the standards and procedures set down in the Council’s policy document – ‘Equal Opportunities in Employment’ which incorporates the Council’s Race Equality Policy. The Council will not accept any form of discrimination on the grounds of age, race, nationality and</p>	<p>The Council places great importance on its staff being courteous and cordial in their approach to the public, Management and colleagues in the course of their work. An unhelpful approach to a client or member of the public may be seen as bringing the Council into disrepute. In extreme and persistent cases, where informal action has failed, such matters will be subject to warnings under the disciplinary procedure and if repeated, may eventually lead to dismissal.</p> <p>Where an employee performs their duties in a manner that deliberately discriminates against a colleague or member of the public (due to their race,</p>

Standards Expected	Examples of Disciplinary Action
<p>ethnic origin, disability, gender, sexual orientation or marital status.</p>	<p>nationality, ethnic origin, disability, gender, sexual orientation, marital status or age) without justification, the management response is likely to be an appropriate formal warning. However, if the outcome of their action (or non-action) is serious or has widespread repercussions, the matter may be treated as gross misconduct, which if proven will lead to the employee being dismissed.</p>

### 6.24 Bullying & Harassment

Standards Expected	Examples of Disciplinary Action
<p>Council employees should not be subjected to any form of bullying or harassment. This is defined as any unjustified behaviour, language, physical contact, body language, expression of views or similar action by one person which results in physical or mental distress for another. Examples include physical violence or verbal abuse; unwanted sexual advances; publicly ridiculing or mocking; making offensive, obscene or unwanted sexually suggestive comments, jokes or innuendo, threats or threatening behaviour, spreading derogatory rumours; sending “hate-mail”. This list is not exhaustive.</p> <p>Employees who engage in such behaviour, affecting the dignity and peace of mind of colleagues at work or causing worry or concern to an individual, will be dealt with under the disciplinary procedure.</p> <p>The Council will not tolerate any form of bullying or harassment.</p> <p>Confidentiality should be maintained, wherever possible. The Council’s policy on Bullying and Harassment is in the Health and Safety Policy document.</p>	<p>Such conduct by a Council employee, which is unwanted, unreasonable and offensive to the recipient is likely to result in a final written warning. Unwanted physical contact, with or without sexual intent, against another person will be treated as gross misconduct, which if proven will lead to the employee being dismissed.</p> <p>Any attempt at retaliation against a person who complains about bullying or harassment, will also be treated as misconduct. It may be regarded as a repetition of the original misconduct and will therefore if proven lead to the employee being dismissed.</p> <p>(Amended March 2000)</p>

Standards Expected	Examples of Disciplinary Action

## 6.25 Sickness Reporting

Standards Expected	Examples of Disciplinary Action
<p>The Council expects all employees to comply with the Sickness Reporting Procedure whenever they are unfit to attend work through illness or injury. Particular attention is drawn to Paragraph 8 of the procedure (Suspension of Sick Pay) and how abuse of the sickness scheme could be dealt with under the disciplinary procedure.</p> <p>The Council requires all employees to make honest statements about any ill health or injury.</p> <p>If the Manager is concerned about the nature or frequency of an employee’s absence, they can require the employee to produce a medical statement in addition to a self-certificate. As a general rule this will be required after the employee has self certified on 5 separate occasions in any twelve month period. However, depending on the circumstances this can be requested at any time, including in extreme cases after the first day of absence.</p> <p>While on sick leave, employees must not:</p> <ul style="list-style-type: none"> <li>(i) work for another employer;</li> <li>(ii) work on their own account; nor</li> <li>(iii) undertake any non-work activity which may have an adverse effect on their recovery.</li> </ul> <p>This requirement also applies where the employee believes that they are not well</p>	<p>Failure to comply with the sickness absence procedure will depending on the circumstances be dealt with under the disciplinary procedure. Fraudulent abuse of these standards or intentional deception will be treated as gross misconduct which if proven will result in the employee being dismissed. For example:</p> <ul style="list-style-type: none"> <li>(i) If an employee reports that they are too ill to work and it is proven that their absence is not the result of genuine illness.</li> <li>(ii) If an employee knowingly submits false information about their incapacity.</li> <li>(iii) If an employee works for another employer, or on the employee's own account, when on sick leave.</li> </ul> <p>However breaches which are not deliberate and do not benefit the individual will result in an appropriate warning.</p>

