

Part 3

Delegation Scheme to the Council, Committees and other bodies

Part 3(b)



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1. Delegation to the Council

Only the Council may exercise the following functions:

- To adopt and change the Constitution (save minor amendments as authorised in Article 11).
- To approve and adopt the Policy Framework.
- To approve and adopt the Budget.
- To determine the Council's Priorities.
- To appoint the Mayor and Deputy Mayor.
- To appoint the Council Leader and Deputy Leader
- To appoint Committee Chairmen and Vice-Chairmen.
- To agree and/or amend the terms of reference for Committees or bodies of the Council, deciding on their composition and making or revoking appointments to them.
- To appoint representatives to outside bodies (unless the appointment has been delegated by the Council)
- Amendments to the political composition to be reported to next ordinary Council meeting for noting.
- To adopt the Schedule of Meetings for the ensuing year.
- To consider and adopt as appropriate, the recommendations of the Independent Remuneration Panel in respect of the Members' Allowance Scheme, and the level of allowances that can be claimed by members in respect of authorised or approved duties
- To make any decisions which would be contrary to the Policy Framework.
- To determine matters involving expenditure for which budget provision is not made or is exceeded.
- To determine matters which do not fall within the remit of any Committee or body.



- To determine matters affecting, or likely to affect, another Committee or other Council body or where consultation with or approval of that other Committee is required.
- To determine any matters referred to it by a Committee in accordance with Procedure Rule 14.
- To make decisions concerning district boundaries, electoral divisions, wards or polling districts.
- To appoint the Head of Paid Service, Statutory Officers and Proper Officers
- To make, revoke or amend byelaws.
- To borrow money.
- To receive statutory reports from the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
- To determine whether or not to accept delegation from another local authority.
- To maintain a system of Internal control that identifies objectives and obligations, the risk of achievement of these objectives and obligations and controls to mitigate the risks
- To approve the Annual Governance Statement and to receive an annual report on the risk management process
- To approve the Treasury Management Strategy and Investment Strategy.
- To consider any matter required by law to be considered by Council.
- To make orders for grouping or ungrouping of Parish Councils, and to make appointments to vacant seats on Parish Councils where not quorate, and to make Community Governance Orders.
- To approve joint arrangements for the discharge of the Council's functions by another local authority

2. Terms of Reference for Committees and Sub-committees

Each Committee has delegated authority to decide matters within its terms of reference (except for those matters which are reserved for Council) set out below:



2.1 Audit Committee

The Audit Committee will provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment and to oversee the financial reporting process.

Responsibilities

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

Audit

Internal Audit

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

To promote:

- internal control, including commissioning work from internal audit in association with the s. 151 Officer and monitor audit performance

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

External Audit

To consider:

- The External Auditor's Annual Governance Report and other relevant external audit reports
- External Audit work to ensure that it gives value for money
- The External Audit plans
- Reports dealing with the management and performance of the external audit service providers
- Commission work (and other specific reports) from external audit as agreed with the External Auditor in association with the s151 Officer
- To liaise with the Audit Commission (or relevant government appointed body) over the appointment of the Council's External Auditor

Accounts

- To review and approve the Annual Statement of Accounts and to consider whether appropriate accounting policies have been followed
- To consider the External Auditor's report on the annual audit of accounts

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

Regulatory Framework

To:

- Maintain an overview of the Council's Constitution
- Recommend to Council the adoption of:
 - A Code of Corporate Governance
 - Antifraud, Corruption and Bribery Strategy
 - Anti Money Laundering Policy
 - Risk Management Policies

□

- Oversee the System of Internal Control and the process for producing the Annual Governance Statement (AGS) and approve the AGS on behalf of the Council with the Statement of Accounts.
- To monitor Value for Money (including benchmarking)
- To make any necessary recommendations to the relevant Committee or Council in respect of the above.

Review and Scrutiny of Strategies

To monitor:

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

2. Budget

To have authority for spending within the allocated budget.

3. Review

The Audit Committee will undertake an annual review of its performance as part of the system of internal audit.

2.2 Hub Committee

1. Main responsibilities

- To make decisions within the budget and policy framework approved by the Council
- To play a key role in proposing the budget and policy framework to Council
- To provide Leadership to the overall activities of the Council
- To be responsible for those matters not reserved to Council or to the Council's other Committees or subcommittees for the time being, but to include those listed below.

