

Constitution

May 2019 v.13

PART 1

SUMMARY AND EXPLANATION

1. THE COUNCIL'S CONSTITUTION

North Devon District Council has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into a number Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols towards the end of the document.

2. HOW THE COUNCIL OPERATES

- 2.1 The Council is composed of 42 Councillors elected every four years. Councillors are democratically accountable to the residents of their electoral division. 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.
- 2.2 The Council currently operates a Committee structure. Some Councillors may have specific responsibilities for an area of the Council's activities (Lead Members).
- 2.3 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council is also responsible for appointing the Leader of the Council and for appointing committees and sub-committees,.

3. HOW DECISIONS ARE MADE

- 3.1 Full Council is responsible for the discharge of functions and duties of the District Council. It delegates some of those functions and duties to Committees and to officers. The decisions that have been delegated are set out in Part 3.
- 3.2 Most of the Council's Committees are politically balanced. This means that decisions are taken collectively by representatives of all political groups on the Council. Generally, the public will be able to attend meetings of the Full Council and Committees.
- 3.3 Decisions taken by Committees and officers should be in accordance with the budget and policy framework. Decisions outside of this should be taken by Full Council.

4. THE COUNCIL'S STAFF

- 4.1 The Council has people working for it (called "Officers") to give 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 (to be found in Part 5) governs the relationships between Officers and Councillors.

5. CITIZENS RIGHTS

5.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

5.2 Where members of the public use specific Council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.

5.3 Citizens have the right to:

- 5.3.1 vote at local elections if they are registered;
- 5.3.2 contact their local councillor about any matters of concern to them;
- 5.3.3 obtain a copy of the Constitution;
- 5.3.4 attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- 5.3.5 petition to request a referendum on a mayoral form of executive;
- 5.3.6 petition the Council, about a matter for which it has responsibility or which affects the Council's area;
- 5.3.7 ask questions at Council meetings on matters relevant to the Council's functions;
- 5.3.8 attend meetings of the Committees except where personal or confidential matters are being discussed;
- 5.3.9 see reports and background papers, and any record of decisions made by the Council and Committees;
- 5.3.10 complain to the Council about the way a service has been delivered or about anything the Council have done or propose to do. A copy of the Council's Corporate Complaints Policy and Procedure can be obtained from the Head of Corporate and Community;
- 5.3.11 complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- 5.3.12 complain to the Council's Monitoring Officer if they have evidence which they believe shows that a councillor or a parish councillor has not followed their Council's Code of Conduct; and

NDDC CONSTITUTION

Part 1

5.3.13 inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Head of Corporate and Community. A statement of the rights of citizens to inspect agendas and reports and attend meetings is set out in the Access to Information Procedure Rules in Part 4.

NDDC CONSTITUTION

Part 2

NORTH DEVON DISTRICT COUNCIL

1. ARTICLE 1 – THE CONSTITUTION

1.1 Powers of the Council

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

1.2 The Constitution

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

1.3 Interpretation of Terms

Throughout this Constitution references to the masculine gender shall be taken to mean both the masculine and the feminine gender and expressions in the singular shall include, where appropriate, the plural.

NDDC CONSTITUTION

Part 2

2. **ARTICLE 2 MEMBERS OF THE COUNCIL**

2.1 **Composition and Eligibility**

2.1.1 **Composition**

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

2.1.2 **Eligibility**

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

2.2 **Election and Terms of Councillors**

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2019. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 **Roles and functions of all Councillors**

2.3.1 **Key roles**

All Councillors will:

- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (b) contribute to the good governance of the whole of the area and actively encourage community participation and citizen involvement in decision making;
- (c) effectively represent the interest of their ward and of individual constituents;
- (d) respond to constituent's enquiries and representations, fairly and impartially;

NDDC CONSTITUTION

Part 2

- (e) participate in the governance and management of the Council;
- (f) be available to represent the Council on other bodies;
- (g) maintain the highest standards of conduct and ethics; and
- (h) participate in training and development opportunities offered by the Council.

Further details on roles and responsibilities are contained in Part 7 of the Constitution (Member Role Descriptions). Councillors may fulfil more than one role and the detail is intended to cover these main roles.

2.4 **Rights and Duties**

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

2.4.2 Councillors should consider the situation carefully and, if appropriate, seek guidance from the Monitoring Officer before making information public which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.

2.4.3 For these purposes, “confidential” and “exempt” information are defined in the Access to Information Procedure Rules contained in Part 4 of this Constitution.

2.5 **Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations, and when sitting on the Planning Committee, the Planning Code of Conduct, set out in Part 5 of this Constitution.

2.6 **Allowances**

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

JULY 2022

NDDC CONSTITUTION

Part 2

3. ARTICLE 3 CITIZENS AND THE COUNCIL

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

3.1 Citizens' Rights

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

3.1.1 Voting and petitions

Citizens on the electoral roll for the area have the right to:

- (a) Vote;
- (b) Sign a petition to request a referendum for an elected mayor form of Constitution; and
- (c) Sign any other petition they wish to support.

3.1.2 Information

Citizens have the right to:

- (a) 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;
- (d) see agendas, reports and background papers, and any records of decisions made by the Council and Committees, except where confidential or exempt information is likely to be disclosed;
- (e) inspect the Council's accounts and make their views known to the external auditor;
- (f) ask questions at Council meetings; and
- (g) subject to the rules applicable from time to time, to attend the Council's Planning Committee and address the Committee.

NDDC CONSTITUTION

Part 2

3.1.3 Complaint

Citizens have the right to complain to:

- (a) the Council itself under its Complaints Scheme;
- (b) the Ombudsman; or
- (c) the Monitoring Officer about a breach of the Councillor's Code of Conduct.

3.2 Citizens' Responsibilities

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

4. **ARTICLE 4 THE FULL COUNCIL**

4.1 **Introduction**

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

The full Council provides a central forum for debate and gives the opportunity for Councillors and members of the public, the opportunity to ask questions about the Council or matters affecting the Council.

4.2 **The Council**

4.2.1 **Role**

A meeting of the Council is one at which all 42 members are entitled to attend, speak and vote. The Council is responsible for approving the Budget and Policy Framework of the Council. It will carry out some functions itself but others will be delegated to Committees or named officers.

4.3 **Policy Framework**

The Policy Framework means the following three categories of plans and strategies:

4.3.1 Those required by law to be adopted by the Council, namely:

- (a) Sustainable Community Strategy;
- (b) Crime and Disorder Reduction Strategy/Community Safety Strategy; and
- (c) Local Plan and Development Plan.

4.3.2 Those which the Council has chosen to adopt as part of the Policy Framework, namely:

- (a) Corporate Plan, and

NDDC CONSTITUTION

Part 2

(b) Housing Strategy.

4.3.3 Any plan or strategy required by law to be sent to a Minister of the Crown for approval.

4.4 **Budget**

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

4.5 **Functions of the full Council**

Only the full Council will exercise the following functions:

- 4.5.1 adopting and changing the Constitution;
- 4.5.2 approving or adopting material changes to the Policy Framework and the Budget;
- 4.5.3 approving the Statement of Accounts and the Council's Final Accounts;
- 4.5.4 any matter where the Strategy and Resources Committee is proposing to make a decision which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- 4.5.5 appointing and removing the Leader;
- 4.5.6 except where otherwise provided by any statutory provision, appointing the Chair and Vice-Chair of Committees including the Harbour Board and determining which Committees, Sub-Committees, working parties, Boards, Panels etc. shall be established as standing committees, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and making the necessary appointments to the bodies;

NDDC CONSTITUTION

Part 2

- 4.5.7 appointing representatives to joint authorities, joint committees and other outside bodies unless the appointment has been delegated by the Council;
- 4.5.8 adopting a scheme for members' allowances;
- 4.5.9 changing the name of the Council's area;
- 4.5.10 conferring the title of honorary Alderman or Freeman of the District;
- 4.5.11 confirming the appointment of the Head of Paid Service; Chief Financial Officer and designating the Monitoring Officer and the taking of any disciplinary action against these Officers and Chief Officers and the designating of "Proper Officers";
- 4.5.12 the approval or adoption of applications to the Secretary of State for approval of a programme of disposal of 500 or more properties or where consent is required for disposal of land used for residential purposes;
- 4.5.13 making, amending, revoking, re-enacting or adopting by-laws and promoting or opposing the making of local legislation or personal Bills;
- 4.5.14 adopting a Code of Conduct for Members (Councillors);
 - 4.5.15 taking decisions in respect of functions which have not been delegated by the Council to Committees, Sub-Committees or officers;
- 4.5.16 the making of Procedure Rules, including in relation to Contracts and Finance;
- 4.5.17 the delegation of functions to Committees, Sub-Committees and officers, subject to the right to amend the Delegation Scheme from time to time as may be required;
- 4.5.18 all other matters which, by law, must be reserved to the decision of the Council as a whole;
- 4.5.19 to consider and decide on recommendations of Committees not within their delegation or which a committee has referred to the Council for decision;

JULY 2022

NDDC CONSTITUTION

Part 2

- 4.5.20 to consider reports on lawfulness and maladministration;
- 4.5.21 to consider reports and recommendations from the Policy Development Committee
- 4.5.22 to take all decisions in respect of delegating functions to another local authority;
- 4.5.23 to set the Council Tax base and the Council Tax;
- 4.5.24 any function under a local Act;
- 4.5.25 agreeing and publishing a pay policy covering the remuneration of the Council's most senior officers;
- 4.5.26 approving the Capital and Treasury Management Strategies, and
- 4.5.27 appointing and removing Lead Members where considered appropriate, the role of the Leads Members being set out in Annexe 3 of Part 3.

4.6 **Council Meetings**

There are three types of Council meeting:

- 4.6.1 the annual meeting;
- 4.6.2 ordinary meetings;
- 4.6.3 extraordinary meetings.

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

4.7 **Responsibility for Functions**

The Council will keep under review the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions.

NDDC CONSTITUTION

Part 2

5. ARTICLE 5 – CHAIRING THE COUNCIL

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

- 5.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 5.2 to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- 5.3 to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;
- 5.4 to promote public involvement in the Council's activities;
- 5.5 to attend or be represented at such civic and ceremonial functions as the Council and the Chair determines appropriate;
- 5.6 to determine any matter referred to the Chair under the Budget and Policy Framework Procedure Rules in Part 4 of the Constitution;
- 5.7 Subject to the reigning monarch, the Chair of the Council shall be the first citizen of the administrative area of the Council; and
- 5.8 Neither the Chair of the Council nor the Vice-Chair shall be a Member of the Strategy and Resources Committee

NDDC CONSTITUTION

Part 2

6. **ARTICLE 6 – POLICY AND PERFORMANCE**

6.1 **Introduction**

6.1.1 The Council has chosen to form a Committee to assist in developing the Budget and policies including those within the Policy Framework.

6.1.2 As well as internal matters, the Policy Development Committee will focus on external issues which may have an impact on the Council or its citizens.

6.2 **Policy Development Committee**

6.2.1 In order to achieve this, the Council has appointed a Policy Development Committee which will:-

- (a) make reports or recommendations to the Council or the Strategy and Resources Committee in relation to policies or strategies of the Council or in respect of matters that it considers ought to be included within policies or strategies of the Council and which relate to Council functions;
- (b) consider matters relating to the performance of the Council,
- (c) act on and respond to policy issues referred to it by Strategy and Resources Committee, and
- (d) consider any general matter of concern which affects the Council's area or its inhabitants but which also directly relates to or affects a Council function.

6.3 **Specific Functions**

6.3.1 The Policy Development Committee may:-

- (a) assist the Council in the development of its Budget and Policy Framework by in depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;

JULY 2022

NDDC CONSTITUTION

Part 2

- (c) question members of the Committees and Chief Officers from the Council about issues and proposals affecting the area or the performance of the Council;
- (d) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working; and
- (e) consider the impact of policies to assess if they have made a difference.

NDDC CONSTITUTION

Part 2

7. ARTICLE 7 – LEADER OF THE COUNCIL

7.1 Leader

7.1.1 Election

The Leader shall be a Councillor elected to the position of Leader by the Council at the Annual Meeting each year.

7.1.2 Term of Office

(a) The Leader will hold office for one year until a new appointment is made at the next Annual Meeting or until any of the following events arise:- (i) he/she resigns from the office; or

(ii) he/she is not returned or does not stand as a Councillor at an election, or

(iii) he/she is disqualified from being a Councillor; or

(iv) where the Council passes a resolution removing him from office.

(v) By suspension from being a councillor under or by virtue of Part III of the Local Government Act 2000, in which case they shall not hold office for the period of such suspension.

(vi) Is required to cease holding office by a lawful change to this Constitution.

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

7.2 Deputy Leader

7.2.1 Paragraphs 7.1.1 and 7.1.2 above shall also apply to the appointment and removal of the Deputy Leader

NDDC CONSTITUTION

Part 2

8. **ARTICLE 8 – REGULATORY AND OTHER COMMITTEES**

8.1 **Introduction**

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

8.2 **Standing Committees**

The Standing Committees are listed below and full details of their functions can be found in Part 3

Strategy and Resources Committee

Planning Committee

Licensing and Community Safety Committee

Governance Committee

Harbour Board

North Devon Crematorium Joint Committee

Joint Building Control Committee

Policy Development Committee

Appointments Committee

8.3 **Other Committees and Sub-Committees**

8.3.1 The Council will appoint such other committees as it considers appropriate to exercise any of its functions including any Committee restricted in functions to a geographical area.

8.3.2 Any committee appointed by the Council may at any time appoint additional sub-committees and panels throughout the year. Their terms of reference and delegation of powers to them shall be explicit and within the appointing Committee's terms of reference. They may also delegate any of their powers to one or more officers.

JULY 2022

NDDC CONSTITUTION

Part 2

- 8.3.3 The Council, a Committee or a Sub-Committee may appoint such task teams or working groups as they consider appropriate in order to consider and report on specific matters.
- 8.3.4 Standing Committees and any other Committees or Sub-Committees will be subject to the Regulations on political balance made under the Local Government and Housing Act 1989.

9. ARTICLE 9 – JOINT ARRANGEMENTS

9.1 Introduction

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

9.2 Joint Arrangements

9.2.1 The Council may establish joint arrangements with one or more local authorities to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

9.2.2 Details of any joint arrangements including any delegations to joint committees are to be set out in Part 3 to this Constitution.

9.3 Access to Information

9.3.1 The Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

9.4 Delegation to and from Other Local Authorities

9.4.1 The Council can delegate functions to another local authority.

9.4.2 The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council.

9.5 Contracting Out

The Council may contract out to another body or organisation functions:-

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

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

NDDC CONSTITUTION

Part 2

10. **ARTICLE 10 - OFFICERS**

10.1 **Management Structure**

10.1.1 **General**

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

10.1.2 **Chief Officers**

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

Post Functions and Areas of Responsibility

Post	Duties
Chief Executive/Head of Paid Service	<ul style="list-style-type: none">□□ Overall corporate management and operational responsibility including overall management and responsibility for all officers.□□ Provision of professional advice to all parties in the decision making process.□□ Together with the Monitoring Officer, responsibility for a system of record keeping for all Council's decisions.□□ Representing Council on partnership and external bodies (as required by statute or the Council).

NDDC CONSTITUTION

Part 2

10.1.3 Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will designate the following posts as shown:

Designation	Post
Head of Paid Service	Chief Executive
Monitoring Officer	Senior Solicitor and Monitoring Officer
Chief Financial Officer	Director of Resources and Deputy Chief Executive

Such posts will have the functions described in 10.2, 10.3 and 10.4 below.

10.1.4 Structure

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. [This is set out in Part 1 of this Constitution.]

10.2 Functions of the Head of Paid Service

10.2.1 Discharge of Functions by the Council

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

10.2.2 Restrictions on Functions

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

NDDC CONSTITUTION

Part 2

10.3 Functions of the Monitoring Officer

10.3.1 Maintaining the Constitution

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

10.3.2 Ensuring Lawfulness and Fairness of Decision Making

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

10.3.3 Supporting the Governance Committee

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

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

10.3.4 Conducting Investigations

The Monitoring Officer will conduct investigations into matters relating to alleged breaches of the Members' Code of Conduct and carry out any other actions as directed by the Governance Committee and make reports or recommendations in respect of them to the Governance Committee.

10.3.5 Proper Officer for Access to Information

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant Officer reports and

NDDC CONSTITUTION

Part 2

background papers are made publicly available as soon as possible.

10.3.6 Advising Whether Decisions are within the Budget and Policy Framework

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

10.3.7 Providing Advice

The Monitoring Officer will provide advice to all Councillors on:

- the scope of powers and authority to take decisions,
- maladministration,
- financial impropriety,
- probity, and
- budget and policy framework issues.