Standards Expected	Examples of Disciplinary Action
<p>enough to carry out their normal duties for the Council, but that they could undertake less demanding work or non-work activities. In these circumstances the employee must discuss the matter first with their Manager. Medical advice may be sought prior to a decision being taken which may lead to alternative work being required by the Council.</p>	

## 7. DISCIPLINARY PENALTIES

- (i) As indicated above, the penalty for Gross Misconduct is dismissal without notice. In such cases, the employee will normally not have had any formal disciplinary warning beforehand.
- (ii) In all other disciplinary cases, an employee will not be dismissed without formal warning about the type of misconduct involved.
- (iii) The Disciplinary Procedure includes the following levels of warning:
  - Oral Warning;
  - Written Warning;
  - Final Warning.

It also allows for disciplinary transfer.

- (iv) The level of warning given for a first offence will depend on the seriousness of the offence. For very serious misconduct, which just falls short of being regarded as gross misconduct, a final written warning may be imposed. In that case, a repetition of the misconduct will lead to dismissal with notice.
- (v) At the other end of the scale, less serious misconduct, which just falls into the need for formal disciplinary action (possibly after informal warnings have proved ineffective) will merit a formal oral warning. If the misconduct happens again, it will result in a written warning and, after another incident, a final written warning will be given. At this stage, repetition will lead to dismissal with notice.
- (vi) Disciplinary transfer may be applied by the Strategic Manager at the request of either line management or the individual employee, against whom allegations are made. It may be used either as an alternative to or as well as a formal warning.
- (vii) The Disciplinary Procedure sets out, in details, how disciplinary matters

are dealt with in the Authority. The aim is to ensure that the full facts are available and considered justly and fairly. It contains safeguards to ensure that employees can be properly represented and that they have proper opportunity to put their case across and, if they wish, appeal against a disciplinary decision.





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## Teignbridge District Council's Anti Fraud and Corruption Policy

### Version Control:

Version	Date	Author	Comment
1	14.12.22	Audit Manager	Draft Version 1
1	23.5.23	Audit Manager	Final Version 1

### Authorisation:

Approved:	By:
14.12.22	CMT / SLT
18.1.23	Audit Scrutiny
23.5.23	Council

## Introduction and Principles

This policy sets out Teignbridge District Council's commitment to tackling all forms of fraud and corruption.

Fraud, bribery and corruption are crimes that should not be tolerated both from within the Council and from external sources. They can:

- undermine the standards of service the Council is aiming to achieve
- divert valuable resources from delivering our services
- reduce public confidence in the Council

The Council will ensure that the opportunity for fraud, bribery and corruption is reduced to the lowest possible level. It is committed to the highest possible standards of openness, probity, honesty, integrity, and accountability. Any proven fraud will be dealt with consistently and robustly. Appropriate sanctions and redress will be pursued against anyone perpetrating, or seeking to commit fraud, corruption or theft against the Council.

## Scope

This policy applies to:

- Council employees, Councillors, contractors, agency workers, volunteers, partner organisations, and service users (the general public).

The Chief Finance Officer and Head of Corporate Services has a statutory responsibility under section 151 of the Local Government Act 1972 to ensure the proper arrangement of the Council's financial affairs.

The Head of Legal Services has a statutory responsibility to advise the Council on the legality of its actions and decisions.

Managers have a duty to ensure their staff are aware of and adhere to this policy.

## Definitions

### Fraud

The [Fraud Act 2006](#) defines fraud as follows:

- fraud by false representation, i.e. if an individual dishonestly makes a false representation and intends by making the representation to make gain for themselves or another, or to cause loss to another or expose another to risk of loss;
- fraud by failing to disclose information, i.e. if an individual dishonestly fails to disclose to another person information which they are under a legal duty to disclose and intends, by means of abuse of that position, to make a gain for themselves or another, or to cause loss to another or expose another to risk of loss; and
- fraud by abuse of position, i.e. if an individual occupies a position in which they are expected to safeguard or not to act against, the financial interests of another person, and they dishonestly abuse that position to make a gain for themselves or another, or to cause loss to another.