2. Role and Responsibilities:

Finance:

- Budget: to keep under review and recommend to the Council:
- the overall budgetary framework (to include both capital and revenue)
- the allocation of finances to different services and projects,
- proposed contingency funds,
- Decisions relating to the control of the Council's borrowing requirements, the control of its capital expenditure and the setting of virement limits, loans.
- Funding: to take such action as might appear appropriate on new funding opportunities.

Commercial Services

- Building Regulations: To ensure buildings are safe, healthy, hygienic and energy efficient and to oversee the Council's Building Control Enforcement Service (see details on the joint Building Control Partnership and matters delegated to that body).
- Other Building Control Services: To administer the provisions relating to dangerous buildings; to promote the Council's policies and any relevant legislation relating to disabled access.
- Leisure Services:
 - To facilitate and extend participation in sport and active recreation; to develop and manage leisure facilities.
 - To oversee the swimming pool and leisure management contracts
- Car Parking: Provision, management and control of car parks, including any periodic reviewing of charges; civil enforcement of off-street parking.
- Contract Services: To oversee the waste management and street cleaning, grounds maintenance, public toilet cleaning contracts.
- Clean Neighbourhoods: to be responsible for matters relating to litter, refuse and graffiti
- Graveyard Maintenance: The maintenance and supervision of graveyards, cemeteries and crematoria.
- Grounds Maintenance: The provision of a grounds maintenance service.
- Public Conveniences: To provide and maintain public conveniences in the Borough
- Waste & Recycling: To promote the Council's policy with regard to recycling and waste minimisation in association with other agencies.

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- Refuse Collection and Street Cleansing: The provision and administration of refuse collection and street cleansing services.
- Refuse & Vehicle Disposal: To ensure that any vehicle and other refuse abandoned is removed and disposed of.

Customer First

- Customer First: overall responsibility for how the Customer contacts the Council, accesses its services, and Locality working.
- List of Assets of Community Value: to be responsible for matters relating to the List of Assets of Community Value and the Community Right to Bid

Economy

- Economic Prosperity: To be responsible for the following services:
 - Business Development and Regeneration: to create places for enterprise to thrive and business to grow; strategic working with partner agencies and the private sector as appropriate; signpost business support opportunities; provide an information service on the availability of grants and premises.
 - Commercial Development: To seek appropriate development on identified sites; to assist in maintaining and enhancing the viability of the main commercial centres of the Borough; to consider and recommend to Council Commercial Development on Council owned land

Environment

- Asset Management: to determine all acquisitions and disposals of land and/or property and to be responsible for the overall management of the Council's assets.
- AONB Management Plans: review and amendment
- Commercial Estate Management: To oversee the management of the Council's employment sites and premises.
- Energy Efficiency: to oversee the Council's Environmental responsibilities and take such as action as appears necessary.
- Engineering Services: The provision of Engineering Services
- Land Drainage: To exercise the Council's functions in relation to Land Drainage.

- National Environment and Rural Communities: to exercise the Council's functions in relation to Biodiversity
- Property and Equipment: to consider and decide on strategic issues.
- Rural Development and Countryside Services: To promote rural development and regeneration and to liaise and lobby government and its relevant agencies; and to enhance people's enjoyment of the natural environment; to encourage sustainable transport projects; to encourage local distinctiveness projects.
- Woodlands & Open Spaces: To manage woodlands and other open spaces in Council ownership and control.

Health & Wellbeing

- Air Quality: to carry out the Council's duties under local air quality management arrangements
- Antisocial behaviour: to be responsible for co-ordination of community safety partners in relation to anti-social behaviour
- Children & Youth: to be responsible for the Council's duties and powers in relation to children and youth
- Civil Contingencies: to be responsible for the review and implementation of Civil Contingencies (to include emergency planning).
- Community Safety and well-being: To be responsible for functions for dealing with improving community safety, crime, disorder, fear of crime, community improvement, working towards inclusive health and support services
- Control of Pollution and Contaminated Land: To administer the law, and exercise the Council's functions in respect of statutory nuisances, control of pollution and contaminated land.
- Environmental Health: to be responsible for all matters under the Environmental Protection Acts and Clean Neighbourhood legislation (including refuse, dogs, vehicles, and statutory nuisances).
- Food Safety: To be responsible for promoting responsible food management and to ensure compliance with food safety laws so that food intended for human consumption is safe and risk to consumer controlled, prepared hygienically so that the risk to the consumer is controlled.
- Health and Safety: To promote and enforce (where relevant) Health and Safety at Work and other relevant legislation.