Where the Monitoring Officer considers that a Member(s) has acted contrary to his advice it is open to him to issue a report to the Council under s.5 of the Local Government and Housing Act 1989, or seek judicial review, as he/she considers appropriate in the circumstances.

10.3.8 Restrictions on Posts

The Monitoring Officer cannot be the Chief Financial Officer or Head of Paid Service.

10.4 Functions of the Chief Financial Officer

10.4.1 Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely

NDDC CONSTITUTION

Part 2

to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

When the report is completed the Chief Financial Officer shall send a copy to:

- (a) the current auditor of the Council's accounts; and,
- (b) each Member of the Council.

10.4.2 Administration of Financial Affairs

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

10.4.3 Contributing to Corporate Management

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

10.4.4 Providing Advice

The Chief Financial Officer will provide advice to all Councillors on:

- the scope of powers and authority to take decisions,
- maladministration,
- financial impropriety,
- probity, and
- budget and policy framework issues

and will support and advise Councillors and officers in their respective roles.

10.4.5 Give Financial Information

The Chief Financial Officer will, where required and authorised to do so by law and by the Council, provide financial information to the media, members of the public and the community.

NDDC CONSTITUTION

Part 2

10.4.6 Budget preparation

To be responsible for securing the preparation of the budget.

10.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Financial Officer

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

10.6 Conduct Officers will comply with the Officers' Code of Conduct and the

Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

10.7 Employment

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

11. ARTICLE 11 DECISION MAKING

11.1 Responsibility for Decision Making

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

11.2 Principles of Decision Making

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

11.2.1 proportionality (i.e. the action must be proportionate to the desired outcome);

11.2.2 due consultation and the taking of professional advice from officers;

11.2.3 respect for human rights and the law;

11.2.4 a presumption in favour of openness;

11.2.5 clarity of aims and desired outcomes;

11.2.6 consideration of any alternative options;

11.2.7 consideration of the resource implication in taking the proposed option;

11.2.8 the implications of, and the risks associated with taking or not taking the proposed option; and

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

11.3 Type of Decision

11.3.1 Decisions reserved to Full Council

Decisions relating to the functions listed in Article 4 (functions of the Full Council) will be made by the Full Council and will not be delegated.

NDDC CONSTITUTION

Part 2

11.4 **Decision Making by the Full Council**

Subject to Article 11.6, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

11.5 **Decision Making by Other Committees and Sub-Committees Established by the Council**

Subject to Article 11.6, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

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

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

11.7 **Urgent Decision Making**

The Chief Executive shall have powers set out in the Scheme of Officer Delegations in order to take decisions that would normally fall under the remit of a Committee in situations where it is not practicable to report that matter to the Committee.

NDDC CONSTITUTION

Part 2

12. ARTICLE 12 – FINANCE, CONTRACTS AND LEGAL MATTERS

12.1 Financial Management

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

12.2 Contracts

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

12.3 Authentication of Documents

12.3.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by him, unless any enactment or otherwise authorises, requires, or the Council has given requisite authority to some other person.

12.3.2 Any contract entered into on behalf of the Council shall be subject to the Contract Procedure Rules. Contracts and agreements must be signed by, or made under common seal of the Council and attested by, at least one authorised signatory as provided by Article 12.3.3 or in Part 3 of this Constitution.

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

- The Chief Executive;
- The Monitoring Officer;
- The Deputy Monitoring Officer;
- The Chief Financial Officer;
- The Deputy Chief Financial Officer;
- Any Head of Service as defined by paragraph 4.1 of Part 3 of this Constitution.

NDDC CONSTITUTION

Part 2

12.3.4 Any other documents not falling within 12.3.1 or 12.3.2 above may be signed by any of the Officers listed in 12.3.3 or any other officer so authorised by any such persons in accordance with their delegated powers.

12.4 **Common Seal of the Council**

12.4.1 Common Seal

The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer.

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

12.4.2 Sealing and Execution of Documents

The common seal of the Council shall be affixed to a document only on the authority of:- (a) a resolution of the Council;

(b) a resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal;

(c) a decision by the Council, or by a Committee, SubCommittee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action; or (d) any of the officers listed in 12.3.3 above.

12.4.3 Record of Sealing of Documents

Any entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Senior Solicitor and Monitoring Officer and consecutively numbered in a book to be provided for the purpose.

NDDC CONSTITUTION

Part 2

13 ARTICLE 13 REVIEW AND REVISION OF THE CONSTITUTION

13.1 Duty to Monitor and Review the Constitution

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

13.1.2 The Chief Financial Officer shall be responsible for keeping under review the Financial Procedure Rules set out in Part 4 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Part 4 for the next available Council meeting for noting.

13.2 Protocol for Monitoring and Review of Constitution by Monitoring Officer

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

13.2.1 Observe meetings of the Member and officer structure;

13.2.2 Undertake an audit trail of a sample of decisions;

13.2.3 Record and analyse issues raised with him by Members, officers, the public and other relevant stakeholders; and,

13.2.4 Compare practices in this Council with those in comparable authorities, or national examples of best practice.

13.3 Changes to the Constitution

13.3.1 Approval

(a) Subject to 13.3.3 below, changes to the Constitution will only be approved by the Full Council.

NDDC CONSTITUTION

Part 2

- (b) Where the table of Chief Officers in Article 10 or the Management Structure section of the Constitution needs to be updated, the Monitoring Officer may make the necessary changes upon receipt of notification from the Chief Executive that he/she has made changes to these structures following Council or relevant committee approval of such changes.

13.3.2 Any six members of the Council may propose amendments to this Constitution which shall be considered by Full Council.

13.3.3 Minor Changes

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

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

the Monitoring Officer may make such a change following consultation with the Leader. Any such change made by the Monitoring Officer shall come into force with immediate effect but shall be referred to Full Council as soon as is reasonably possible and shall continue to have effect only if Full Council agree.

13.3.4 Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer (in consultation with the Leader) where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Council meeting.

NDDC CONSTITUTION

Part 2

14 ARTICLE 14 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

14.1 Suspension of the Constitution

14.1.1 Limit to Suspension

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

14.1.2 Procedure to Suspend

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

14.2 Interpretation

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 contained in Article 1.

14.3 Publication

14.3.1 The Monitoring Officer will provide a copy of the Constitution to each Member of the Council upon delivery to him of that individual's declaration of acceptance of office on the Member first being elected to the Council.

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

PART 3 – RESPONSIBILITY FOR FUNCTIONS

Introduction

All of the powers and functions of the Council have been given by statute to Full Council. Full Council has chosen to delegate some of those functions to Committees and also to officers. Full Council has however retained certain functions for itself.

Annexe 1 – Powers and Duties of Committees sets out the functions delegated to Committees, *Annexe 2 – Officer Scheme of Delegation* sets out those delegated to Officers, *Annexe 3 – Powers and Duties delegated to Councillors* sets out those decision making powers delegated to individual Councillors and *Annexe 4 – Joint Arrangements* sets out the schemes for joint Committee operation that the Council has entered into.

General Principles

Decision making under this Part is subject to the normal principles of decision making set out in Article 11.2 of the Constitution and to the relevant Procedure Rules set out in Part 4.

Any powers that are delegated to officers under Annexe 2 are excluded from the powers delegated to Committees under Annexe 1.

The list of powers and functions in Annexes 1 and 2 are not exhaustive and should be interpreted broadly and in a purposive way. The powers contained within Annexe 1 include the power to develop and approve strategies and policies associated with those powers and functions other than those which Full Council must adopt and subject also to the Budget and Policy Framework Procedure Rules. The powers also contain the power to determine and issue any relevant application, consent or approval and take such action or request information associated with relevant enforcement action including service of notices.

ANNEXE 1 – POWERS AND DUTIES OF COMMITTEES

1. STRATEGY AND RESOURCES COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
Maximum of 13	The Chair shall be the Leader of the Council and membership will include all	1/3 with a minimum of 4	
	Group Leaders where political balance allows.		

Functions

- a) The development of the Budget and the Policy Framework with recommendations made to Full Council,
- b) Asset management
- c) Treasury management
- d) Resources and finance
- e) Performance of the Council including service plans
- f) Improvement
- g) Staffing and human resources
- h) Environmental Health
- i) Waste and Recycling

2. POLICY DEVELOPMENT COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
Minimum of 9	The Chair of the Committee may not be a member of the Strategy and Resources Committee	1/3 with a minimum of 4	

Functions

- (a) The power to consider matters and make recommendations to Council and Committees on matters as set out in Article 6.3 of this Constitution

3. PLANNING COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
15	<p>Members of the Committee must be trained prior to sitting on the Committee (NOTE: Failure to attend the required training will result in exclusion from sitting on the Committee)</p> <p>Substitute Members may only be appointed from an appointed and trained reserve list. Substitute Members must substitute for the whole of the meeting. (NOTE: substitute Members must be from the same political group).</p>	4	<p>If a Member:</p> <p>(a) Arrives at a meeting during the consideration of an item; or</p> <p>(b) Leaves a meeting at any time during the consideration of an item;</p> <p>they shall not:</p> <p>(i) propose or second any motion or amendment; or</p> <p>(ii) cast a vote</p> <p>(For the avoidance of doubt may still participate in the debate)</p> <p>An amendment which opposes a motion to grant or refuse a planning application is deemed to be a valid amendment.</p>

Functions

- (a) To consider and determine any matters arising under the Planning Acts, including the powers to take decisions, issue permissions and consents, to authorise enforcement action and serve such notices, request such information and take such action as is deemed appropriate.
- (b) To discharge any function relating to contaminated land in as much as the function involves determination of an application for a licence, approval, consent, permission or regulation, direct regulation of a person or enforcement of any such licence, approval, consent, permission or regulation.
- (c) To act as consultee in respect of matters relating to planning functions which are referred to the Council by other organisations.

- (d) A referred power to consider and make recommendations on the content and adoption of documents comprising the local plan or other policies relating to planning functions

4. LICENSING AND COMMUNITY SAFETY COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
15	Members of the Committee must be trained prior to sitting on the Committee (NOTE: Failure to attend the required training will result in exclusion from sitting on the Committee)	4	<p>If a Member:</p> <p>(a) Arrives at a meeting during the consideration of an item; or</p> <p>(b) Leaves a meeting at any time during the consideration of an item;</p> <p>he/she shall not:</p> <p>(i) propose or second any motion or amendment; or</p> <p>(ii) cast a vote</p> <p>(For the avoidance of doubt may still participate in the debate)</p> <p>An amendment which opposes a motion to grant or refuse a licensing application is deemed to be a valid amendment.</p>

Functions

- (a) Licensing Authority functions under Licensing Act 2003 and the Gambling Act 2005.
- (b) Other licensing matters as set out in Part B of Schedule 1 to the 2000 Regulations.
- (c) Coastal pollution or the management of air quality.
- (d) To consider any appeals against the decision of officers in relation to any of the matters covered by paragraph (a) or (b) above.
- (e) Community safety
- (f) To act as Crime and Disorder Committee in accordance with and with the powers set out in the Police and Justice Act 2006, the Local Government and Public Involvement in Health Act 2007 and Regulations made under those Acts
- (g) To fix the rates or fares and all other charges in connection with the hire of hackney carriage vehicles in accordance with the powers set out in section 65 of the Local Government (Miscellaneous Provisions) Act 1976.

5. GOVERNANCE COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
9	<p>Membership of the Committee cannot include Strategy and Resources Members.</p> <p>Members of the Committee must be trained prior to sitting on the Committee (NOTE: Failure to attend the required training will result in exclusion from sitting on the Committee)</p>	3 – Provided at least two political groups are represented	The role of the Committee is to promote good behaviour amongst Councillors and to ensure that all business conducted by the Council is carried out within the law, in accordance with the Constitution and also in accordance with statutory Codes. It is also to promote improvement in governance issues

- (a) Audit functions including receiving and considering reports and making recommendations on them
- (b) Risk management and corporate governance including considering reports from the Local Government Ombudsman.
- (c) Reviewing the annual statement of accounts
- (d) Standards function including:
 - i. To promote and maintain high standards of conduct by Members and Co-opted Members of the Council.
 - ii. To make recommendations to the Council on the adoption, and revision of a local Code of Conduct for Members and Co-opted Members, and to monitor and review its operation.
 - iii. To make recommendations to the Council on the adoption, and revision of a Code of Conduct for officers of the Council.
 - iv. To approve guidance and protocols to supplement the Code of Conduct for Members and Co-opted Members.
 - v. To approve arrangements for dealing with written allegations of failure to comply with their Code of

Conduct by Council, Parish or Town Council Members or Co-opted Members.

- vi. To approve training and assistance for Members and Co-opted Members in conduct matters and to approve arrangements for advice to individuals on the treatment of interests and on conduct generally.
 - vii. To grant dispensations to Council Members to allow them to speak on, participate in the discussion of and/or participate in a vote on matters in which they have an interest and to approve the arrangements for dispensations generally.
- (e) Electoral matters including Community Governance Reviews
 - (f) Human Resources and Personnel matters including pensions issues
 - (g) To hear any appeal in respect of any grievance or disciplinary decision taken by officers

6. HARBOUR BOARD

Number of Members	Special Requirements	Quorum	Notes
4	In addition to 4 Members, 4 Independent Members (who are not Members of the Council) are appointed to provide experience and expertise in harbour management. Appointments of independent Members shall be for a four year period to ensure continuity of experience and expertise available to the Board. Appointments may be renewed at the discretion of the Council for a maximum of two four year terms after which any further service on the Board can only be achieved following a competitive appointments process.	3 (2 of whom must be members of the Council).	<p>All persons co-opted to serve on the Board shall be required to provide a written undertaking to comply with the Council's Members Code of Conduct and shall complete a register in accordance with that Code.</p> <p>The Chairman of the Board shall be appointed annually by Full Council and shall come from those Members of the Council appointed to serve on the Board.</p> <p>All Board Members shall have voting rights.</p>

Functions

1. To discharge the duties and powers of a competent Harbours authority in respect of all harbours administered by the council and in accordance with relevant legislation, regulations, Harbour Orders and byelaws.
2. To approve the Harbour service Business Plan including the Port Marine Safety Code.
3. To make recommendations to Full Council on the approval of other plans and policies or on other issues affecting all harbours administered by the council.

7. JOINT CREMATORIUM COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
7	There is a requirement for compliance with the current Joint Crematorium Committee Terms of Reference as set out in Annexe 4.		

Functions

- (a) To manage all matters relating to the functions of North Devon Crematorium with Torridge District Council

8. JOINT BUILDING CONTROL COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
2	There is a requirement for compliance with the current Joint Building Control Committee Terms of Reference set out in Annexe 4.		

Functions

- (a) To oversee the joint building control team,
- (b) To formulate a draft budget, including any fees and charges, for the joint building control service and to make recommendations on the same to the partner Authorities, and
- (c) To produce an annual financial report on the costs/savings of the joint service and submit this to the partner authorities.

9. APPOINTMENTS COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
A minimum of 3 including all Group Leaders	Membership must include all Leaders of Designated political groups on the Council	3	Not to be politically balanced

Functions

- (a) To sit as a Panel to lead on and make recommendations on the appointment of the Chief Executive/Head of Paid Service, the Chief Financial Officer and Monitoring Officer subject to compliance with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.
- (b) To hear consider and determine any grievance or other similar matter relating to or by the Chief Executive/Head of Paid Service; any disciplinary matter relating to the Chief Executive/Head of Paid Service, Monitoring Officer and Chief Financial Officer where the issue relates to the performance of such role.
- (c) To sit as a Panel or part of a Panel in relation to the dismissal of the Head of Paid Service, Chief Financial Officer and Monitoring Officer and to lead on conducting an investigation into the same

10. JOINT PLANNING POLICY COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
14 (7 from each Partner Authority)	There is a requirement for compliance with the current Joint Planning Policy Committee Terms of Reference set out in Annex 4.	7 (minimum of 3 Members from one Partner Authority and the remainder to make up a quorum from the other Partner Authority)	<p>The Chair will be appointed annually, and alternate between the two District Councils.</p> <p>The Membership will include the Leader of each Partner Authority, and Lead Members for Economy, Environment, Climate, Planning, Housing and Community from TDC with the equivalent from NDC, or such other members as TDC or NDC shall consider appropriate. Each Partner Authority may nominate 1 or more substitute Members to attend any meeting in place of an appointed Member.</p> <p>The Partner Authority hosting the first meeting shall appoint one of its nominated members as chairperson until the first meeting taking place after the elapse of 1 year from the appointment. On the expiry the Partner Authority which did not appoint the first chairperson shall appoint one of its nominated members as chairperson for a period of 1 year. This procedure shall be followed for the appointment of chairperson in subsequent years.</p>

Functions

The Joint Committee shall be responsible for, and shall have delegated to it, the following functions of the Partner Authorities:

- a) The preparation, review and/or approval of
 - Development Plan Documents;
 - Supplementary Planning Documents;
 - Joint documents that supplement/complement the Development Plan Documents (Namely, Local Development Schemes, Statements of Community Involvement, Authority Monitoring Reports and Infrastructure Funding Statements);
 - The outcomes from policy performance monitoring and the need to undertake any resultant actions, on such matters as the maintenance of housing delivery rates and a joint five year land supply to required levels;
 - Proposals for delivery of key infrastructure (e.g. flood defences, link road improvements, health infrastructure) where there are clear cross boundary implications; and
 - Responses to consultations from the government, other authorities, external agencies and other bodies, including transportation related consultations, where they would have a significant impact on the delivery of the Local Plan or on the Districts' environment.
- b) The consideration and noting of associated evidence documents (for example, Sustainability Appraisals and Habitat Regulations Assessments)
- c) Such other functions related to the above listed agreed functions which is agreed between the Partner Authorities should be included as an agreed function.