The term “fraud” is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information.

In legal terms, these activities include:

- deception
- bribery
- forgery
- extortion
- corruption
- theft
- conspiracy
- embezzlement
- misappropriation
- false representation
- concealment of material facts, and
- collusion

In addition, the Fraud Act deals with offences relating to the possession of articles for use in fraud, making or supplying articles for use in frauds, and obtaining services dishonestly, personally or for another.

## **Bribery**

The [Bribery Act 2010](#) came into force in the UK on 1st July 2011.

It sets out the criminality of accepting and giving of bribes and applies to both individual staff, councillors, and the Council corporately.

The Bribery Act 2010 introduces four main offences, simplified as the following:

- bribing another person: a person is guilty of an offence if he or she offers, promises or gives a financial or other advantage to another person;
- offences relating to being bribed: a person is guilty of an offence if he or she requests, agrees to receive, or accepts a financial or other advantage. It does not matter whether the recipient of the bribe receives it directly or through a third party, or whether it is for the recipient's ultimate advantage or not;
- bribery of a foreign public official: a person who bribes a foreign public official is guilty of an offence if the person's intention is to influence the foreign public official in their capacity, duty or role as a foreign public official; and
- failure of commercial organisations to prevent bribery: organisations, which include the Council, must have adequate procedures in place to prevent bribery in relation to the obtaining or retaining of business.

A 'financial' or 'other advantage' may include money, assets, gifts or services.

Prior to entering into any business arrangements, all Council officers must ensure that they have taken all reasonable steps to identify any potential areas of risk relating to bribery or corruption.

## **Corruption**

This is the deliberate use of a person's position of entrusted power for direct or indirect personal gain.

"Corruption" covers the offering, giving, soliciting or acceptance of an inducement or reward, which may influence the action of any person to act inappropriately.

'[Misconduct in a public office](#)' is a common law offence and is committed when the holder of a public office acts, or omits to act, in a way contrary to their duty.

## Theft

The misappropriation of cash, cash equivalents, or other tangible assets. A person is guilty of “theft” if they dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it.

## Money Laundering

This describes any process used by criminals to conceal the origins of illegally obtained money, through criminal activities.

Guidance for employees is provided in the Council’s Anti-Money Laundering Policy ([link to be provided](#)).

Anyone suspecting Money Laundering should confidentially report this to the designated Money Laundering Reporting Officer – the Chief Finance Officer and Head of Corporate Services.

## Principles, Aims and Objectives

Councillors and Managers will lead by example and at all levels employees and members of the Council will comply with the Constitution, Council policies, Financial Instructions, Contract Rules, and Codes of Conduct.

The primary responsibility for the prevention and detection of fraud rests with management. Any concerns or suspected irregularities must be reported and acted upon (see reporting section later).

The aims and objectives of this policy are to:

- promote an environment which protects the Council against fraud and loss;
- maintain an “anti fraud” culture in which all stakeholders play a part: the public, Councillors, staff, and managers;
- provide “counter fraud” measures in systems and processes which proactively deter, prevent, and detect fraud, bribery, corruption and theft;
- ensure instances of suspected fraud are investigated;
- ensure appropriate sanctions and recovery of losses are pursued against perpetrators;
- ensure the Council promotes awareness of counter fraud and implements best practice improvements to systems, digital processes, and internal controls to reduce the opportunity for fraud and corruption.

## Responsibilities

**Managing Director:** Overall accountability for the effectiveness of the Council’s counter fraud arrangements.

**Monitoring Officer:** to advise Councillors and Officers on ethical issues, standards, and statutory responsibility to ensure the Council operates lawfully.

**Chief Finance Officer and Head of Corporate Services (Section 151 Officer):** to ensure there is an effective internal control framework, and a system of internal audit in place, in accordance with the Accounts and Audit Regulations.