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- Health Education and other Health Services: All matters relating to providing or promoting a quality environmental health service, better quality of life and health education.
- Housing: the discharge of Council's statutory and strategic housing role and duties including:
 - Home Energy Conservation: to discharge the Council's duties under Home Energy Conservation legislation
 - Housing Advances: to be responsible for the provision of housing advances for the purposes of house purchase or improvements.
 - Housing Advice: including work with other authorities and partners
 - Housing Enabling: To enable the provision of housing accommodation within the area; liaison with or by other agencies (including Partnership Agreements with Housing Associations, Housing Societies and Housing Trusts); assessing housing need and ensuring the availability of land to meet the Council's enabling role.
 - Housing Policy and Strategy: To set policy and determine a comprehensive housing strategy within the area. To produce an annual Housing Investment Programme.
 - Homeless Persons: To ensure that accommodation is secured for homeless persons and to meet the Council's statutory obligations under the housing legislation, together with the prevention of homelessness by an advice and assistance service, including direct action where appropriate.
 - Housing Aid and Advice: Provision of a comprehensive housing aid and advice service.
 - Housing Register: administration & maintenance of the housing register
 - Infectious Diseases: To investigate and control of infectious diseases and food poisoning.
 - Monitoring of Leisure Services and health and well-being outcomes
 - Pest Control: To eradicate rodent and insect pests. To discharge the Council's responsibilities for the control of dogs and dog fouling.
 - Private Sector Housing: To determine policy and oversee the delivery of disabled facility grants and private sector renewal grants/loans. To be responsible for the enforcement of housing standards as may be prescribed by legislation.
 - Private Sector Renewal Renovation Grants/loans: To encourage the improvement of private housing stock to provide and administer a Private Sector Renewal Scheme.

- Safeguarding children and vulnerable adults: to be responsible for the Council's duties and powers in relation to safeguarding
- Public Health: to protect the health of the public using statutory powers and engage with other agencies in relation to public health
- Water Quality Monitoring: The administration of the provisions of the Water Industry Act 199 and other relevant regulations.

Resources and Performance

- Community Engagement: to be responsible for the development and delivery of effective community engagement.
- Community Transport: to oversee the Council's input into the provision of transport to rural communities under agreed service level agreements
- Corporate Complaints: to be responsible for an overview of the Council's Complaints Policy
- Corporate Strategy and Themes: to keep under review and to recommend to Council:
- The overall framework for the key strategies and plans which set out the direction for the Council.
- The overall Themes of the Council under the Corporate Strategy □ Adoption of key corporate planning strategies and action plans
- Corporate Policies: to be responsible for the review and implementation of the Council's Corporate Policies not specifically delegated elsewhere or reserved to Council, and for making recommendations to Council where appropriate.

- **Data Protection and Freedom of Information:** to be responsible for Policy and the Council's duties and powers for data protection and FOI
- **Emerging issues:** to consider emerging issues or initiatives new to the Council and take such action as appears necessary.
- **Locality Service:** to review delivery and scope of Locality Service and to make any recommendations to Council
- **Grants:** to be responsible for the allocation of community and economy grants and loans, which are not determined through the delegation process.
- **Income Generation:** to oversee the Council's Income Generation Programme
- **Procurement –** to be responsible for the Council's procurement policy
- **Section 106 Community Contributions:** to determine the allocation of community contributions over £15,000
- **Strategies:** to be responsible for the review and implementation of all countywide and regional strategies.
- **Strategic Operational Matters:** to review activity and assess new opportunities for partnership or commercialisation
- **Partnerships:** to receive reports on the partnerships that affect the Council or the Borough and (where appropriate) take a view, give guidance to our partners or make recommendations to Council.
- **Transformation Programme:** to be responsible for overseeing the Council's transformation programme and making any necessary recommendations to Council
- **Voluntary Sector Funding agreements:** to be responsible for overseeing these agreements