The delegated powers referred to above shall be limited to the preparation of agreed Development Plan Documents but shall not include the final adoption of such Development Plan Documents which shall be reserved to the respective Partner Authorities and referred back as a recommendation by the Joint Committee for a decision as to adoption by the respective Partner Authorities. The Joint Committee shall take account any reservations or objections subsequently received from either Partner Authority before referring the Development Plan Documents back for adoption

ANNEXE 2 – OFFICER DELEGATIONS

1. PREFACE

- 1.1 The purpose of this part of the Constitution is to bring together delegations to officers and roles and responsibilities of officers. Officers may be delegated to make decisions in respect of any matter other than those which by law are reserved only to Full Council.
- 1.2 Section 101 of the Local Government Act 1972 provides that:
- (a) A Council may delegate its powers (except those incapable of delegation) to a committee or an officer
 - (b) A Committee may delegate its powers to a sub-committee or an officer
 - (c) Powers which have been delegated may be exercised by the delegating body.
- 1.3 Any delegation to a Committee or an Officer shall be exercised in compliance with the Council's Constitution, any other policies or conditions imposed by the Council and with the law
- 1.4 In making any decision regard shall be had to the principles of decision-making as set out in Article 11 of the Constitution.
- 1.5 In exercising their delegated powers Officers will consult any appropriate Member. This would normally include:
- (a) Ward Councillor(s)
 - (b) the Chair of the relevant Committee, or in his absence the Vice-Chair
 - (c) the Leader, or in his absence the Deputy Leader
- 1.6 In exercising their delegated powers Officers will consult any appropriate officer, in particular where there are significant financial, legal, property or human resource implications of the proposed action or decision

2. INTERPRETATION

- 2.1 For the avoidance of doubt unless the context otherwise requires reference to:
- (a) "the Council" shall be deemed to include any of its meetings including the Committees and Sub-Committees;

(b) “the Planning Acts” shall mean the Town and Country Planning Act 1990, the Town and Country Planning (Listed Building and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, Growth and Infrastructure Act 2013, Housing and Planning Act 2016, the Caravan Sites and Control of Development Act 1960, Localism Act 2011, Neighbourhood Planning Act 2017 and the Planning Act 2008 (and in respect of them all any amendments as may be made from time to time) and any regulations and orders made pursuant to the same or other legislation including in particular, but without prejudice to the generality of the foregoing the Use Classes Order 1987, General Permitted Development Order 2015, the General Development Procedure Order 2015, the Community Infrastructure Levy Regulations 2010, Environmental Impact Assessment Regulations 2017, the Brownfield Land Register Regulations 2017, Self-Build and Custom Housebuilding Regulations 2016, the Hedgerow Regulations 1997, and Town and Country Planning (Control of Advertisements) (England) Regulations 2007, (including in respect of them any amendments as may be made from time to time).

(c) Reference to the masculine shall include reference to the feminine and vice versa

2.2 Any reference to an Act or Regulations shall be deemed to be a reference to that piece of legislation as amended or replaced

2.3 An officer may nominate another named Officer to carry out any powers and duties which have been delegated to him providing this nomination is recorded in the register referred to in 2.4 below.

2.4 Member Services will hold a register of all amendments to delegated powers

3. CHIEF EXECUTIVE

3.1 To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989.

3.2 To act as Returning Officer for Council Elections in accordance with Section 35 of the Representation of the People Act 1983 (the 1983 Act).

3.3 To act as Electoral Registration Officer for the County in accordance with Section 8 of the 1983 Act.

- 3.4 To guide and, where appropriate, direct Heads of Service in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council
- 3.5 To grant exemptions on the political restriction of officer posts under the Localism Act 2011.
- 3.6 To exercise all powers referred or delegated to any other officer (except Chief Financial Officer and Senior Solicitor and Monitoring Officer) when that officer is either absent or otherwise unavailable.
- 3.7 All powers delegated in the “All Heads of Service” section are also delegated to the Chief Executive.
- 3.8 To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to a Head of Service within the Constitution whether specifically identified in the delegated powers to officers or otherwise.

Health and Safety

- 3.9. Responsibility for implementing any policies adopted by the Council that relate to health and safety.

Human Resources

- 3.10. To consider, amend and revise the manpower establishment provided any such amendments or revision is in accordance with any approved manpower plan and budgetary framework of the Council.
- 3.11. To appoint temporary staff or authorise the appointment of external resources to undertake work normally undertaken by a Service subject to the costs thereof not exceeding the available budget.
- 3.12. To consider, refuse or approve with or without modification:
 - (a) essential car users allowances;
 - (b) applications for car loans in accordance with Council policy.
- 3.13. To determine whether to approve or refuse staff applications to undertake second employment
- 3.14. To determine pursuant to Part V of the Local Government Discretionary Payments Regulations 1996:
 - (a) the amount of any injury allowance payable to an officer; and

- (b) any time period(s) associated therewith or to any death benefit payments referred to in those provisions.
- 3.15. To hear and determine any grievance or grievance appeal passed to the Chief Executive for his determination whether pursuant to any policy of the Council or otherwise.
- 3.16 To appoint, discipline and/or dismiss officers in accordance with Council policies and procedures, including the power to nominate any other officer to undertake such powers, except where that power is reserved to a Committee or to Full Council under the Officer Employment Procedure Rules set out within Part 4 of the Constitution.
- 3.17 To agree minor revisions to existing employment policies and/or procedures.
- 3.18 To interpret employment policies, custom and practice and implement processes and/or decisions based on either the policy or the custom and practice of the Council.
- 3.19 To act on the advice of medical practitioners with regard to retiring employees on grounds of ill health.
- 3.20 To negotiate revised terms and conditions of employment with recognised trades unions.
- 3.21 To develop employment policies and negotiate with recognised trades unions prior to adoption by Council.
- 3.22 To apply employment legislation as appropriate which may impact on staff terms and conditions, including pay.
- 3.23 To act as the lead counter-signatory for the Council and nominate other counter-signatories for the Council in respect of the Disclosure and Barring Service.
- 3.24 To sign employment related documents, e.g. Compromise Agreements, etc.
- 3.25 To determine applications for flexible and early retirement and also for early release of pension where the decision will not result in a net cost to the Council.

General

- 3.26 To respond to consultation papers where timescales for responses do not fit in with the Council's timetable of meetings.
- 3.27 To attest the Council seal and sign any document necessary to give effect to:
 - (a) a resolution of the Council ; and/or

- (b) the exercise of a power or function delegated by the Council, provided that any such attestation or signing accords with Article 12 of the Constitution.
- 3.28 To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Chief Executive within the Constitution whether specifically identified in the delegated powers to officers or otherwise.
- 3.29 For the purpose of surveillance operations to which the Regulation of Investigatory Powers Act 2000 apply (or any statutory provision modifying, replacing or re-enacting the same) the power:
 - (a) to authorise a surveillance operation; and
 - (b) to designate other officers to exercise the power to authorise surveillance operations to other officers,
 - (c) provided that such designations is only given to those officers who have responsibility for the management of an investigation.
- 3.30 To authorise the making of an application under the Crime and Disorder Act for an Anti-Social Behaviour Order in consultation with the Monitoring Officer.
- 3.31 To re-allocate the delegations as set out in this Annexe as necessary from time to time to give effect to any re-designations of post titles, re-allocation of service responsibility or vacancy of post.
- 3.32 Coordination of the Member Training and Development Programme including
 - (a) management of the approved Member Training and Development Budget and
 - (b) authorisation of Member attendance at conferences, seminars and other training and development events.

Council and Committees

- 3.33. To receive Group nominations for relevant Committees and Sub-Committees subject to Council being notified of the Group appointments.
- 3.34. To consider and determine whether to refer to the Planning Committee any application pursuant to the Planning Acts that, in the opinion of the Chief Executive is an application which:
 - (a) is on or could have significant implications for, land owned or controlled by the Council;
 - (b) the scale of which is such as to warrant a clear separation of responsibilities between Members with primary responsibility for considering future

development schemes for such land and Members who will be responsible for determining applications under the Planning Acts.

- 3.35. To carry out such actions and take such decisions so as to give effect to any procedures set out in Part 4 of this Constitution.
- 3.36. To summon a meeting of the Council where at his discretion, he believes there are circumstances warranting the same, provided the circumstances necessitating the calling of the meeting are identified on the agenda for that meeting.

Member Claims

- 3.37. To determine Members' claims for travelling allowances, including the power to determine whether to authorise attendance at meetings.

Contracts

- 3.38. In accordance with paragraph 12.2 of Part 4 of the Constitution, to consider and determine whether a proposed contract can be entered into:
 - (a) with fewer than three quotes having been obtained; or
 - (b) otherwise than the lowest quote received.

Proper Officer

- 3.39 To act as 'Proper Officer' for all functions detailed in the Local Authorities (Referendum) (Petitions and Directions) (England) Regulations 2000,
- 3.40 To act as 'Proper Officer' for all functions detailed in the Constitution not otherwise specifically delegated to another officer; including the power:
 - (a) to consider and nominate in writing any other officer to act as a 'Proper Officer' where this is permitted by law; and
 - (b) to negotiate and approve variations to an officers terms and conditions of employment, in order to facilitate the same, provided that any such appointment or variations do not exceed any budget allocated for such a purpose.

Emergency Powers

- 3.41. In the event of an emergency defined by the Chief Executive as a major emergency, which may include designated officers attending at Gold or Silver

Control (as defined in the Council's Major Incident Plan or successor document) then the Chief Executive, without consultation with any other person, may:

- (a) incur expenditure whether forming part of an identifiable budget or otherwise;
- (b) to authorise any lawful action on behalf of the Council;
- (c) The Chief Executive will act in accordance with the following requirements:
- (d) to maintain a record of response and expenditure as set out in the Major Incident Plan;
- (e) to inform the Chief Financial Officer of all details of any expenditure incurred as soon as reasonably practicable;
- (f) to report any expenditure to the next available meeting of Council.

Miscellaneous

- 3.42 To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto.
- 3.43 To consider and determine the security arrangements for information held electronically.
- 3.44 To consider and accept or refuse offers of re-purchase and determine applications for consent pursuant to covenants imposed on right to buy sales under.

Urgent Decision Making

- 3.45 To take a decision on any matter falling within the remit of any Committee in cases of urgency where it is not reasonably practicable to obtain prior approval of a Committee SUBJECT TO:
 - 3.45.1 to the prior consultation, where practicable, with the Leader or Deputy Leader and the Chair or Vice Chair of the relevant Committee, and
 - 3.45.2 the proviso that this power will not extend to the determination of any application submitted pursuant to the Planning Acts or under the Licensing Act 2003 or the Gambling Act 2005, and
 - 3.45.3 the decision being reported to the next meeting of the relevant Committee and the next meeting of Strategy and Resources Committee

4 ALL HEADS OF SERVICE

- 4.1 The Heads of Service referred to in this scheme of delegations are those designated as such by the Head of Paid Service.

- 4.2 Heads of Service are empowered to carry out those specific functions of the Council delegated to them in this Annexe 2 or in Part 4 of this Constitution. In doing so Heads of Service are expected to follow principles of decision making in Article 11 of the Constitution.
- 4.3 Functions are to be construed in a broad and inclusive fashion and include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
- 4.4 To consider and approve or refuse (with or without modification) any grant application provided:
- (a) the expenditure is within the allocated budget; and
 - (b) any such determination is made in accordance with a relevant policy of the Council.
- 4.5 To introduce, set and vary as necessary fees and charges for the delivery of services and for the issue of any licence, registration, permit, consent or approval.
- 4.6 To serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions, make orders, and grant licences in the exercise of any discretionary power or in complying with any duty of the Council.
- 4.7 To provide goods and/or services to other local authorities and public bodies under the Local Government (Goods and Services) Act 1970.
- 4.8 Each Head of Service shall act as the designated Proper Officer for the following functions under the Local Government Act 1972:
- (a) to identify which background papers disclose facts on which a particular report or an important part of the report is based (Section 100D(5)(a) of the Act)
 - (b) to prepare a list of background papers and to make arrangements for production of copies of background papers (Section 100D(1)(a) and (b) of the Act) (such delegation relates to the Chief Officer(s) in whose name(s) the report is prepared).

Human Resources

- 4.9 Provided that the Chief Executive has nominated the Head of Service for such a purpose, to recruit, select and appoint any officer below Head of Service.

- 4.10 Provided that the Head of Service has been nominated by the Chief Executive for such a purpose, in relation to an officer to hear, consider and determine:
- (a) any grievance and/or harassment matter;
 - (b) any disciplinary/capability or health/long term sickness matter providing the officer is below Head of Service level; and any appeal in relation to a decision resulting from a grievance, harassment and/or disciplinary matter other than a decision taken by a Head of Service; including in all cases, power to authorise such action as the Head of Service deems appropriate in relation to any determination that is made (whether formal or informal) including the suspension and/or dismissal of any officer.
- 4.11 To determine the outcome of job evaluation processes based on the rule of the Job Evaluation Scheme and its application to the Council's pay and grading structure.
- 4.12 To take informal or formal disciplinary action (including power to dismiss an Officer provided the Head of Service has been nominated by the Chief Executive) should any officer within the Service fail to achieve or breach standards of conduct or performance as may be set by the Council.
- 4.12A To award honoraria to officers within their Service in strict compliance with the requirements, and up to the limit, as specified within the Local Agreement on Honoraria.

Contracts/Agreements

- 4.13 Within service budgets, to accept quotes and tenders, place contracts, enter into agreements and procure other resources within or outside the Council subject to compliance with the Council's Financial Procedure Rules and Contract Procedure Rules.
- 4.14 To terminate contractual and other commissioning arrangements.
- 4.15 That, in respect of covenant 3.4 of the Transfer dated 21st February 2000 to North Devon Homes Limited of the Council's former housing stock, authority be delegated to the Head of Service to issue a waiver of that covenant where:
- (a) in the opinion of the Head of Service it would be appropriate to do so; and
 - (b) the effect of the waiver is to allow the incorporation of that land into an existing domestic garden and for no other purpose.

Finance

4.16 To vire up to £5,000 within budget heads, subject to:

- (a) all virements being reported to the Chief Financial Officer; and
- (b) approval by the Chief Financial Officer of any virements from income to expenditure, provided any such virement does not result in a net change in the Council's overall budget.

4.17 To authorise instructions:

- (a) for the raising of customer accounts;
- (b) to cancel customer accounts;
- (c) to recommend write off of customer accounts.

4.18 To investigate and resolve complaints (whether made through the formal Council complaint procedure or otherwise) relating to the Service, provided that where a resolution of a complaint involves the payment or waiving of money then the same can be met without any increase to the Service's budget and is no more than £750.

4.19 To determine a reasonable charge for the preparation, production and sale of notices, agreements, orders, licenses and any other documents, including for copying or the undertaking of any other associated work.

4.20 To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Head of Service within the Constitution whether specifically identified in the delegated powers to officers or otherwise.

4.21 Where the Head of Service has the power to institute criminal proceedings he shall be able to issue a formal warning instead. This is subject to:

- (a) him having full regard to any guidance that may be issued for the benefit of crown prosecutors, and
- (b) in the event of any doubt consulting with the Monitoring Officer.

4.22 To authorise officers and any other persons (including inspectors appointed on behalf of the Council) to carry out inspections and to exercise powers of entry for any purpose which in the opinion of the Head of Service is reasonably necessary for the performance of a delegated or referred power or duty.

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

- 4.24 To authorise and sign identity cards on behalf of any officer within their Service as may be necessary for the proper performance of their duties.