**Audit Scrutiny Committee:** to monitor the effectiveness of the Council's counter fraud policies.

**Councillors:** to comply with the Constitution and Members Code of Conduct and related Council policies and procedures; to be aware of the possibility of fraud, corruption and theft; and to report any genuine concerns accordingly.

**External Audit:** statutory requirement to assess the Council's counter fraud arrangements in respect of the Financial Statements.

**Internal Audit:** contributes to the development and application of the Council's Anti Fraud and Corruption arrangements; to consider the risk of fraud in internal audit work; to investigate suspected or reported fraud where appropriate; to make recommendations to improve counter fraud mitigations where required.

**Strategic Leaders and Service Managers:** to promote awareness and ensure all suspected or reported irregularities are immediately referred for investigation; and to assess the types of risk their services are exposed to, ensuring counter fraud controls are implemented and operating effectively.

**All Staff:** to comply with Council policies and procedures, to be aware of and alert to the possibility of fraud, corruption and theft, and to report any concerns to management and / or internal audit. To co-operate fully with any internal reviews or investigations.

**Public, Partners, Suppliers and Contractors:** to be aware of the possibility of fraud and corruption against the Council and report any genuine concerns / suspicions.

## Reporting Avenues, Advice and Support

Anyone can use make a report using our [report a fraud form](#) on the internet. (This is received and triaged by Internal Audit).

Or write to: Teignbridge District Council, Forde House, Newton Abbot TQ124XX.

Employees can also raise concerns with their line manager, or if this is not appropriate, then to any member of the Strategic Leadership Team, the [Audit Manager](#), the [Monitoring Officer](#), or Head of HR.

The Council will provide reasonable protection to those who raise genuine concerns in good faith, in line with the [Whistleblowing Policy](#). (link to be provided).

The Council will investigate and take appropriate action in line with the Disciplinary Policy if a member of staff is suspected of fraud or corrupt behaviour. Fraud, attempted fraud or

corruption will be considered gross misconduct for which the highest penalty is dismissal without notice. An Investigating Officer will be appointed by the Managing Director and/or Chief Finance Officer for fraud and corruption investigations.

External means of raising a concern include:

- the Council's [External Auditor](#)
- [Devon and Cornwall Police](#)

The Council will work with other bodies as appropriate in order to strengthen our defences against fraud and corruption, examples include:

- Cabinet Office National Fraud Initiative
- National Anti Fraud Network
- External Audit
- Department for Work and Pensions
- HM Revenue and Customs
- Police

## **Review**

The policy will be reviewed as and when a change to legislation, working practices, or guidance from specialist counter fraud bodies dictates.



## Teignbridge District Council's Whistleblowing Policy

### Version Control:

Version	Date	Author	Comment
5	14.12.22	Audit Manager	Draft Version 5
5	23.5.23	Audit Manager	Final Version 5

### Authorisation:

Approved:	By:
14.12.22	CMT / SLT
18.1.23	Audit Scrutiny
23.5.23	Council

### Introduction and Aims of this Policy

All of us at one time or another have concerns about what is happening at work. Usually these concerns are easily resolved. However, when they are about unlawful conduct, financial malpractice, fraud, theft, corruption or serious failures of standards at work that put people or property at risk (this is not intended to be an exhaustive list), it can be difficult to know what to do.

You may be worried about raising such issues or may want to keep the concerns to yourself, perhaps feeling it's none of your business or that it's only a suspicion. You may feel that raising the matter would be disloyal to colleagues, managers or to the Council. You may even feel that your job will be at risk if you do raise a concern. You may decide to say something but find that you have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

Teignbridge District Council has developed this policy to enable you to raise your concerns about malpractice at an early stage and in the right way. It upholds the provisions of the [Public Interest Disclosure Act 1998](#) and it supports the [Council's Anti-Fraud and Corruption Policy](#).

By promoting a culture of openness within the Council, we want to encourage individuals to feel confident and come forward to make disclosures regarding serious allegations of wrongdoing. This may involve the actions of the Council's employees, its Councillors, contractors or any aspect of the Council's activities. Most importantly, **disclosures can be made in good faith, without fear of victimisation, detriment or risk to job security.**

## Scope

The Whistleblowing Policy applies to all employees and councillors of Teignbridge District Council.