Strategic Planning and Housing

- **Lists of Assets of Community Value:** to be responsible for matters relating to the List of Assets of Community Value and the Community Right to Build.
- **Joint Local Plan:** The preparation, maintenance and monitoring of an up-to-date Joint Local Plan and making appropriate recommendations to Council
- **Local Plan Policy documents:** to be responsible for Supplementary Planning Documents, Policy Position Statements, Codes of Practice and Policy Guidance
- **Neighbourhood and Community Plan Areas:** to support communities in the preparation of Neighbourhood Plans and Orders and Community Plans and agree Plan Areas.

- Neighbourhood Plans, Orders, and Community Right to Build: to consider and monitor and make any necessary recommendations to Council
- Planning and Development Policies: To formulate and represent the views of the Borough in relation to the formulation of National, and other planning and development policies, including a duty to co-operate and work with other local authorities.
- Street Naming Numbering: To ensure that adequate arrangements are made to name and number streets and to approve the Street Naming & Numbering Policy.

Cross Service responsibilities

- Services: to exercise general supervision for the following services not specifically referred to above:
 - Communications and Media
 - Democratic Services
 - Human Resources
 - Legal Services
 - Elections: to deal with any matters relating to the electoral arrangements of the Borough, electoral registration, Borough elections, the boundaries of the Borough, and to make any necessary recommendations to Council.
 - Strategic Finance
 - Customer First
 - Commercial Services
 - Support Services
- 2. Legislation: The exercise of all statutory powers and duties of the Council in respect of all environmental health and food safety legislation.
- 3. Budget: To have authority for spending within the allocated budget for matters within the Hub Committee's remit.
- 4. Fees

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

2.3 Invest to Earn Committee

Composition and Membership:

Number: The Invest to Earn Committee will comprise three Members

Eligibility: The Leader cannot be a member of the Invest to Earn Committee

Chairman: the Chairman will be appointed at the Annual Meeting

Quorum: Two Members to be present throughout the meeting

Casting Vote: The Chairman of the meeting will have a casting vote

Responsibilities

To be responsible for the following areas:

- To consider and review annually the Terms of Reference for the Invest to Earn Committee
- To consider and review the Council's Commercial Property Strategy for the Acquisition of Assets and to make any necessary recommendations to the Hub Committee or Council.
- To ensure that Officers regularly review the Due Diligence process to be followed by Members, Officers and external advisors and experts when considering Acquisition of Assets
- To consider and evaluate on a case by case basis (in accordance with the Commercial Property Strategy) proposals for the Acquisition of Assets and to make any necessary recommendations to the Head of Paid Service and Section 151 Officer (who will consult the Leader of the Council and Chairman of the Invest to Earn Committee before making any decision).
- To ensure that relevant Ward Members are briefed on proposed acquisitions before a final decision is made to proceed with the Acquisition of an Asset.
- To report to the Hub Committee on the activities of the Invest to Earn Committee on a six monthly basis.

NB. Commercial development on Council land falls within the remit of the Hub Committee.

2.4 Overview and Scrutiny Committee

Please refer to the Overview & Scrutiny Procedure Rules in Part 4 of the Constitution for details on composition, membership, eligibility, powers and duties.

1. Terms of Reference – General Role

1.1. The Council will appoint an Overview & Scrutiny Committee that will:

- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- make reports and/or recommendations to the Council and any committee or joint committee in connection with the discharge of any functions;
- consider any matter affecting the area or its inhabitants; and
- make reports and/or recommendations to the Council and/or its Committees and/or any joint committee on matters which affect the Council's area or the inhabitants of that area.
- Exercise the right to Call-in, for reconsideration, decisions made but not yet implemented by the Hub Committee

2. Specific functions

The Overview & Scrutiny Committee may:

2.1. Policy development and review

- (i) review existing policy and recommend changes to such policy or the creation of new policy;
- (ii) assist the Council in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- (iii) conduct research, involve the community and carry out other consultation in the analysis of policy issues and possible options;
- (iv) consider and implement ways to encourage and enhance community participation in the development of policy options;
- (v) question members of committees and senior officers about their views on issues and proposals affecting the area; and
- (vi) 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.