Attesting the seal:

- 4.25 To attest the Council seal and sign any document necessary to give effect to:
- (a) a resolution of the Council; and/or
 - (b) the exercise of a power or function delegated by the Council, provided that any such attestation or signing accords with Article 12 of the Constitution.

5 HEAD OF PLANNING, HOUSING AND HEALTH Environmental Health and Housing

- 5.1 In relation to applications for the grant, variation, renewal or transfer of any licences or registrations submitted pursuant to any of the provisions identified in Part B of schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000:
- (a) to consider representations, conduct conciliation and mediation and determine whether to approve or refuse (with or without modification) the grant, variation, renewal or transfer the same, provided:
 - (b) in the case of Premises Licenses or Club Premises Certificates this power does not include the power to revoke or refuse such grant, variation, renewal or transfer;
 - (c) in the case of all other applications, there have been no objections;
- 5.2 The power to suspend a premises licence or club premises certificate if the annual maintenance fee is not paid when it is due
- 5.3 To issue requests and requisitions for information in the performance of the Council's Environmental Health functions and Licensing functions
- 5.4 To consider and determine applications for film classification
- 5.5 In relation to houses in multiple occupation, to exercise discretionary powers relating to the registration scheme
- 5.6 In relation to Closing Orders under the Housing Acts, to authorise the alternative use of a property or part of a property
- 5.7 To authorise the service by duly appointed Authorised Officers, Authorised Persons of orders on behalf of the Council, and the initiation of related works, default, charging and recovery procedures

- 5.8 To undertake on behalf of the Council all those functions relating to health and safety identified in Part C of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000: including the provisions contained in the Health and Safety at Work Etc Act 1974
- 5.9 Power to waive or vary the repayment conditions attached to renovation, common parts, Houses in Multiple Occupation, and relocation grants.
- 5.10 To initiate the review procedure under the Gambling Act 2005 on behalf of the licensing authority in respect of gambling premises, and to decide whether grounds for review are irrelevant, frivolous, vexatious or repetitive.
- 5.11 To provide any person with financial assistance for any property which is or is intended to be privately let as housing accommodation, under Section 24 of the Local Government Act 1988.
- 5.12 The power to suspend and revoke a hackney carriage or private hire driver's licence:
- (a) with immediate effect where the interests of public safety require the suspension and/or revocation,
 - (b) in any other case, with effect from the end of a period of 21 days beginning on the day when notice is given to the driver,
- 5.13 Power to carry out all functions which the Council has a duty to enforce or regulate as set out and referred to in the Animal Welfare Act 2006.
- 5.14 To determine requests for variation(s) to the annual table of fares, subject to the decision adhering to the following criteria:
- (a) reasonable and fair to all stakeholders
 - (b) proportionate with the locality
 - (c) benchmarked with other local authorities
 - (d) justified; simple and easily calculated
 - (e) designed with a view to practicality
 - (f) in line with published best practice guidance
 - (g) mathematically correct and capable of being entered on to a meter
 - (h) structurally the same for vehicles of different seating capacity
 - (i) designed where possible to avoid either deliberate or accidental over-charging
- 5.15 To administer and enforce the new Pavement Licensing regime to be brought into effect by way of the Business and Planning Bill 2020.

Appointments and Authorisations

- 5.16 To appoint all Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors as Proper Officers of the Council for the purpose of authenticating documents issued by them on behalf of the Council.
- 5.17 To act as Proper Officer of the Council for the purposes of the Public Health (Control of Disease) Act 1984 and of an alternate Proper Officer nominated by the Health Authority to act in the absence of the Proper Officer in accordance with the terms of the agreement with the Health Authority under Section 113 of the Local Government Act 1972 to act concurrently with the Manager
- 5.18 To authorise all duly appointed Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors to carry out inspections and to exercise powers of entry and other powers necessary for the effective discharge of the Council's Environmental Health functions and Licensing functions, on being satisfied on matters upon which the Council is obliged to be satisfied and that all statutory requirements are fulfilled.

Housing

- 5.19 To allocate properties.
- 5.20 Powers under Part VI and Part VII of the Housing Act 1996 and powers to investigate allegations of illegal eviction and harassment and other private rented sector issues.
- 5.21 To authorise the payment of removal expenses to homeless families when considered necessary under Part VI of the Housing Act 1996 and to recharge accordingly.
- 5.22 To manage arrangements for the provision of temporary accommodation for those rendered homeless or evacuated in an emergency.
- 5.23 To pay sums and agree terms for securing private rented accommodation for those to whom a duty is owed under Part VII of the Housing Act 1996.
- 5.24 To be designated "Proper Officer" to execute any housing function provisions contained in any agreement under s106 of the Town and Country Planning Act 1990.

Planning

- 5.25 To consider and determine any application (excluding applications for particular applications that are specifically referred to elsewhere in this section) submitted pursuant to the Planning Acts or any regulations or orders made pursuant to the

Planning Acts (as revoked and replaced or amended from time to time) excluding an application:

- (a) which in the opinion of the Head of Planning Housing and Health:
 - (i) is in conflict with the adopted Development Plan (as may be reviewed and/or amended from time to time); and
 - (ii) is of sub-regional or district wide significance; or
 - (iii) is on the Council's own land or land occupied by the Council, excluding an application to carry out works to trees covered by a TPO; or,

(iv) is is an application submitted by:

- a. the Council;
- b. a Member (or their partner) or where the Member (or their partner) has submitted an application on behalf of another acting pursuant to their employment, trade, profession or vocation (or have otherwise been formally contracted in connection with such application); or
- c. an Officer (or their partner) who at the time of submitting the application is part of the Planning Service (or, in the opinion of the Head of Planning Housing and Health, is in a role that is close to the planning process in respect of the application or otherwise exerts influence over that process), save that the Head of Planning Housing and Health may still determine the application so long as he has previously consulted with the Monitoring Officer and the Officer concerned does not participate in the processing or determination of the application; or

(b) which in the opinion of the Head of Planning Housing and Health, save otherwise provided for herein, ought to be determined by the Planning Committee (provided that in such a case, at the absolute discretion of the Head of Planning Housing and Health, the application may be first referred to a site inspection Committee after consultation with the Chairman of the Planning Committee and the Ward Member(s) for the ward in which the application site is situated; or

(c) in respect of which the Head of Planning Housing and Health receives within 28 days, unless agreed otherwise with the Head of Planning Housing and Health, of an application being registered, a written representation from a Member(s) containing sound planning reasons for the application to go to Planning Committee for decision. Should the Head of Planning Housing and Health be minded to refuse the request to suspend delegation they must consult with the Chair of Planning Committee. If the Head of Planning Housing and Health and Chair (or Vice-Chair if the application is called in by the Chair) of the Planning Committee cannot reach an agreement after consultation then the application will be brought to the Planning Committee for consideration. Factors to be weighed by the Head of Planning Housing

and Health include the extent of public interest (recognising that this in of itself does not constitute material planning grounds), the wider community impact, the decision is a finally balanced one and/or the planning matters under consideration are of broad significance.

- 5.26 To exercise and determine all functions of the Council arising from the Planning Acts that can reasonably be regarded as ancillary to the process of determining applications.
- 5.27 The power to make recommendations on Paragraph 5 Certificates under the Caravan Sites and Control of Development Act 1960.
- 5.28 To consider and determine any matter arising in respect of the Council's planning function.
- 5.29 To determine whether or not to issue and serve any notice which in the opinion of the Head of Planning, Housing and Health is appropriate in order to regulate planning breaches (including conditions attached to any permissions or consents) pursuant to the Planning Acts.
- 5.30 To make observations on proposed Tree Felling Licences to the Forestry Commission except that where the view of a Ward Councillor is in conflict with that of the Head of Planning Housing and Health, they be reported to the Committee for decision.
- 5.31 To take enforcement action to prevent the unauthorised holding of open air markets.
- 5.32 To prepare, issue, serve and confirm provisional Tree Preservation Orders.
- 5.33 The making of representations to the County Council in respect of road safety, subject to any matter having policy implications being referred to the Planning Committee.
- 5.34 To consider and determine applications for works to trees which were subject to Tree Preservation Orders or within Conservation Areas.
- 5.35 Power to determine applications for Lawful Development Certificates.
- 5.36 Power to determine certificates of lawful use for existing development, following consultation with the Monitoring Officer.
- 5.37 Power to determine appropriate measures for inclusion in Appropriate Assessments under the Habitats Regulations
- 5.38 Power to amend the adopted Sustainability Appraisal Framework.

- 5.39 Power to determine hedgerow removal notifications, determine high hedge complaints and prepare and serve associated notices.
- 5.40 Power to determine whether to take action in respect of dangerous trees.
- 5.41 Power to identify and include candidate buildings of local importance on the Council's list of locally important buildings after consultation with the relevant ward member.
- 5.42 Power to consider and respond to consultation documents.
- 5.43 Power to determine applications for eligibility for entry to the self-build and custom build register.
- 5.44 Power to determine the 'developability' of SHLAA sites and when any housing can be expected to be delivered.
- 5.45 Power to prepare housing trajectories and reach a conclusion as to whether the Council has a 5 year housing land supply.
- 5.46 Subject to any necessary prior consultation with the North Devon Council Members sitting on the Local Plan Working Group, the Leader and relevant Ward Members, the power to determine, designate and/or set a neighbourhood area following application.

Building Control

- 5.47 To determine and issue all Decisions and Notices arising under the Building Act 1984 and any building regulations.
- 5.48 To relax or dispense with Building Regulations and to sign and issue such decisions.
- 5.49 To withdraw Building Regulation approvals not exercised within three years.
- 5.50 To refer to the Magistrates' Court, Notices under Section 77 of the Building Act 1984 requiring dangerous buildings to be made safe, and to take, or instruct emergency action under the provisions of Section 78 of the Building Act 1984.
- 5.51 To carry out, or instruct contractors to carry out, works in default of a Court Order obtained pursuant to Section 77 of the Building Act 1984.
- 5.52 To institute proceedings for infringement of the Building Regulations.
- 5.53 To serve Notice requiring removal or alteration of work not conforming to the Building Regulations (Section 36 of the Building Act 1984). To sign and issue Demolition Notices in respect of works falling within Section 80 of the Building Act 1984.

- 5.54 To issue Notices under Sections 24, 71 and 72 of the Building Act 1984, requiring adequate entrances, exits and means of escape in case of fire in appropriate buildings.
- 5.55 To serve Notices under Section 79 of the Building Act 1984 relating to ruinous and dilapidated buildings.
- 5.56 To enter sites and premises to carry out and enforce the Statutory Powers and Duties, such visits to be properly recorded.
- 5.57 To carry out tests on sewers, drains and land and where necessary to take samples and conduct tests on other building materials.
- 5.58 To take emergency action under the provisions of Section 78 of the Building Act 1984 in respect of dangerous structures.
- 5.59 To take action to enforce Building Regulations, including the issue of written Notices.
- 5.60 To place officers within the building control team at the disposal of Mid Devon District Council under section 113 Local Government Act 1972

Crematorium

- 5.61 To discharge any functions relating to the efficient management and running of North Devon Crematorium

6 CHIEF FINANCIAL OFFICER – DIRECTOR OF RESOURCES AND DEPUTY CHIEF EXECUTIVE

- 6.1 The investment and re-investment of Council monies provided this is undertaken in accordance with the Financial Procedure Rules and any other relevant policies.
- 6.2 To draw, sign and endorse cheques on the Council's Bank Accounts, to pay approved accounts including wages and salaries, housing benefit and all other authorised payments.
- 6.3 To authorise and make transfers between the Council's bank accounts, including power to authorise and act as authorised signatory for the purposes of instructing the Council's bankers to make transfers by electronic transfer.
- 6.4 To borrow and raise loans on behalf of the Council provided this is undertaken in accordance with the Financial Procedure Rules and any other relevant policies
- 6.5 To act as signatory for Housing Association Partnership/Homes and Communities Agency documents.
- 6.6 To make the following determinations relating to the statement of accounts under the Local Government and Housing Act 1989:

- (a) the amount to be set aside from revenue account as provision for credit liabilities (Section 63(1))
 - (b) the amount of capital expenditure to be financed by credit approval (Section 56(1));
 - (c) the amount of credit approval (if any) to be transferred to another local authority (Section 56(2));
 - (d) the amount of capital expenditure to be financed by useable capital receipts (Section 60(2)).
- 6.7 To act as authorised signatory, authorise transfer and/or give instructions to the Council's bankers to transfer money from, between and to accounts held by or on behalf of the Council in respect of sums properly payable and/or held by the Council.
- 6.8 To act as Proper Officer for the purposes of the following provisions of the Local Government Act 1972:
- (a) Section 115(2) (Accountability of Officers);
 - (b) Section 146 (Transfer of Securities on Alteration of Area Etc.)
- 6.9 To make a statutory declaration of local authority mortgage interest.
- 6.10 To respond to notices in relation to any financial sanctions.
- 6.11 To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.
- 6.12 To consider and determine whether the Council should opt to tax any property to preserve the interest of the Council
- 6.13 To act as Stage 1 Internal Dispute Resolution in respect of pensions

Treasury Management

- 6.14 To plan and manage the Council's cash flow requirements within approved borrowing limits and in accordance with the Council's investment strategy.
- 6.15 To sign or endorse cheques drawn on the council's accounts.
- 6.16 To authorise writing-off customer invoices. Subject to the amount to be written off in respect of one customer not exceeding £1,500 and a list of all debts written off being placed in the Members' Room.
- 6.17 To take any applicable recovery action in respect of outstanding sums due to the Council, including appearing in Court

Loans Administration

- 6.18 In accordance with Council policy, to advance loans to third parties and to take action to recover loan repayments due to the Council.
- 6.19 To commence repossession action proceedings.
- 6.20 To declare Interest rates under the Housing Act 1985 and other interest rates appropriate to a class of loan.

Revenues and Benefits

- 6.21 To administer and implement the Benefit Scheme, including the exercise of all discretions on behalf of the Council
- 6.22 To represent the Council in bankruptcy and liquidation proceedings.
- 6.23 To represent the Council in the Magistrates Court on applications for Liability Orders in respect of Council Tax and Non Domestic Rates.
- 6.24 To approve applications for mandatory rate relief
- 6.25 To determine applications for discretionary rate relief in accordance with Council policy or any statutory provision
- 6.26 To approve claims for a reduction in Council Tax due as a consequence of the statutory provisions of the Local Government Finance Act 1992.
- 6.27 To administer the Discretionary Housing Payment Scheme and to make decisions in respect of applications.
- 6.28 To offer administrative penalties as an alternative to prosecution for housing benefit and council tax fraud cases.
- 6.29 To instigate, defend, attend at, represent and take further action as deemed appropriate in respect of housing benefit, council tax benefit, or council tax support appeals.
- 6.30 To administer the Council Tax Support Scheme.

Miscellaneous

- 6.31 To attest the Council seal and sign any document necessary to give effect to:
 - (a) a resolution of the Council ; and/or
 - (b) the exercise of a power or function delegated by the Council, provided that any such attestation or signing accords with Article 12 of the Constitution.

- 6.32 To exercise all powers referred or delegated to the Chief Executive or the Head of Place, Property and Regeneration when that officer is either absent or otherwise unavailable.

7 HEAD OF PLACE, PROPERTY AND REGENERATION Planning Policy

- 7.1 To make any drafting amendment to any emerging development plan document and supplemental planning document which is in the course of preparation and is produced for the purposes of the Town and Country Planning Act 1990 that in the opinion of the Head of Place, Property and Regeneration is of a minor nature and to consider and respond to requests and questions from an appointed Inspector during a Development Plan examination.
- 7.2 To consider and determine any matter arising in respect of the Council's planning policy function.

Miscellaneous

- 7.3 To carry out the Council's functions as Land Drainage Authority in accordance with the Land Drainage Act 1991.
- 7.4 To carry out the Council's functions as Maritime District Council in accordance with the Coast Protection Act 1949.

Car parking

- 7.5 To arrange for vehicles parked illegally on car parks controlled by the Off-Street Parking Places Order to be removed.
- 7.6 To manage car parks in accordance with the Off Street Parking Order including the issuing of penalty notices and permits.

Property Management

- 7.7 To manage the Council's leased property assets in line with the relevant corporate guidance and commercialisation strategy, including:
- (a) Lettings and lease renewals (except where the term created exceeds 21 years);
 - (b) Variation to or rectification of lease terms;
 - (c) Change of use (as would not require planning permission for change of use);
 - (d) Alienation;

- (e) Break options;
- (f) Surrenders;
- (g) Rent reviews;
- (h) Alterations;
- (i) Dilapidations;
- (j) Rent free periods, rent abatement and rent holidays; and (k) Service charges.