Whilst this policy also extends to consultants, agency staff, contractors, sub-contractors and staff of partner organisations who are engaged in work for the Council, workers who are not direct employees of Teignbridge may not receive the same protection under the Public Interest Disclosure Act.

Although the Council will endeavour to provide appropriate advice and support wherever possible in this eventuality, it is recommended that advice is sought from a trade union representative or from Protect (formerly Public Concern at Work) an independent charity set up to provide advice and guidance about whistleblowing issues. Contact details for Protect are given below.

If you are an employee and your concern relates to your own treatment as an employee, then please use the Council's employment Grievance Procedure. A copy can be obtained from your manager or from HR.

If a customer has concerns about services provided, it should be raised as a [complaint to the Council](#).

## Confidentiality

The Council will do its utmost, subject to any over-riding legal obligations, to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be realised and appreciated, however, that the investigation process itself may well reveal the source of the information, and, depending on the outcome, a formal statement by the individual may be required as part of the evidence.

If you ask us to protect your identity, your details will not be disclosed without your consent. If the situation arises where the matter cannot be resolved without revealing your identity (for instance because your evidence is needed in court), the person investigating the matter will discuss with you how to proceed.

## Anonymous allegations

This policy is designed to encourage staff to put their names to allegations. If you do not tell us who you are, it may be more difficult for us to look into the matter, to protect your position, or to give you feedback. Concerns which are reported anonymously are much less powerful, but if they contain sufficient detail they will be considered at the discretion of the Council. The factors to be considered would include:



1. The seriousness of the issue raised;
2. The credibility of the concern; and
3. The likelihood of confirming the allegation from attributable sources.

## Malicious / untrue allegations

If an employee makes an allegation in good faith, reasonably believing it to be true, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented.

## What to expect when you raise a concern

Once you have expressed your concern, the matter will be looked into to assess what action should be taken initially. This may involve an internal inquiry or a more formal investigation. In the interim, the issue you raise will be acknowledged normally within 5 working days. You will be told:

- who is handling the matter
- how you can contact them
- whether your further assistance may be needed.

When you raise your concerns, you may be asked how you think the matter might best be resolved. If you do have any personal interest in the matter, please say so at the outset. You will be advised if your concern falls more properly within the Grievance Procedure.

The person handling the matter will then write to you, normally within 10 working days, summarising your concerns and setting out what is likely to happen next. Once the investigation is completed, you will be advised of the outcome in writing. Please note that it may not be possible to tell you the precise action taken where this would infringe a duty of confidence owed to someone else.

The earlier you express a concern, the easier it is to take action. Concerns may be expressed in writing, by email, or verbally, either by telephone or face to face by meeting the appropriate officer.

Once an investigation has been concluded there are a number of potential outcomes:

- no case to answer – case closed
- informal disciplinary action (if of a minor nature)
- formal disciplinary action (eg: dismissal)
- referral to Police and / or other body

## How to raise a concern, advice and support

Please raise it with your manager first. This may be done verbally or in writing / by email.

If for whatever reason, you feel unable to raise the matter with your manager, please raise your concerns with one of the following:

- **The Council's Statutory Monitoring Officer:**
  - [monitoringofficer@teignbridge.gov.uk](mailto:monitoringofficer@teignbridge.gov.uk)
  - Telephone: 01626 215139
- **The Internal Audit Manager:**
  - [audit@teignbridge.gov.uk](mailto:audit@teignbridge.gov.uk)
  - Telephone: 01626 215258
- **The Managing Director**
- **Any Head of Service**
- **Any District Councillor**

There are also external agencies which can be contacted if there is reason not to raise the matter internally. You can contact one of the following:

- The Council's External Auditor
- The Police  
(Contact the Local Crime Desk)
- [Protect](#) (formerly Public Concern at Work)  
This is a charity, which provides confidential and free advice to anyone who believes there is serious wrongdoing in the workplace.

## Review

The policy will be reviewed as and when a change to legislation, working practices, or guidance from specialist sources dictate.