In so doing, the Overview & Scrutiny Committee will be able to:

- a) Select significant issues to investigate, which are both strategic and linked to the Council's Corporate Themes;
- b) Undertake pre-investigation project planning: drawing up terms of reference, plan for research methods to be used, timescales, officer support and reporting mechanisms;
- c) Involve partners, the public and outside experts: this can take the form of presenting orally or in writing evidence around the topic under investigation;
- d) Report findings and make evidence based recommendations to the appropriate Committee;
- e) Follow up on action agreed to ensure that Overview & Scrutiny Committee decisions have been implemented.
- f) hold the Hub Committee Members to account
- g) review and scrutinise the performance of Committees and Council officers and decisions made both in relation to individual decisions and over time;
- h) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- i) question members of committees and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects when necessary;
- j) exercise the right to call-in, for re-consideration, decisions made by the Hub Committee but not yet implemented by any committee, where appropriate (see Procedure Rules in Part 4);
- k) make recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;
- l) review and scrutinise, with or without others, the performance and activities of other public bodies in the area on any relevant, general or specific issue; and question and gather evidence from any person (with their consent) when necessary.
- m) Exercise overall responsibility for the work programme of the officers employed to support their work

2.2 Partnership arrangements

The Overview & Scrutiny Committee shall be responsible for the monitoring of partnership arrangements in accordance with the Council's Partnership Policy.

2.3 Finance

The Overview & Scrutiny Committee shall exercise overall responsibility for the finances made available to it.

2.4 Annual report

The Overview & Scrutiny Committee shall report annually to Council on its workings and make evidence based recommendations for future work programmes and amended working methods if appropriate.

2.5 Officers

The Overview & Scrutiny Panel will have administrative support and be able to call on other relevant officer support and external expertise where necessary.

Proceedings of Overview and Scrutiny Committees

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

2.5 Development Management & Licensing Committee

1. Responsibilities

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

a) Planning

i) Development Management

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

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

ii) Conservation and Historic Buildings

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

iii) Community Landscaping

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

Relevant Statutory Powers

- Town and Country Planning Act 1990

- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Planning (Consequential Provisions) Act 1990
- Planning and Compensation Act 1991
- Planning Act 2008
- Planning and Energy Act 2008
- Localism Act 2011

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

Planning Delegation - Development Management

Definitions:

- HoP Lead: Head of Development Management Practice
- In writing: shall include email
- DM Committee: Development Management & Licensing Committee at West Devon Borough Council
- Working days: days which are not weekends or bank holidays
- Planning Application: full, outline and reserved matters only
- Representation: means representations from any source excluding internal consultees
- Immediate family: parent, spouse, child, sibling (including ‘step’ and ‘adopted’)

1. General Planning Delegation to Officers

- 1.1 Subject to paragraphs 1.2 and 1.3 below, the HoP Lead has delegated authority for all functions assigned to the DM Committee under the Town and Country Planning Acts, Orders, and Regulations except those Planning Applications; Listed Building Consents; Advertisement Consents; TPO final confirmations (excluding emergency TPOs); and Works to TPO trees, which:
- 1.1.1 relate to the Council’s own land;
 - 1.1.2 include proposals under which the Council may acquire an interest in or over all or any part of the land or buildings proposed to be developed;
 - 1.1.3 is an application submitted by a Councillor (or an immediate family member), (including Councillor as agent or professional advisor) or an Officer (or an immediate family member); or
 - 1.1.4 which in the reasonable opinion of the HoP Lead are of sub-regional or district-wide significance or which due to all of the circumstances of an application including the scale and nature of the development proposed; the degree of compliance with the Joint Local Plan or national planning policy; any technical

issues raised; or the number of representations received etc it is appropriate for the application ought to be determined by the DM Committee.

1.2 In the case of Planning Applications, Listed Building Consents, Advertisement Consent Applications and TPO Confirmations (excluding emergency TPOs) and Works to TPO trees, where any written representations are received, including those from a Parish or Town Council, which are contrary to the HoP Lead's recommendations and where the representations are considered to raise material and relevant planning issues, the HoP Lead shall have delegated authority to determine these the matter in accordance with the HoP Lead's recommendation only where and subject to paragraph 1.3:

1.2.1 agreement to issuing a delegated decision has been sought requested in writing from the Ward Member(s) and,

1.2.2 no written request (supported by material planning reasons) to call the application to DM Committee has been received from the Ward Member(s) within the notification period. The notification period is defined as five working days. The notification period commences when the Ward Member has been notified of the request that a delegated decision be made.