7.8 To determine freehold and, in accordance with paragraph 7.7 above, long leasehold land (up to a term of 21 years) and other property transactions, in consultation with Senior Management Team, the Leader, the Deputy Leader and the Lead Member, including acquisitions and disposals, up to a financial level of £250,000.00.

7.9 To determine all applications for the consent of the Council in its capacity as landlord or landowner pursuant to any requirement for such consent contained in any lease, transfer or other instrument pertaining to interests in land to which the Council is a party save to the extent that such power is otherwise specifically delegated by the Scheme of Delegations.

7.10 To determine applications (including all fees and charges) from statutory undertakers, parties providing essential utilities and other public sector bodies, for:

- (a) Licences;
- (b) Wayleaves;
- (c) Easements; and
- (d) Sales or leases of land for sub-stations or similar installations

7.11 To determine applications and renewals (including all fees and charges) for
 (a) temporary licences for land use (including advertising) and access (b) annual licences relating to property management.

7.12 To manage the Council's property portfolio, including making planning and building regulation applications on Council property assets as required for their effective use and management.

7.13 The power to:

- (a) Consider and decide the merits of any claim to ownership of or rights over land owned by the Council, and as appears at her discretion to be appropriate either:

- (i) Lodge and pursue objection with the Land Registry; or
 - (ii) Accept and agree the claim; or
 - (iii) Negotiate and carry through settlement of the claim.
- (b) Determine whether or not to:
 - (i) seek rectification of the Land Registers in respect of Council land already registered to third parties; and/or
 - (ii) pursue registration of any land to which the Council holds disputed title.

Pannier Market

- 7.14 To enforce any bye-laws relating to Barnstaple Pannier Market.
- 7.15 To determine whether to grant or refuse (with or without modification) Barnstaple Pannier Market licenses
- 7.16 To undertake minor amendments to the charges structure to facilitate good management of the Pannier Market.
- 7.17 To reduce or waive the pitch fees applicable to the Pannier Market in Barnstaple.

8 HEAD OF ENVIRONMENTAL ENHANCEMENT

- 8.1 The power to manage, administer and operate waste and litter collection services.
This power includes:

- (a) determination of whether a place at which fly-tipped waste is situated is so isolated as to make the cost of collection unreasonably high,
 - (b) setting of charges for the collection of waste
 - (c) determination of whether to collect industrial waste or other waste where the Council has the discretion to decide
 - (d) disposal of the collected waste
 - (e) determination of the specific receptacles for storage and collection of waste
 - (f) serving litter clearance and other notices relating to waste and litter
 - (g) in consultation with the Chief Financial Officer, disposal of plant and equipment used within the service

Burial grounds

- 8.2 To approve the erection of memorials in cemeteries administered by the Council.

- 8.3 To manage and administer burial grounds.
- 8.4 To agree and sign exclusive rights of burial
- 8.5 The power to execute exclusive Rights of Burial on behalf of the Council

9 HARBOUR MASTER

- 9.1 To exercise within all harbours administered by the Council all statutory and regulatory powers given to a Harbourmaster under the provisions of the Harbours Docks and Piers Clauses Act 1847, the Harbours Act 1964 and all relevant byelaws.

10 SENIOR SOLICITOR AND MONITORING OFFICER

- 10.1 To instruct and use Counsel and other external experts in respect of any legal issues relating to the Council.
- 10.2 To institute, prosecute, defend, and appear in any legal proceedings (including tribunals, hearings and inquiries) on behalf of the Council and to take such decisions affecting such matters as are necessary.
- 10.3 To prepare, issue and serve any Notices, Orders, Requisitions or other documents arising from or relating to any functions of the Council.
- 10.4 To take such further action as the Monitoring Officer at his absolute discretion deems necessary for the purposes of implementing, enforcing in respect of breaches of, or regulating any decisions, Notices, Orders, Requisitions or other documents (including any conditions relating thereto) issued by or on behalf of the Council.
- 10.5 To consider applications for, any representations received in respect of, and determine whether to grant or refuse (with or without modification) a road closure pursuant to the Town Police Clauses Act 1847.
- 10.6 To consider and determine applications for late night opening in accordance with the Shops Act 1950.
- 10.7 After consultation with the Head of Planning, Housing and Health and having considered any representations, to determine whether or not to confirm (with or without modification) a Tree Preservation Order pursuant to the Town and Country Planning Act 1990.
- 10.8 To consider and determine whether to vary and / or revoke a Tree Preservation Order pursuant to the Town and Country Planning Act 1990.

- 10.9 Where no objections have been received, to determine whether or not to confirm any bylaw which the Council has the statutory power to issue. Provided that where an objection has been received determination can still be made if in the opinion of the Monitoring Officer there is an urgent need for a decision.
- 10.10 To consider and determine applications for certificates of lawfulness of existing use or development and certificates of lawfulness of proposed use or development pursuant to the Town and Country Planning Act 1990.
- 10.11 To attest the Council seal and sign any document necessary to give effect to:
- (a) a resolution of the Council ; and/or
 - (b) the exercise of a power or function delegated by the Council, provided that any such attestation or signing accords with Article 11 of the Constitution
- 10.12 To hear and determine the appropriate action / responses to any offers and representations on behalf of the Council at a meeting, which, pursuant to any statutory authority, a person is entitled to make to the Council.
- 10.13 In the absence of the Chief Financial Officer, in respect of any proceedings, to consider and determine whether the Council should lodge a formal offer with the Court.
- 10.14 To act as the Proper Officer to receive complaints of breach of the Members' Code of Conduct.
- 10.15 To grant or refuse dispensation for a Member to participate in a meeting on a matter that would otherwise be barred by the Code of Conduct, but only on the grounds that without the dispensation the meeting would be inquorate. A Member who is dissatisfied with the decision of the Monitoring Officer shall have a right of appeal to the Governance Committee.
- 10.16 Power to deal with, consider and determine complaints regarding the conduct of District and Parish Councillors, including
- (a) the power to make recommendations to Group Leaders, Committees and Full Council,
 - (b) the power to consult with an Independent Person, and
 - (c) the power to refer a complaint to the Governance Committee.
- 10.17 Power to take decisions on whether to list an asset as an Asset of Community Value

10.18 Power to make changes to the Constitution in order to give effect to legislation changes and to make minor amendments, in consultation with the Leader.

10.19 Power to make any changes to the Policy on the use of covert surveillance to ensure that it is in compliance with the relevant legislation and Code of Practice

11. HEAD OF GOVERNANCE

11.1 Power to award Councillor and Community Grants in accordance with Council policies

11.2 Power to agree compensation payments recommended as a result of a complaint up to a value of £1,000.00

11.3 Power to agree to advertisement or sponsorship arrangements and the power, in consultation with the Chief Financial Officer and the relevant Portfolio Holder, to set appropriate fees for such arrangements.

ANNEXE 3 –

A - DELEGATIONS TO COUNCILLORS

The power to award community grants of up to £1,000 per annum to organisations based within the Councillor's ward subject to the awarding of the grant complying with the relevant policy of the Council and subject also to the Council agreeing the necessary budget and PROVIDED THAT this power shall not be exercised by a Councillor to award a grant to an organisation in which he/she has a disclosable pecuniary interest, a prejudicial interest or a personal interest as defined within the current Code of Conduct, or in which he/she is otherwise a member of.

B – ROLE OF LEAD MEMBERS

Lead members will be appointed and removed by Full Council where Full Council considers it appropriate to do so based on the needs of the Council taking into account the Corporate Plan and other strategies. Lead members will act as spokesperson for the area/subject designated by Full Council and will also act as the Council representative for that area/subject other than where the Leader considers differently. Lead members will have no delegated decision making powers and will be appointed for the period set by Full Council. This is further expanded upon in Part 7.

NDDC CONSTITUTION Part 3

ANNEXE 4

JOINT ARRANGEMENTS

Part A Joint Building Control – Mid Devon District Council

1. Each of the Partner Authorities shall appoint two members (being elected members of that Partner Authority) as its nominated member of the Joint Committee. The members appointed shall have full voting rights.
2. Each Partner Authority may nominate one or more substitute members to attend any meeting in place of an appointed member from that Partner Authority, subject to notification being given to the Lead Authority responsible for governance and secretarial Support Services, before the start of the meeting. The member appointed as a substitute shall have full voting rights where the member for whom they are substituting does not attend. If all of a Partner Authority's nominated members attend a meeting of the Joint Committee, any named substitute may also attend as an observer but shall not be entitled to vote.
3. Each member of the Joint Committee shall comply with the Code of Conduct of their Partner Authority when acting as a member of the Joint Committee.
4. Each of the Partner Authorities may remove any of its nominated members or substitute members of the Joint Committee and appoint a different member or substitute to the Joint Committee by giving written notice to the Lead Authority for governance and secretarial Support Services.
5. Each Partner Authority shall have two votes. These shall be exercised by the nominated members who are elected members of the Partner Authority. In the absence of a Partner Authority's nominated member, a vote may be exercised by the named substitute who is an elected member of the Partner Authority or, where notice has been given to the Lead Authority responsible for governance and secretarial Support Services before the start of the meeting, by proxy by the other nominated member of that Partner Authority.
6. Each member of the Joint Committee shall serve upon the Joint Committee for as long as he or she is appointed to the Joint Committee by the relevant Partner Authority but a member shall cease to be a member of the Joint Committee if he or she ceases to be a member of the Partner Authority appointing him or her as a member of the Joint Committee.

NDDC CONSTITUTION

Part 3

7. Any casual vacancies howsoever arising shall be filled by the Partner Authority from which the vacancy arises by notice in writing sent to the Lead Authority for governance and secretarial Support Services.
8. Meetings of the Joint Committee shall be held at the offices of the member appointed as chairperson, unless otherwise agreed by the Joint Committee.
9. The Partner Authority hosting the first meeting shall appoint one of its nominated members as chairperson and that member shall remain chairperson until the first meeting taking place after the elapse of one year from the time of his or her appointment unless he or she ceases to be a member of the Joint Committee. On the expiry of the first chairperson's term of office as chairperson, the Partner Authority which did not appoint the first chairperson shall appoint one of its nominated members as chairperson for a period of one year from the time of his or her appointment. The same procedure shall be followed for the appointment of chairperson in subsequent years.
10. The Partner Authority which has not appointed the chairperson of the Joint Committee in any year shall appoint one of its nominated members as vice chairperson.
11. The Joint Committee shall meet once every quarter unless otherwise determined by the Joint Committee.
12. The Lead Authority for governance and secretarial Support Services may call additional meetings by providing at least five clear days' notice to members of the Joint Committee, for the purposes of resolving urgent matters arising between the bi-monthly meetings of the Joint Committee. The Lead Authority for governance and secretarial Support Services must call a meeting of the Joint Committee if at least one member of the Joint Committee from each Partner Authority requests it or if the Head of Paid Service of both Partner Authorities requests it.
13. Meetings shall be notified to members of the Joint Committee by the Lead Authority for governance and secretarial Support Services.
14. The Lead Authority for governance and secretarial Support Services shall send, electronically, to all members and relevant officers of each Partner Authority, the agenda for each meeting of the Joint Committee no later than five clear Working Days before the date of the relevant meeting. That Lead Authority shall also send, to all members of the Joint Committee, to the Political Group Leaders of each Partner Authority and relevant officers of each Partner Authority, printed copies of the agenda for each meeting of the Joint Committee no later than five clear Working Days before the date of the relevant meeting.

NDDC CONSTITUTION

Part 3

15. The Lead Authority for governance and secretarial Support Services shall arrange for written minutes to be taken of each meeting of the Joint Committee and shall arrange for an officer to present them to the Joint Committee at its next meeting for approval as a correct record. If the Joint Committee confirms that the minutes contain an accurate record of the previous meeting, those minutes shall be signed by the chairperson and vice chairperson.
16. Meetings of the Joint Committee will commence at 10.00am unless otherwise agreed by the Joint Committee. Meetings of the Joint Committee shall end no later than 1.00pm unless otherwise agreed by the Joint Committee.
17. A meeting of the Joint Committee shall require a quorum of two members with at least one member being from each Partner Authority who is entitled to attend and vote. If there is a quorum of members present but neither the chair nor the vicechair is present, the members present shall designate one member to preside as chair for that meeting.
18. Subject to the provisions of any enactment, all questions coming or arising before the Joint Committee shall be decided by a majority of the Partner Authority members of the Joint Committee immediately present and voting thereon. Subject to the provisions of any enactment, in the case of an equality of votes the chairperson shall have a second or casting vote but, before exercising this, the chairperson shall consider whether it is appropriate to defer the matter to the next meeting of the Joint Committee.
19. Any member of the Joint Committee may request the Joint Committee to record the votes of individual members of the Joint Committee on a matter for decision.
20. A member, when speaking, shall address the chairperson. If two or more members wish to speak, the chairperson shall call on one to speak. While a member is speaking all other members shall remain silent.
21. A member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order.
22. Only one amendment to a proposal may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of, providing the chairperson may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Joint Committee's business.
23. If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion, as amended, shall take the place of the

NDDC CONSTITUTION

Part 3

original motion and shall become the motion upon which any further amendment may be moved.

24. The order of business shall be indicated in the agenda for the meeting.
 25. When a motion is under debate by the Joint Committee no other motion shall be moved except the following:
 - 25.1 to amend the motion;
 - 25.2 to adjourn the meeting;
 - 25.3 to adjourn the debate;
 - 25.4 to proceed to the next business;
 - 25.5 that the question may now be put;
 - 25.6 that a member shall not be further heard;
 - 25.7 by the chairperson, that a member leave the meeting;
 - 25.8 a motion under section 100(A)(4) of the Local Government Act 1972 to exclude the public; or
 - 25.9 to postpone consideration on an item.
 26. A member may move without comment at the conclusion of a speech of another member, "That the Committee proceed to the next business", "That the question may now be put", "That the debate is now adjourned", or "That the Committee now adjourn", on the seconding of which the chair shall proceed as follows:
 - 26.1 on a motion to proceed to next business: unless in his/her opinion the matter before the meeting has been insufficiently discussed to put to the vote, the motion to proceed to next business;
 - 26.2 on a motion that the question may now be put: unless in his/her opinion the matter before the meeting has been insufficiently discussed he/she shall first put to the vote the motion that the question may now be put; or
 - 26.3 on a motion to adjourn the debate or meeting: if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion put the adjournment motion to the vote.
- The ruling of the chair shall not be open for discussion.
27. Any member of the Partner Authorities who is not a member of the Joint Committee is entitled to attend the Joint Committee but he/she shall not be entitled to vote, shall not take part in the consideration or discussion of any

NDDC CONSTITUTION

Part 3

business, save by leave of the chairperson, and comments will be recorded only on the direction of the chairperson.

28. The following elected representatives are entitled to attend the Joint Committee but they shall not be entitled to vote, shall not take part in the consideration or discussion of any business, save by leave of the chairperson and comments will be recorded only on the direction of the chairperson:
 - 28.1 Members of parish councils within the districts of the Partner Authorities;
 - 28.2 Members of Parliament for the residents of the Partner Authorities; and
 - 28.3 Members of the European Parliament for the residents of the Partner Authorities.
29. Meetings of the Joint Committee will be open to the public except to the extent that they are excluded under paragraph 31.
30. Members of the public wishing to address the Joint Committee (or a sub-committee of the Joint Committee) on Part I reports contained within the agenda for the meeting shall be given the opportunity to do so subject to:
 - 30.1 the opportunity being extended to one person to speak in support of each agenda item and one person to speak against each agenda item when called to do so by the chairperson;
 - 30.2 an indication of the desire to speak on the agenda item being made by the person just prior to the meeting and the name supplied to the chairperson (by means of a register), the first person registering to have precedence in the event of more than one person wishing to speak either for or against an agenda item;
 - 30.3 each person addressing the Joint Committee or sub-committee of the Joint Committee being limited to three minutes' speech;
 - 30.4 an opportunity being provided for an expression of a contrary view, even though no prior notice has been given, when a member of the public has spoken for or against an item;
 - 30.5 in the event of the person having registered to speak on an agenda item not wishing to take up their right to speak on the agenda item because it was deferred, that person will automatically be given the right to speak on the agenda item at the next meeting of the Joint Committee or sub-committee of the Joint Committee; and
 - 30.6 the chairperson of the meeting having discretion to rule that a person wishing to address the meeting shall not be heard if, in the chairperson's view, that

NDDC CONSTITUTION

Part 3

issue or the organisation or the person wishing to make the representation on that issue has received an adequate hearing.