1.3 Where the HoP Lead's recommendation is to grant planning permission subject to the completion of a section 106 agreement on the heads of terms set out in the report accompanying the request to issue a delegated decision and either:

1.3.1 there is a material difference between the heads of terms and the final section 106 agreement; or

1.3.2 it has not been possible to complete the section 106 agreement on those heads of terms within three months of the date on which the Ward Member agreed to the decision being dealt with under delegated powers or in the event that the Ward Member did not reply to the request to agree to the exercise delegated powers by the Hop Lead, the date by which the Ward Member was asked to reply,

the HoP Lead shall re-consult the Ward Member in accordance with paragraph 1.2. It would be expected that the Ward Member would only depart from their previous position where the change was material and of sufficient weight so as to be capable of tipping the planning balance, or in the case of the noncompletion of the section 106 agreement where the applicant has not engaged fully and as a result there is no realistic prospect of agreement being reached in the near future.

1.4 Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then s/he should nominate an alternative member to carry out this role and notify Member Services and the HoP Lead in writing

2. Call-in to DM Committee by Members

- 2.1 Any Members can call any Planning Applications, Listed Building Consents, Advertisement Consents, TPO final confirmations (excluding emergency TPOs), and Works to TPO trees to DM Committee, by notifying the HoP Lead with material planning reasons, prior to the expiry of the public consultation period. Non-Ward Members will only call in an application after confirming that they have consulted with Ward Member(s).
 - 2.2 Ward Members can call any Planning Applications, Listed Building Consents, Advertisement Consents, TPO final confirmations (excluding emergency TPOs), and Works to TPO trees in their ward to DM Committee by notifying the HoP Lead with material planning issues at any time prior to the expiry of the consultation period referred to on paragraph 1.2.2 above.
 - 2.3 In the absence of a Member call-in request within the permitted time frames, the HoP Lead shall determine the matter.
 - 2.4 Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then s/he should nominate an alternative member to carry out this role and notify Member Services accordingly in writing
3. Action on decisions of the DM Committee
 - 3.1 Where the Committee approves an application, the HoP Lead will issue the Approval Notice including such conditions as are reasonably required to give effect to the Committee's decision.
 - 3.2 Where the Committee refuses an application which the HoP Lead recommended should be approved, the Committee shall give the reasons for the decision, but the HoP Lead shall determine the precise wording of the reasons for refusal.
4. Delegation in respect of Enforcement Action
 - 4.1 The HoP Lead has delegated authority to:
 - a. decide that no breach has been found
 - b. decide that it is not expedient to take enforcement action (in accordance with the Council's Enforcement Policy), unless notified by the Ward Member otherwise
 - c. invite regularising Planning Applications where appropriate
 - d. carry out all enforcement action (including but not limited to) issuing and serving Planning Contravention Notices, Untidy Site Notices, Stop Notices, Breach of Condition Notices and Building Preservation Notices, providing the relevant Ward Members are notified prior to such notices being issued or served
 - e. issue Enforcement Notices in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing

- supported by material planning reasons, that the proposed action is brought to the P&L Committee for decision and no such request has been received
- f. take Prosecutions and Injunctions in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the P&L Committee for decision and no such request has been received

SAVE that the Monitoring Officer has delegated authority to take a Prosecution or Injunction where the Council's position would be compromised if action is not taken urgently

- 4.2 The HoP Lead may refer complex matters to the Committee at his/her discretion, or where there are relevant budgetary implications.

5. Section 106 Agreements

- 5.1 The HoP Lead may:

- 5.1.1 authorise the execution of a section 106 agreement where required in advance of the grant of planning permission or in connection with a planning appeal against the refusal of permission by the Council.
- 5.1.2 in consultation with the Ward Member(s), vary the terms of a section 106 agreement (or take such other action as necessary) to secure the objectives of the DM Committee which agreed the 106 agreement

Temporary Delegation to the Head of Development Management until 7 May 2021

The HoP Lead shall have authority (until 7 May 2021) to determine (in consultation with the Chairman and Vice Chairman of the DM Committee, Ward Members and the Monitoring Officer) planning applications, Listed Building consents, advertising consents, TPO confirmations and works to trees submitted by Officers (or an immediate family member) and Members (or immediate family members (and including a Councillor's agent or professional advisor)). In all other respects such applications will be determined in accordance with the Delegation to Officers set out in the DM Committee's Terms of Reference and 'Delegation to Officers' set out above

iv) Licensing

Responsibilities

To be responsible for all of the Council's licensing functions

- To review and recommend to Council:

- the Licensing Statement of Policy
- the Gambling Statement of Principles
- the Policy not to permit casinos

- To review and be responsible for all other Licensing Policies

- To determine whether to refuse to grant a licence for the following licensing functions;
- Street Trading Licence (South Hams)
- Zoo Licensing
- Sex Establishments
- Houses in Multiple Occupation
- To determine such other applications as referred to the DM Committee by the Head of Practice for Environmental Health.

Licensing sub-committee (taxis and other miscellaneous licences)

- To determine whether to revoke or suspend a Hackney Carriage / Private Hire Driver or Private Hire Operator License

Licensing sub-committee (alcohol and gambling)

a) Licensing sub-committees have the following responsibilities in relation to functions under the Licensing Act 2003:

- Applications for personal licences - if there is a police objection
- Applications for personal licences with unspent convictions – all cases
- Review of personal licences – if there is a police objection
- Applications for premises licence/club premises certificate – if a relevant representation is made
- Applications for provisional statement – if a relevant representation is made
- Application to vary premises licence/club premises certificate - if a relevant representation is made
- Applications to vary designated premises supervisor – if police objection made
- Applications for transfer of premises licence – if police objection
- Applications for interim authorities – if a police objection
- Applications to review premises licence/club premises certificate – all cases
- Decision to object when Council is a consultee and not relevant authority - all cases
- Determination of a police or Environmental Health objection to a temporary event notice - all cases

b) Licensing sub-committees have the following responsibilities in relation to the Gambling Act 2005:

- Application for premises licence: if a relevant representation has been made and not withdrawn
- Application for a variation to a licence: if a representation has been made and not withdrawn
- Application for a transfer of a licence: where representations have been received from the Gambling Commission
- Application for a provisional statement: if a representation has been made and not withdrawn
- Review of a premises licence
- Application for club gaming/club machine permits: where objections have been made and not withdrawn, or where refusal proposed
- Temporary use notice: Decision to give a counter notice, or where objection notice received
- Fees

Temporary Delegation up until 7 May 2021

The Head of Development Management shall have authority (until 7 May 2021) to determine (in consultation with the Chairman of Development Management Committee, Ward Members and the Monitoring Officer) planning applications, Listed Building consents, advertising consents, TPO confirmations and works to trees submitted by Officers and Members (or immediate family members including a councillor's agent or professional advisor). In all other respects such applications will be determined in accordance with the Delegation to Officers set out in the DM Committee's terms of reference and 'Delegation to Officers' set out in this Constitution.

Head of Practice for Environmental Health

Shall have the delegated authority:

- To determine whether to refuse to grant an application for Hackney Carriage or Private Hire Vehicle Licence.
- To determine in consultation with the Chair and Vice-chair of the P&L Committee whether to revoke a Hackney Carriage or Driver licence in situations of urgency ('urgency' to be determined by the Community of Practice Lead for Environmental Health).
- To refer such applications which, in the opinion of the Community of Practice Lead for Environmental Health, should be determined by the Licensing Committee.
- To determine applications for Licences under the following areas of work not previously delegated to other committees or individuals;

- o Public Health (e.g. Animal Boarding Establishments, Dangerous Wild Animals, Pet Shop, Riding Establishments, Skin Piercing and other special treatments).
 - o Public Safety (e.g. Alcohol and entertainment licences, personal licences, club premises certificates, Hypnotism licences, Gambling licences etc.)
 - o Housing (e.g. Selective licensing of residential accommodation, Licensing of houses in multiple occupation, Licensing of camping sites, Licensing of caravan sites) o Environmental (e.g. Environmental Permits, Licensing of scrap metal dealers)
- To investigate complaints relating to licensed and licensable activities with the relevant powers of entry in order to undertake these investigation.
 - To instigate informal or formal action in order to resolve complaints or unlicensed activities and take appropriate action or remedy.
 - To undertake formal consultations on amendments to policy, (or fares in accordance with the Maximum Chargeable Fare setting policy South Hams only)
 - Authority to suspend licences in situations of urgency where there are reasonable grounds to do so (where urgency is determined by the Community of Practice Lead for Environmental Health)

v) Local Land Charges

- To provide and administer a comprehensive Land Charges system.