31. In accordance with the requirements of the 1972 Act and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public or press must be excluded from a meeting by resolution of the Joint Committee during an item of business if that item includes:
 - 31.1 confidential information, as defined in section 100A(3) of the 1972 Act; or
 - 31.2 exempt information, as defined in section 100I of the 1972 Act.
32. Each Partner Authority may call in any decision of the Joint Committee in accordance with the overview and scrutiny provisions of that Partner Authority's constitution. If any decision of the Joint Committee is subject to call-in by a Partner Authority, the Joint Committee shall take no action to implement that decision unless the call-in process upholds the decision.
33. The Joint Committee may delegate a function to an officer.
34. Any contractual arrangements that relate to a Shared Service will be undertaken by one of the Partner Authorities and that Partner Authority shall apply its own financial regulations and contract procedure rules to such an arrangement. The Partnership Leader of the relevant Shared Service that is incurring the expenditure will normally determine which of the Partner Authority's financial regulations and contract procedure rules will apply and, in the event of any dispute or uncertainty, the matter should be referred to the Heads of Paid Service for determination.
35. The Lead Authority responsible for governance and secretarial Support Services shall provide administrative support services to the Joint Committee on such terms as may be agreed from time to time between the Partner Authorities. The Partner Authorities shall make available committee officers to provide administrative services at the meetings of the Joint Committee as appropriate and in consideration of where the meetings are being held.
36. The Lead Authority for legal Support Services shall provide the Joint Committee with legal advice and support on such terms as may be agreed from time to time between the Partner Authorities.
37. The Lead Authority for financial Support Services shall provide the Joint Committee with financial advice and support on such terms as may be agreed from time to time between the Partner Authorities.

ANNEXE 4

JOINT ARRANGEMENTS

Part B North Devon Council – Torrington District Council

NORTH DEVON DISTRICT COUNCIL

And

TORRINGTON DISTRICT COUNCIL

Agreement establishing Constitution

Of the

North Devon Crematorium Committee

NDDC CONSTITUTION

Part 3

AN AGREEMENT made the 23rd August day of one thousand nine hundred and seventy four

BETWEEN the NORTH DEVON DISTRICT COUNCIL of Civic Centre Barnstaple Devon of the first part and the TORRIDGE DISTRICT COUNCIL of Council Offices Bideford Devon of the second part

WHEREAS

1. The aforesaid Councils are each empowered by the Local Government Act 1972 and the Cremations Act 1902 as amended by the Cremations Act 1952 to provide and maintain crematoria.
2. Each of the Councils is a Local Authority for the purposes of the Local Government Act 1972 and by Section 101 of that Act is empowered to arrange for the discharge of certain of their functions including the provision maintenance and management of crematoria by a joint committee except the power of levying or issuing a precept for a rate of borrowing money.
3. By Section 103 of the Local Government Act 1972 it is provided that the expenses of a joint committee appointed thereunder shall be defrayed by the appointing authorities in such proportions as they may agree upon.
4. The constituent Councils have passed the necessary resolutions for the purposes of entering into this Agreement.

NOW IT IS HEREBY AGREED by and between the parties hereto in pursuance of the powers conferred upon by them by the hereinbefore recited enactments and of every power in that behalf them respectively hereunto enabling as follows:-

1. **A JOINT COMMITTEE** of the Councils of the Local Authorities parties hereto shall be and is hereby formed consisting of such number of members appointed by each of the constituent Councils as is hereinafter mentioned and having the functions powers and duties upon and subject to the terms and conditions set forth in this Agreement.
2. **THE said Joint Committee shall be called** "THE NORTH DEVON CREMATORIUM COMMITTEE" and is hereinafter referred to as THE "JOINT COMMITTEE."
3.
 - I. **THE Joint Committee shall consist** of 1 MEMBERS appointed by the constituent Councils from among members of such constituent Councils respectively.
 - II. **SEVEN** of the said members shall be appointed by North Devon District
 - III. **FIVE** of the said members shall be appointed by the Torridge District Council
 - IV. **THE** first of these appointments shall be made not later than at the first meeting of each representative Council held after 1st April 1974 and each representative so appointed shall hold office until immediately before the next following Annual Meeting of the Council.
 - V. **EACH of the constituent Councils shall** at or as soon as possible after the Annual Meeting of such respective Council in the year 1975 and at or

NDDC CONSTITUTION

Part 3

as soon as possible after the Annual Meeting in every year thereafter appoint representatives as mentioned in sub-clauses (ii) and (iii) above and the person so appointed shall (unless they or any of them die resign become disqualified or cease to be qualified) hold office for a TERM OF ONE YEAR expiring immediately before the next following Annual Meeting of the Council which they represent and shall then retire and their places shall be filled by the person or persons appointed for the purpose by such Council at that meeting provided that any person so ceasing to be a member of the Joint Committee shall be eligible for re-appointment unless that person ceases to be qualified or is disqualified for appointment

- VI. IF at any time any representative member shall cease to be a member of the Council by whom he was appointed to the Joint Committee his membership of the Joint Committee shall forthwith determine
 - VII. IF a representative member fails to attend four consecutive meetings of the Joint Committee the Council by whom he was appointed may forthwith declare his office to be vacant and his membership of the Joint Committee shall there-upon forthwith determine and any such vacancy shall forthwith be signified to the Secretary of the Committee by the Secretary of the Council concerned
 - VIII. IF by reason of death resignation loss of qualification disqualification ceasing to be a member of the appointing Council failure to attend meetings or from any other cause there shall be a vacancy in the number of representatives on the Joint Committee of any of the constituent Councils the Council in whose representation the vacancy occurs may forthwith appoint a qualified person to fill such vacancy and the person so appointed shall hold office as a member of the Joint Committee until the date upon which the person in whose place he is appointed would regularly have retired and he shall then retire.
4. **THE FUNCTIONS** of the Joint Committee shall be as follows:-
- A. To perform the duties and fulfil all the requirements imposed upon the Constituent Councils by the Cremations Acts 1902 and 1952 and any subsequent legislation and any regulation or orders relating thereto
 - B. To control manage and maintain the North Devon Crematorium
5. **THE CONSTITUENT COUNCILS** hereby delegate to the Joint Committee upon and subject to the terms and conditions of this Agreement all the powers of the crematoria in the area of each of the constituent Councils other than the power of borrowing money levying or issuing a precept for a rate or holding land without prejudice to the generality of the foregoing the Joint Committee shall to the exclusion of the constituent Councils have all the powers of each of the constituent Councils under the Cremations Act 1902 and 1952 and under any Acts of Parliament or statutory instruments with respect to the provisions and maintenance of crematoria.
6. **THE JOINT COMMITTEE** shall from time to time appoint suitable persons to be Secretary and Treasurer respectively and such other officers and servants as they may from time to time deem necessary or desirable for the purpose of

NDDC CONSTITUTION

Part 3

carrying out the functions of the Committee (and the persons appointed or employed shall be paid such reasonable salaries wages or allowances as the Joint Committee may think proper) and every officer or servant so appointed or employed as aforesaid shall (subject to the terms of their respective appointment) be removable by the Joint Committee at their pleasure; the Joint Committee may also make such provision as to the inclusion of their officers and servants within a superannuation scheme as may be practicable and to pay such contributions in respect of such officers and servants according to such superannuations scheme and any additional contributions as they may think proper.

7. (1) THE JOINT COMMITTEE shall in every year hold at least four meetings for the transactions of general business and may hold such other meetings at such intervals as they shall deem necessary or convenient.
- (2) NO business shall be transacted at a Meeting of the Joint Committee unless both constituent Councils are represented thereat and unless at LEAST ONE-THIRD of the whole number of members of the Joint Committee are present thereat.
- (3) THE Joint Committee shall make standing orders regulating procedure at their meetings and such standing orders shall provide for the election of a chairman and as to place and time of meeting.
- (4) THE Joint Committee shall have a power to appoint sub-committees from amongst their members for any purpose which in the opinion of the Joint Committee could be better managed or considered by means of a sub-committee and may make vary and revoke standing orders respecting the membership quorum and plan of meetings and generally as to the proceedings of any such sub-committee.
- (5) THE mode of voting at meetings of the Joint Committee or any sub-committee thereof shall be by show of hands and on the requisition of any member of the Joint Committee the voting on any question shall be recorded so as to show whether each member present and voting gave his vote for or against that question.
- (6) A COPY of the MINUTES of proceedings of each meeting of the Joint Committee shall be sent to each constituent Council.
8. THE JOINT COMMITTEE and every officer thereof who is by reason of his office entrusted with the custody or control of monies shall keep accounts of all monies received by the Joint Committee or by any such officer on behalf of the Joint Committee and of all expenditure thereof by them or by him as may be required for the purposes of Part VIII of the Local Government Act 1972 or any statutory modification thereof or statutory instrument made thereunder.
9. IN ADDITION to the minutes referred to in sub-clause (6) of clause 7 above the Joint Committee shall as soon as may be after the thirty first day of March in every year send to each of the constituent Councils a report of the operation of the Joint Committee during the preceding financial year and a copy of the final accounts of the Joint Committee for such financial year the provisions of

NDDC CONSTITUTION

Part 3

such report being in addition to and not in substitution for the obligation to furnish to each of the constituent Councils copies of the Auditor's report on such accounts and on the financial statement thereof under Regulation 8 of the Audit Regulations 1934.

10. (1) IF the Joint Committee shall at any time desire to incur capital expenditure in connection with the provision of crematoria than unless the Joint Committee decide to defray such expenditure out of revenue the constituent Councils may at the request of the Joint Committee agree subject to the approval of the appropriate Secretary of State or Government Department to borrow and shall pay to the Joint Committee the amount required in such sums and at such times as the Joint Committee shall request and subject to such approval as aforesaid the borrowing thereof shall be for such periods at such rates of interest and on such terms and conditions as to mode of repayment and otherwise as the Joint Committee may reasonably prescribe or approve.

(2) SUBJECT as hereinafter provided the Joint Committee shall from time to time pay to the constituent Councils the amounts of all interest and of all instalments of principal or sinking fund contributions as and when the same shall become due and the costs of taking up any loans raised for such purposes by the said constituent Councils.

11. ALL REAL or leasehold property acquired or works constructed shall belong and be vested jointly in the constituent Councils but shall be maintained controlled and managed by the Joint Committee for crematoria purposes.

12. (1) ALL EXPENSES incurred by the Joint Committee in any financial year so far as they are not paid out of income other than contributions from the constituent Councils under this clause shall be borne by the constituent Councils respectively in proportion to the population of the respective districts according to the Registrar General's estimate for the mid-summer of that financial year and the Joint Committee may require each of the constituent Councils to pay to the Joint Committee on the first day of April or such other date as the Joint Committee may in any case determine in each financial year and such Councils shall pay to the Joint Committee such sums as the Joint Committee may estimate will be the proportion to be borne by that Council of any estimated deficit for that financial year provided that when the exact amount and proportion of the net expenditure of the Joint Committee for that financial year to be borne by each of the constituent Councils shall have been ascertained there shall be an appropriate adjustment between the joint Committee and each of the constituent Councils aforesaid.

(2) THE JOINT COMMITTEE may

- (a) USE PART of all of any profits or surplus made in any financial year to finance capital expenditure or redeem debt.
- (b) CARRY forward part or all of such profits or surplus as in the opinion of the Joint Committee may be required to meet contingencies or to defray any expenditure which may fall to be defrayed before the date on which monies to be received by the

NDDC CONSTITUTION

Part 3

Joint Committee whether from the constituent Councils in accordance with this Agreement or from the operation of the crematorium established by the Joint Committee will become available AND the joint Committee shall as soon as practicable return to the constituent Councils the amount of such profits or surplus not so applied by the Joint Committee in proportion to the total amount respectively contributed by each of the constituent Councils towards previous deficits returned to them the Joint Committee shall pay any unapplied profits of surplus to the constituent Councils in the same proportion in which by virtue of sub-clause (1) hereof the constituent Councils would have borne a deficit in that financial year had one occurred.

13. (1) This agreement may be terminated by giving to the other not less than two years notice in writing to that effect expiring on the thirty first day of March in any year but no such notice shall be given so as to expire before the thirty first day of March after the expiration of thirty years after the date on which this agreement is executed.

(2) IF by virtue of clause 11 of this Agreement any property or works are vested in a constituent Council giving notice such Council shall continue to permit such property or works to be used maintained controlled and managed by the remaining Committee for crematoria purposes on such terms as may be settled in the adjustment under Clause 15 hereof and for so long as this Agreement shall continue and the Committee so require.

(3) AT the request of the Joint Committee the Council in which any such property or works are vested shall transfer such property or works to the remaining Council.
14. (1) THE Council which has given notice under sub-clause (a) of Clause 13 shall bear the expense (in such proportion as may be agreed between the constituent Councils) of settling the adjustment required by Clause 15.
15. IN the event of a constituent Council withdrawing from this Agreement at any time hereafter or in the event of this Agreement being determined under the provisions hereinbefore contained or otherwise there shall as on the date of such withdrawal or determination be an adjustment between the then parties for the areas affected by this Agreement of all property income debts liabilities and expenses then existing and of any financial relations affected by such withdrawal or determination and on such adjustment there shall be an adjustment of capital assets and liabilities acquired or assumed by any such authorities on such withdrawal or determination including any outstanding loans as the case may be under Clause 10 hereof and provisions may then be made for the payment to the constituent Councils as the case may be of such sums as seems equitable.

NDDC CONSTITUTION

Part 3

16. SUBJECT to Section 103 of the Local Government Act 1972 all disputes between the constituent Councils or between any of them and the Joint Committee on interpretation of the Agreement and all disputes and differences in any way or at any time arising hereon (including without prejudice to the generality of these words the adjustment required by Clause 15 hereof) shall be referred to some competent arbitrator to be named by the appropriate Secretary of State or his successor in accordance with the provision of the Arbitration Act 1950 and any statutory modification or re-enactment thereof for the time being in force.
17. THE PROVISIONS of this deed may be varied from time to time by agreement between all the parties who are parties hereto immediately prior to the date of such variation.

IN WITNESS whereof the parties to this Agreement have respectively caused their Common seals to be hereunto affixed the day and year first before written

The COMMON SEAL of the NORTH DEVON

DISTRICT COUNCIL was hereunto

affixed in the presence of:-

Deputy Secretary

The COMMON SEAL of the TORRIDGE

DISTRICT COUNCIL was hereunto

affixed in the presence of:-

Secretary

ANNEXE 4

JOINT ARRANGEMENTS

Part C Joint Planning Policy - Torridge District Council

1. Each of the Partner Authorities shall appoint seven members (being elected members of that Partner Authority) as its nominated members of the Joint Committee. The members appointed shall have full voting rights. The members appointed must include:
 - 1.1 the Leader of each Partner Authority; and
 - 1.2 Lead Members for Economy, Environment, Climate, Planning, Housing and Community or such other members from TDC as TDC shall consider appropriate with the equivalent or such other members from NDDC as NDDC shall consider appropriate.
2. Each Partner Authority may nominate one or more substitute members to attend any meeting in place of an appointed member from that Partner Authority and notification being given to the Lead Authority responsible for governance and secretarial Support Services, before the start of the meeting. The member appointed as a substitute shall have full voting rights where the member for whom they are substituting does not attend. If all of a Partner Authority's nominated members attend a meeting of the Joint Committee, any named substitute may also attend as an observer but shall not be entitled to vote.
3. Each member of the Joint Committee shall comply with the Code of Conduct of their Partner Authority when acting as a member of the Joint Committee.
4. Each of the Partner Authorities may remove any of its nominated members or substitute members of the Joint Committee and appoint a different member or substitute to the Joint Committee by giving written notice to the Lead Authority for governance and secretarial Support Services.
5. Each Partner Authority shall have seven votes. These shall be exercised by the nominated members who are elected members of the Partner Authority. In the absence of a Partner Authority's nominated member, a vote may be exercised by the named substitute who is an elected member of the Partner Authority.
6. Each member of the Joint Committee shall serve upon the Joint Committee for as long as he or she is appointed to the Joint Committee by the relevant Partner Authority but a member shall cease to be a member of the Joint Committee if he or she ceases to be a member of the Partner Authority appointing him or her as a member of the Joint Committee.
7. Any casual vacancies howsoever arising shall be filled by the Partner Authority from which the vacancy arises by notice in writing sent to the Lead Authority for governance and secretarial Support Services.

NDDC CONSTITUTION

Part 3

8. Meetings of the Joint Committee shall be held at the offices of the member appointed as chairperson, unless otherwise agreed by the Joint Committee.
9. The Partner Authority hosting the first meeting shall appoint one of its nominated members as chairperson and that member shall remain chairperson until the first meeting taking place after the elapse of one year from the time of his or her appointment unless he or she ceases to be a member of the Joint Committee. On the expiry of the first chairperson's term of office as chairperson, the Partner Authority which did not appoint the first chairperson shall appoint one of its nominated members as chairperson for a period of one year from the time of his or her appointment. The same procedure shall be followed for the appointment of chairperson in subsequent years.
10. The Partner Authority which has not appointed the chairperson of the Joint Committee in any year shall appoint one of its nominated members as vice chairperson.
11. The Joint Committee shall meet once every quarter unless otherwise determined by the Joint Committee.
12. The Lead Authority for governance and secretarial Support Services may call additional meetings by providing at least five clear days' notice to members of the Joint Committee, for the purposes of resolving urgent matters arising between the bi-monthly meetings of the Joint Committee. The Lead Authority for governance and secretarial Support Services must call a meeting of the Joint Committee if at least five members of the Joint Committee from each Partner Authority requests it or if the Chief Executive of both Partner Authorities requests it.
13. Meetings shall be notified to members of the Joint Committee by the Lead Authority for governance and secretarial Support Services.
14. The Lead Authority for governance and secretarial Support Services shall publish the agenda for each meeting of the Joint Committee no later than five clear Working Days before the date of the relevant meeting.
15. The Lead Authority for governance and secretarial Support Services shall send, electronically, to all members and relevant officers of each Partner Authority, the agenda for each meeting of the Joint Committee no later than five clear Working Days before the date of the relevant meeting.
16. The Lead Authority for governance and secretarial Support Services shall arrange for written minutes to be taken of each meeting of the Joint Committee and shall arrange for an officer to present them to the Joint Committee at its next meeting for approval as a correct record. If the Joint Committee confirms that the minutes contain an accurate record of the previous meeting, those minutes shall be signed by the chairperson and vice chairperson.
17. Meetings of the Joint Committee will commence at 10.00am unless otherwise agreed by the Joint Committee. Meetings of the Joint Committee shall end no later than 1.00pm unless otherwise agreed by the Joint Committee.

NDDC CONSTITUTION

Part 3

18. A meeting of the Joint Committee shall require a quorum of seven members with a minimum of three members, who are entitled to attend and vote, coming from one Partner Authority with the remainder, to make the meeting at least quorate, from the other Partner Authority. If there is a quorum of members present but neither the chair nor the vice-chair is present, the members present shall designate one member to preside as chair for that meeting.
19. Subject to the provisions of any enactment, all questions coming or arising before the Joint Committee shall be decided by a majority of the Partner Authority members of the Joint Committee immediately present and voting thereon. Subject to the provisions of any enactment, in the case of an equality of votes the chairperson shall have a second or casting vote but, before exercising this, the chairperson shall consider whether it is appropriate to defer the matter to the next meeting of the Joint Committee.
20. Any member of the Joint Committee may request the Joint Committee to record the votes of individual members of the Joint Committee on a matter for decision.
21. A member, when speaking, shall address the chairperson. If two or more members wish to speak, the chairperson shall call on one to speak. While a member is speaking all other members shall remain silent.
22. A member shall direct his/her speech to the question under discussion or to a personal explanation or to a point of order.
23. Only one amendment to a proposal may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed of, providing the chairperson may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Joint Committee's business.
24. If an amendment is lost, other amendments may be moved on the original motion. If an amendment is carried, the motion, as amended, shall take the place of the original motion and shall become the motion upon which any further amendment may be moved.
25. The order of business shall be indicated in the agenda for the meeting.
26. When a motion is under debate by the Joint Committee no other motion shall be moved except the following:
 - 26.1 to amend the motion;
 - 26.2 to adjourn the meeting;
 - 26.3 to adjourn the debate;
 - 26.4 to proceed to the next business;
 - 26.5 that the question may now be put;
 - 26.6 that a member shall not be further heard;

- 26.7 by the chairperson, that a member leave the meeting;
- 26.8 a motion under section 100(A)(4) of the Local Government Act 1972 to exclude the public; or
- 26.9 to postpone consideration on an item.
- 27. A member may move without comment at the conclusion of a speech of another member, "That the Committee proceed to the next business", "That the question may now be put", "That the debate is now adjourned", or "That the Committee now adjourn", on the seconding of which the chair shall proceed as follows:
 - 27.1 on a motion to proceed to next business: unless in his/her opinion the matter before the meeting has been insufficiently discussed to put to the vote, the motion to proceed to next business;
 - 27.2 on a motion that the question may now be put: unless in his/her opinion the matter before the meeting has been insufficiently discussed he/she shall first put to the vote the motion that the question may now be put; or
 - 27.3 on a motion to adjourn the debate or meeting: if in his/her opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion put the adjournment motion to the vote.
- The ruling of the chair shall not be open for discussion.
- 28. Any member of the Partner Authorities who is not a member of the Joint Committee is entitled to attend the Joint Committee and make representations in respect of Non-Restricted and Restricted Items by leave of the chairperson (but shall not be entitled to vote or take part in the consideration or discussion of any business), and comments will be recorded only on the direction of the chairperson.
- 29. The following elected representatives are entitled to attend the Joint Committee and make representations in respect of Non-Restricted Items to the Joint Committee by leave of the chairperson (but shall not be entitled to vote or take part in the consideration or discussion of any business) and comments will be recorded only on the direction of the chairperson:
 - 29.1 Members of parish councils within the districts of the Partner Authorities;
 - 29.2 Members of Devon County Council; and
 - 29.3 Members of Parliament for the residents of the Partner Authorities.
- 30. Meetings of the Joint Committee will be open to the public except to the extent that they are excluded under paragraph 32.
- 31. Members of the public wishing to address the Joint Committee (or a sub-committee of the Joint Committee) on Non-Restricted Items contained within the agenda for the meeting shall be given the opportunity to do so subject to:
 - 31.1 the opportunity being extended to one or more person(s) at the discretion of the chairperson to speak in support of each agenda item and one or more

NDDC CONSTITUTION

Part 3

- person(s) at the discretion of the chairperson to speak against each agenda item when called to do so by the chairperson;
- 31.2 an indication of the desire to speak on the agenda item being made by the person in writing not less than two days before the scheduled Committee Meeting. The written request must be sent by e-mail to memberservices@northdevon.gov.uk or such other address as provided by the Lead Authority for governance and secretarial support;
- 31.3 each person addressing the Joint Committee or sub-committee of the Joint Committee being limited to three minutes' speech;
- 31.4 in the event of the person having registered to speak on an agenda item not wishing to take up their right to speak on the agenda item because it was deferred, that person will automatically be given the right to speak on the agenda item at the next meeting of the Joint Committee or sub-committee of the Joint Committee; and
- 31.5 the chairperson of the meeting having discretion to rule that a person wishing to address the meeting shall not be heard if, in the chairperson's view, that issue or the organisation or the person wishing to make the representation on that issue has received an adequate hearing.
- 32 In accordance with the requirements of the 1972 Act, the public or press must be excluded from a meeting by resolution of the Joint Committee during an item of business if that item includes:
- 32.1 confidential information, as defined in section 100A(3) of the 1972 Act; or
- 32.2 exempt information, as defined in section 100I of the 1972 Act.
33. The Joint Committee may delegate a function to an officer.
34. The Joint Committee may appoint such task teams or working groups as they consider appropriate in order to consider and report to the Joint Committee on specific matters.
35. Any contractual arrangements that relate to an Agreed Function will be undertaken by one of the Partner Authorities and that Partner Authority shall apply its own financial regulations and contract procedure rules to such an arrangement. The Partnership Leader of the Partner Authority that is incurring the expenditure will normally determine which of the Partner Authority's financial regulations and contract procedure rules will apply and, in the event of any dispute or uncertainty, the matter should be referred to the Chief Executives for determination.
36. The Lead Authority responsible for governance and secretarial Support Services shall provide administrative support services to the Joint Committee on such terms as may be agreed from time to time between the Partner Authorities. The Partner Authorities shall make available committee officers to provide administrative services at the meetings of the Joint Committee as appropriate and in consideration of where the meetings are being held.

37. The Lead Authority for legal Support Services shall provide the Joint Committee with legal advice and support on such terms as may be agreed from time to time between the Partner Authorities.
38. The Lead Authority for financial Support Services shall provide the Joint Committee with financial advice and support on such terms as may be agreed from time to time between the Partner Authorities.

COUNCIL PROCEDURE RULES

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

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

The annual meeting will:

- 1.1.1 elect a person to preside if the Chair and Vice Chair of the Council is not present;
- 1.1.2 elect the Chair of the Council;
- 1.1.3 elect the Vice-Chair of the Council;
- 1.1.4 in an election year, the outgoing Chair will preside until the election of a new Chair.
- 1.1.5 elect the Leader and Deputy Leader;
- 1.1.6 appoint such committees as the Council considers appropriate agree the Scheme of Officer Delegations (as set out in Part 3 of this Constitution); and
- 1.1.7 consider any business set out in the notice convening the meeting.

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- 1.2.1 decide which committees and sub-committees to establish for the forthcoming municipal year;
- 1.2.2 decide the size and terms of reference for those committees;

NDDC CONSTITUTION

Part 4

- 1.2.3 decide the allocation of seats to political groups in accordance with the political balance rules;
- 1.2.4 receive nominations of councillors to serve on those committees;
- 1.2.5 appoint the Chairs and Vice-Chairs of Committees save where the Constitution expressly provides otherwise; and
- 1.2.6 appoint non-voting Members to any Committee as it deems appropriate;
- 1.2.7 make appointments to outside bodies except where appointment to those bodies has been delegated by the Council.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with the approved programme. The order of business at ordinary meetings will be as follows:

- 2.1 elect a person to preside if the Chair and Vice-Chair are not present until such time as they are present;
- 2.2 apologies for absence;
- 2.3 approve the minutes of the last meeting and sign the minutes of the last meeting of Council;
- 2.4 receive any announcements from the Chair;
- 2.5 any business required by statute to be undertaken before any other business;
- 2.6 business brought forward by or with the consent of the Chairman;
- 2.7 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions;
- 2.8 receive petitions from the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions;

NDDC CONSTITUTION

Part 4

- 2.9 Deal with questions from Members in accordance with Rule 10.
- 2.10 consider motions;
- 2.11 receive any declarations of interest from Members;
- 2.12 where the meeting has been called by Members under the provisions of Schedule 12 of the 1972 Act to consider the business specified in the summons;
- 2.13 where a meeting has been summoned to consider:
 - 2.13.1 a change of name of the area of the authority under section 74 of the 1972 Act;
 - 2.13.2 the promotion or opposition of a bill under section 239 of the 1972 Act;
 - 2.13.3 the presentation of a petition to The Queen praying for the grant of a charter under section 245 of the 1972 Act; and
 - 2.13.4 a report from the Chief Financial Officer under section 114 of the 1988 Act; and
 - 2.13.5 a report from the Monitoring Officer under section 5 of the 1989 Act.
- 2.14 Where the meeting is the last ordinary meeting before 2 April in any year, and where the Council has not set an amount for their Council Tax for the ensuing financial year, to consider the setting of such amount;
- 2.15 To consider items of business if any which were on the agenda of the last meeting of the Council and which were not disposed of or did not lapse;
- 2.16 Receive a report from the Leader and receive questions and answers on the report;
- 2.17 Receive reports from the Council's committees and receive questions and answers on those reports;

NDDC CONSTITUTION

Part 4

- 2.18 Receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 2.19 Consider any other business specified in the summons to the meeting, including consideration of proposals from the Strategy and Resources Committee in relation to the Council's budget and policy framework and reports of the Policy Development Committee;

3. **EXTRAORDINARY MEETINGS**

3.1 **Calling extraordinary meetings of Council**

The Proper Officer may call Council meetings in addition to ordinary meetings and those listed below may request the Proper Officer to call additional Council meetings:

- 3.1.1 the Council by resolution;
- 3.1.2 the Chair of the Council;
- 3.1.3 any five Members of the Council if they have signed a requisition presented to the Chair of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition;
- 3.1.4 The Monitoring Officer;
- 3.1.5 The Chief Financial Officer;
- 3.1.6 The Chief Executive;

3.2 **Business**

The business to be conducted at an extraordinary meeting shall be restricted to the item(s) of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc.

3.3 **Calling extraordinary meetings of Committees etc**

The Council shall fix the date, time and place of ordinary meetings of Committees subject to the Chair of the relevant Committee having the right to change the date, time or venue of a Committee meeting at their

NDDC CONSTITUTION

Part 4

discretion. Those listed below may call extraordinary meetings of Committees or Sub- Committees:

3.3.1 The Chair or Vice Chair of Council

3.3.2 The Chair or Vice Chair of the relevant Committee or Sub-Committee

3.3.3 The Chief Executive

4. TIME, PLACE AND DURATION OF MEETINGS

4.1 Time and Place of Meetings

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

4.2 Duration of Meetings

At an ordinary meeting of the Council, when 3 hours have elapsed after the commencement of the meeting, the Chair shall, at the conclusion of the debate on the item of business then under consideration, put the matter in hand to the vote and then adjourn the meeting to a time fixed by the Council, Committee or Sub-Committee at the time of the adjournment unless the Members resolve to continue the sitting.

5. NOTICE OF AND SUMMONS TO MEETINGS

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Proper Officer will send an electronic summons signed by him to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to committee and sub-committee meetings, references to the Chair also include the Chair of committees and sub-committees.

July 2022

7. **QUORUM**

The quorum of a meeting will be one quarter of the whole number of Members provided that in no case shall the quorum be less than three voting members or in the case of a Sub Committee of the Licensing and Community Safety Committee two voting members. 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 for fifteen minutes. If after fifteen minutes the person presiding, after again causing the number of Members present to be counted, declares that there is still no quorum, the meeting shall end. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. **QUESTIONS BY THE PUBLIC**

8.1 **General**

8.1.1 Subject to 8.3 below members of the public may ask questions at ordinary meetings of the Council.

8.1.2 The total time allocated for questions by the public should be limited to 15 minutes.

8.2 **Order of questions**

Questions will be asked in the order that notice of them was received, except that the Chair may group together similar questions.

8.3 **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Senior Solicitor and Monitoring Officer at least 9 clear working days before the day of the meeting. Each question must give the name and address of the questioner, make it clear to whom the question is directed and identifies the meeting of Council to which it is intended to be put. Questions will be no more than 100 words long unless otherwise agreed with the Chair in advance of the meeting.

8.4 **Number of questions**

NDDC CONSTITUTION

Part 4

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation. There shall be no more than two public questions considered at any one meeting.

8.5 Scope of questions

The Senior Solicitor and Monitoring Officer may reject a question if it:

- 8.5.1 is not about a matter for which the Council has a responsibility or which affects the District;
- 8.5.2 is defamatory, frivolous or offensive;
- 8.5.3 is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- 8.5.4 requires the disclosure of confidential or exempt information, or
- 8.5.5 is otherwise inappropriate

8.6 Record of questions

The Senior Solicitor and Monitoring Officer will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

8.7 Asking the question at the meeting

The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair will put the question on the questioner's behalf and may indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

8.8 Supplementary question

A questioner who has put a question in person may also put one supplementary question without notice. 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 set out in Rule 8.5 above.

8.9 Answers

An answer may be given orally or in writing at the meeting or in writing after the meeting. Any written answer will be circulated to all Councillors.

8.10 Discussion

No discussion will take place on any question or answer.

9. PETITIONS FROM THE PUBLIC

9.1 Notice of Petition

If a citizen wishes to present a petition to a Council meeting, notice must be given by that citizen, or by a Member on their behalf, at least 9 clear working days before the meeting. Petitions to be debated at the Council meeting will have been selected according to the Petitions Scheme.

9.2 Presentation of Petitions

The petition organiser, or a Member acting on their behalf, will be allowed 5 minutes to present the petition at the meeting. Only one person may speak to present a petition. No Member may present a petition if that Member has signed the petition.

9.3 The Council will then debate the petition for a maximum of 30 minutes.

9.4 The Council will decide how to respond to the petition at the meeting. Such response may include:

- 9.4.1 taking the action requested;
- 9.4.2 not taking the action requested;
- 9.4.3 commissioning further investigation into the matter, eg by the relevant Committee;
- 9.4.4 to hold further meetings with the petitioners;

9.5 The petition organiser will receive written confirmation of this decision which will also be published on the Council website.

9.6 **Number of Petitions**

At any one meeting no person or organisation may present more than one petition.

9.7 **Scope of Petitions**

The Chief Executive may reject a petition if it:

- 9.7.1 does not qualify under the scheme;
- 9.7.2 is vexatious, abusive or otherwise inappropriate;
- 9.7.3 is a petition qualifying under another enactment;
- 9.7.4 is excluded by order;
- 9.7.5 relates to a planning decision;
- 9.7.6 relates to a licensing decision;
- 9.7.7 relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- 9.7.8 is the same or substantially the same as a petition which has been discussed as a meeting of the Council in the previous 6 months, or
- 9.7.9 it requests that a senior council officer gives evidence at a public meeting.