2. Budget

To have authority for spending within the allocated budget.

3. Fees

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

2.6 Standards Committee

Composition

1. Membership of the Standards Committee

- 1.1. The Standards Committee shall comprise five Members of the Council
 - 1.2. The Chairman and Vice Chairman shall be appointed by the Council in accordance with the Council's Procedure rules in Part 4 of the Constitution.
 - 1.3. The Standards Committee may co-opt up to two parish / town council representatives from a parish/town council in the Borough
2. Membership of Sub-committees of the Standards Committee
 - 2.1. The Standards Committee shall appoint sub-committees of three members to deal with specific standards complaints in accordance with the Dealing with (Standards) Complaints Policy and Hearing Policy
 - 2.2. Sub-committees will consult (where co-opted) parish / town councillors on decisions relating to town or parish councillors
3. Quorum for the Standards Committee and its sub-committees:
 - 3.1. Three members for the duration of the meeting.
4. Roles and functions of the Standards Committee
 - 4.1. To promote and maintain high standards of conduct by Councillors and coopted Members;
 - 4.2. To assist Councillors and co-opted Members to observe the Members' Code of Conduct;
 - 4.3. To advise the Council on the adoption or revision of the Members' Code of Conduct, and on matters relating to the ethical conduct of the Council and its Members;
 - 4.4. To advise and train Councillors and co-opted Members on matters relating to the Code of Conduct;
 - 4.5. To grant dispensations to Borough Councillors (and where relevant, co-opted Members to the Borough Council) from requirements relating to Disclosable Pecuniary interests in the following circumstances:
 - 4.5.1. Where so many members of the decision-making body have a Disclosable Pecuniary Interest that Political Balance would be affected
 - 4.5.2. It is in the interests of the inhabitants that a dispensation be granted, or

- 4.5.3. It is appropriate to grant a dispensation
- 4.6. The Monitoring Officer can grant dispensations where so many members have a Disclosable Pecuniary Interest that it would impede the transaction of the business of the Council
- 4.7. The Monitoring Officer (in consultation with the Chairman and Vice-Chairman) or the Standards Sub-committee can grant dispensations in cases 4.5.1 – 4.5.3 where it would not be expedient to wait until the next scheduled Standards Committee meeting
- 4.8. To consult the Independent Person(s) in accordance with the Dealing with Complaints Policy and Hearing Policy.
- 4.9. To be responsible for the Dealing with Complaints Policy and Hearing Policy.
- 4.10. To consider complaints alleging a breach of the Code of Conduct by Borough Councillors (and any co-opted members where relevant) and those members of town and parish councils in the Borough of West Devon as referred by the Monitoring Officer.
- 4.11. To receive Investigation reports and to carry out hearings (including sanctions) in respect of allegations of misconduct for Borough members (and co-opted members where relevant) and town/parish council members and to recommend sanctions or other recommendations/actions.
5. Roles and functions of the Standards sub-committees
- 5.1. To consider complaints alleging members' breach of the Code of Conduct as referred by the Monitoring Officer
- 5.2. To receive investigation reports and carry out Hearings (including consideration of sanctions or other actions) in respect of allegations of misconduct

6. Budget

To have authority for spending within the allocated budget.

DELEGATION TO OTHER COUNCIL BODIES

Council Tax Setting Panel

The Council Tax Setting Panel shall comprise four Members including the Leader, Deputy Leader, Leader of the Opposition, and the Mayor (or their specifically nominated substitutes) and shall meet annually following the Council's agreement of the budget for the forthcoming year following the notifications set out below.

The Council Tax Setting Panel has the following functions:

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

Political Structures Working Group

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

Devon Building Control Partnership

The responsibilities of the Partnership are:

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