10. **QUESTIONS BY MEMBERS**

10.1 **On reports of the Leader or committees**

At a meeting of the Council, other than the Annual meeting, a Member of the Council may ask the Leader or the chair of a committee any question without notice upon an item contained within a report of the Leader or a committee when that item is being received or under consideration by the Council.

NDDC CONSTITUTION

Part 4

10.2 Questions on notice at full Council

Subject to Rule 10.4, a Member of the Council may ask:

10.2.1 the Chair;

10.2.2 the Leader of the Council; or

10.2.3 the chair of any committee or sub-committee,

a question on any matter in relation to which the Council has powers or duties or which affects the District.

10.3 Questions on notice at Committees and Sub-Committees

Subject to Rule 10.4, a member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affects the District and which falls within the terms of reference of that committee or sub-committee.

10.4 Notice of questions

A member may ask a question under Rule 10.2 or 10.3 if either:

10.4.1 they have given notice of the question in writing or by electronic mail no later than midday 9 clear working days before the day of the meeting to the Proper Officer or in the case of a question raised under 10.2.2 no later than 9.00am on the day which is one clear working day before the day of the meeting; or

10.4.2 the question relates to urgent matters, they have the consent of the Chair and member to whom the question is to be put and the content of the question is given to the Senior Solicitor and Monitoring Officer by 12.00 noon on the day of the meeting.

For the purpose of this rule, a matter is urgent if:- (a) it could not have been known about and so notice under 10.4.1 above could not have been given, and (b) if the subject matter is of such a nature that consideration of it at the next meeting would not be reasonable.

NDDC CONSTITUTION

Part 4

10.5 Order of Questions

Questions of which notice has been given under Rule 10.2, 10.3 or 10.4.2 will be listed on the agenda in the order determined by the Chair of the Council, committee or sub-committee.

10.6 Content of Questions

Questions under Rule 10.2 or 10.3 must, in the opinion of the Chair:

- 10.6.1 contain no expressions of opinion;
- 10.6.2 relate to matters on which the Council has or may determine a policy and for which the Council has responsibility;
- 10.6.3 not relate to planning or licensing applications to be determined or determined by the Council
- 10.6.4 not be defamatory, frivolous or offensive in nature; and
- 10.6.5 not relate to the appointment, dismissal, remuneration condition of service of any person employed by the Council, or the conduct of any Member.

10.7 Response

An answer may take the form of:

- 10.7.1 a direct oral answer at the meeting;
- 10.7.2 where the desired information is in a publication of the Council or other published work, a reference to that publication;
- 10.7.3 where the reply cannot conveniently be given orally, a written answer circulated within 10 working days to the questioner, or
- 10.7.4 in respect of a question submitted under 10.2.2 and in accordance with 10.4.1, a written response will be provided at the meeting and if possible will be communicated to all Councillors by mid-day of the day of the meeting.

10.8 Supplementary question

NDDC CONSTITUTION

Part 4

A Member asking a question under Rule 10.2 or 10.3 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 and must not consist mainly of a statement or be a repeat of the original question.

10.9 Length of Questions

When a Member asks a question under Rule 10.2 or 10.3 the Member answering such a question may speak for no longer than **5** minutes unless the Chair consents to a longer period.

10.10 Time Allowed for Questions at Council Meetings

10.10.1 The time allowed for consideration of questions submitted under Rule 10.2 shall not, without the consent of the Council, exceed **30** minutes

10.10.2 At the conclusion of the answer to the question under consideration at the expiry of the relevant period of **30** minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chair shall conclude the item and any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

10.11 There shall be no discussion on any matter raised by a question from a Member on notice but a motion may be moved without notice that the subject matter be referred to an appropriate Committee and on such a motion being seconded, it shall immediately be put to the vote.

11. MOTIONS ON NOTICE

11.1 Notice

Except for motions which can be moved without notice under Rule 12, written notice of every motion must be delivered to the Senior Solicitor and Monitoring Officer 9 clear working days before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

11.2 Motion set out in agenda

NDDC CONSTITUTION

Part 4

Motions for which notice has been given will be listed on the agenda in the order determined by the Chief Executive.

11.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District and must not be illegal, improper or defamatory in nature.

11.4 One Motion per Member

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Chair.

11.5 Lapse of a Motion

Where notice of a motion has been given for any meeting, and that motion is neither moved, seconded nor deemed to have been referred to a Committee under 11.7 below, the notice shall lapse and the motion shall not be moved without further notice.

11.6 Referral to Committee

Where a notice of motion has been given for any meeting and that motion is within the terms of reference of any Committee the motion shall be deemed to have been referred to the next meeting of the Committee within whose terms of reference it falls and any question as to the appropriate Committee to which the motion is to be referred shall be determined by the Chair of Council.

12. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- 12.1 to appoint a Chair of the meeting at which the motion is moved;
- 12.2 in relation to the accuracy of the minutes;
- 12.3 to change the order of business in the agenda;
- 12.4 to refer something to an appropriate body or individual;

NDDC CONSTITUTION

Part 4

- 12.5 to appoint a committee or member arising from an item on the summons for the meeting;
- 12.6 to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- 12.7 to withdraw a motion;
- 12.8 to amend a motion, subject to the provisions of the Budget and Policy Framework Procedure Rules in relation to amendment of the proposals for the Council's Budget and Policy Framework;
- 12.9 to proceed to the next business;
- 12.10 that the question be now put;
- 12.11 to adjourn a debate;
- 12.12 to adjourn a meeting;
- 12.13 to suspend a particular Council Procedure Rule;
- 12.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- 12.15 to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- 12.16 to give the consent of the Council where its consent is required by this Constitution;
- 12.17 that the vote now be taken
- 12.18 that a vote be by way of a recorded vote or ballot
- 12.19 to refer to a Committee any petition that has been presented to Council,
- 12.20 that a motion, amendment or business of an objectionable nature be not entertained or permitted,
- 12.21 on consideration of a report or recommendation, a motion to adopt the report or recommendation or a motion which is in response to the report or any recommendation including a motion to refuse or amend the same.

13. RULES OF DEBATE

13.1 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.

13.2 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 him before it is discussed.

13.3 Secunder's speech

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

13.4 Content and length of speeches

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

13.4.2 A speech by the mover of a motion may **not exceed 5 minutes** without the consent of the Chair.

13.4.3 Subject to paragraph 13.4.4 below, speeches by other Members may not **exceed 3 minutes** without the consent of the Chair.

13.4.4 When the Council's annual budget is under discussion, the leader of each political group on the Council may speak for **up to 5 minutes** or such longer period as the Chair shall allow.

13.5 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:

13.5.1 to speak once on an amendment moved by another member;

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

NDDC CONSTITUTION

Part 4

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

13.5.4 in exercise of a right of reply;

13.5.5 on a point of order; and

13.5.6 by way of personal explanation.

13.6 **Amendments to motions**

13.6.1 An amendment to all motions at Council meetings must be relevant to the motion and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words
- (e) as long as the effect of (b) to (d) is not to negate the motion.

13.6.2 Notwithstanding 13.6.1 (e) above, where a motion to approve, refuse or defer an application for planning permission or a license has been made and seconded, it shall be capable of amendment by a motion to approve rather than refuse or defer, or to refuse rather than approve or defer, as the case may be.

13.6.3 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.

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

NDDC CONSTITUTION

Part 4

13.6.5 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.

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

13.7 Alteration of motion

13.7.1 A Member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified by the show of hands.

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

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

13.8 Withdrawal of motion

A Member may withdraw a motion which he/she has 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.

13.9 Right of reply

13.9.1 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 but shall not introduce a new matter.

13.9.2 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.

13.9.3 The mover of the amendment shall have the right of reply to the debate on his amendment immediately before the amendment is put to the vote.

NDDC CONSTITUTION

Part 4

13.10 Motions which may be moved during debate

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

13.10.1 to withdraw a motion;

13.10.2 to amend a motion;

13.10.3 to proceed to the next business;

13.10.4 that the vote now be taken;

13.10.5 to adjourn a debate;

13.10.6 to adjourn a meeting;

13.10.7 to exclude the public and press in accordance with the Access to Information Procedure Rules;

13.10.8 to not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and

13.10.9 that the subject of debate be referred to a Committee or other appropriate body having power to deal with the same

13.11 Closure motions

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

(a) to proceed to the next business;

(b) that the vote now be taken;

(c) to adjourn a debate; or

(d) to adjourn a meeting.

13.11.2 If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he/she will give

NDDC CONSTITUTION

Part 4

the mover of the original motion a right of reply and then put the procedural motion to the vote.

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

13.11.4 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, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

13.12 **Point of order**

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

13.13 **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.

13.14 **Participation**

A Member appointed to the Planning Committee or any Committee or Sub-Committee sitting in a quasi-judicial role who arrives at a meeting of that Committee or Sub-committee during the consideration of an item, or leaves a meeting at any time during the consideration of an item, shall not propose or second any motion or amendment or cast a vote in relation to that item.

NDDC CONSTITUTION

Part 4

13.15 Additional Issues

At a meeting of the Council, Members shall stand when speaking, unless unable to do so, and shall address the Chair. While a Member is speaking, other Members shall remain seated unless rising for a point of order, a point of information or in personal explanation.

14. MEMBERS RIGHT TO PLACE ITEMS ON COMMITTEE AGENDAS

14.1 Members Right

A member of a Committee has the right to request that a matter of policy be placed on the Committee agenda for consideration by the Committee. A Member who is not a member of the Committee may also have the same right where the item relates to an issue that directly affects the Member's ward.

14.2 Procedure

The Member shall give the Chief Executive notice in writing not less than 7 clear days before the relevant meeting of the content of the item. The Chief Executive shall consider whether the item can properly be considered by the Committee subject to consultation with the relevant Chair.

15. VOTING

15.1 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 motion was put.

15.2 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.

15.3 Method of Voting

NDDC CONSTITUTION

Part 4

Unless a recorded vote is demanded or required under Rule 15.4 or a ballot is demanded under Rule 15.5, the Chair will take the vote by a show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.

15.4 Recorded vote

If the majority of members present at the meeting demand it, or if a vote is to be taken on a “budget decision” as defined within the Local Authorities (Standing Orders)(England) Regulations 2001 as amended, 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.

15.5 Ballot

On a motion being moved and seconded and supported by the majority of Members present, the vote on an item of business will be by ballot.

15.6 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.

15.7 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.

16. MINUTES

16.1 Signing the minutes

The Chair of the Council, a Committee or Sub Committee will sign the minutes of the proceedings at the next suitable meeting of that body. 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

NDDC CONSTITUTION

Part 4

accuracy. The minutes are deemed as “draft” until approved as a correct record by the next meeting.

16.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

16.3 Form of minutes

Minutes of full Council meetings will contain all motions and amendments in the form and order the Chair put them.

17. RECORD OF ATTENDANCE

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

18. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

19. MEMBERS' CONDUCT

19.1 Speaking at meetings

When a Member speaks at full Council he/she must stand and address the meeting through the Chair. If more than one member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

19.2 Chair speaking

NDDC CONSTITUTION

Part 4

When the Chair speaks during a debate, any member speaking at the time must stop.

19.3 Member not to be heard further

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

19.4 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.

19.5 General disturbance

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

20. DISTURBANCE BY PUBLIC

20.1 Removal of member of the public

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.

20.2 Clearance of part of meeting room

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

21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

21.1 Suspension

All of these Council Rules of Procedure except Rule 1.1, 16.1, 15.5 and 16.2 may be suspended by motion on notice or without notice by a majority of those members voting and present in the room at the time. Suspension can only be for the duration of the meeting. Rule 1.1 can only

NDDC CONSTITUTION

Part 4

be suspended by motion on notice and the motion must have the support of a majority of those members present and voting.

21.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

22. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. Only Rules 4 - 7, 10 - 23 (but not Rule 19.1) apply to meetings of committees and sub- committees.

23. APPOINTMENT OF SUBSTITUTE MEMBERS ON COUNCIL BODIES

- 23.1 The substitution rules will not apply to meetings of the Strategy and Resources Committee, Governance Committee or Licensing and Community Safety Committee save that substitute Members may attend, speak and vote at meetings of a Sub Committee appointed by the Licensing and Community Safety Committee provided that the substitute Member appointed also sits on the Licensing Committee.
- 23.2 The Senior Solicitor and Monitoring Officer may consider a request from a Member of a Council Body, Leader or Deputy Leader of a political group to appoint a substitute Member, providing that the substitute Member is from the same political group.
- 23.3 In order to be eligible to sit as substitutes on the Planning Committee and the Governance Committee, Members must have received formal training in relevant procedures and the law.
- 23.4 A member of the Planning Committee may only appoint a substitute to sit on that Committee if the substitute has been appointed to the Planning Committee Substitution Panel by Full Council. Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting. For the avoidance of doubt no substitution is permitted to the Substitution Panel. An appointed substitute Member of the Planning Committee must be present for the whole of the meeting.

NDDC CONSTITUTION

Part 4

23.5 Substitute Members may attend meetings in that capacity only:

- 23.5.1 to take the place of the ordinary Member for whom they are designated substitute;
- 23.5.2 except where the meeting is a meeting of a Sub Committee of the Licensing and Community Safety Committee, where the ordinary Member will be absent for the whole of the meeting;
- 23.5.3 where the ordinary Member has notified the Senior Solicitor and Monitoring Officer of the intended substitution at least one hour before the start of the relevant meeting.

ACCESS TO INFORMATION PROCEDURE RULES

1. SCOPE

- 1.1 These rules apply to all formal meetings of the Council and any Committee or Sub- Committee. For the avoidance of doubt, the Rules do not apply to informal meetings involving Councillors or to Working Groups.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the General Data Protection Regulations 2018.

3. RIGHTS TO ATTEND MEETINGS

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 If a member of the public or press interrupts the proceedings at any meeting the Chair may warn him. If he/she continues the interruption and a warning has been given, the Chair may order his removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Chair may order that part to be cleared.
- 3.4 If the Chair considers the orderly dispatch of business impossible, he/she may without question adjourn the meeting.
- 3.5 The above powers of the Chair are in addition to any other power vested in him.

4. NOTICES OF MEETING

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at Lynton House Commercial Road Barnstaple EX31 1DG and on its website at www.northdevon.gov.uk

NDDC CONSTITUTION

Part 4

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 5.1 All Members of the Council shall be provided with the front agenda pages of all Council and committee meetings and full copies of the agenda and reports including those containing exempt and/or confidential information can be requested and will be provided electronically.
- 5.2 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and available on the website at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors).

6. SUPPLY OF COPIES

6.1 Supply of Copies at the Meeting

The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (save during any part of the meeting to which the public are excluded).

6.2 The Council will supply copies of:

- 6.2.1 any agenda and reports which are open to public inspection;
- 6.2.2 any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- 6.2.3 if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC. AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting or a decision:

NDDC CONSTITUTION

Part 4

- 7.1 the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of Council and Committees or Sub committees, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 7.2 records of decisions taken by individual Members or officers,
- 7.3 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 7.4 the agenda for the meeting; and
- 7.5 reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The Officer preparing a report will set out in such report a list of those documents (called background papers) relating to the subject matter of the report which in his opinion:

- 8.1.1 disclose any facts or matters on which the report or an important part of the report is based; and
 - 8.1.2 which have been relied on to a material extent in preparing the report
- but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public inspection of background papers

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

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and made available to the public at Lynton House Barnstaple.

July 2022

NDDC CONSTITUTION

Part 4

10. EXCLUSION OF ACCESS OF THE PUBLIC TO MEETINGS

10.1 Extent of Exclusion

The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

10.2 Confidential information – requirement to exclude public

The public must be excluded from meetings and from access to reports whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.3 Exempt information – discretion to exclude public

The public may be excluded from meetings and from access to reports whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the relevant decision making body. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Meaning of confidential information

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

10.5 Meaning of exempt information

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

Categories of Exempt Information

1. Information relating to any individual

July 2022

NDDC CONSTITUTION

Part 4

2. *Information which is likely to reveal the identity of an individual*
3. *Information relating to the financial or business affairs of any particular person (including the authority holding that information).*
4. *Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connect with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.*
5. *Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.*
6. *Information which reveals that the authority proposes-*
 - (a) *to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or*
 - (b) *to make an order or direction under any enactment.*
7. *Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.*

The above categories are subject to qualifications and to the public interest test. These are laid down in Schedule 12A to the Local Government Act 1972.

10.6 **Extent of Exclusion**

The public may only be excluded under 10.1 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

NOTE Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10.7 **Exclusion of Members**

Where a Sub-Committee of the Licensing Committee is held and the press and public are excluded under these provisions, any Members who are not members of that Sub Committee who are present shall also be excluded.

NDDC CONSTITUTION

Part 4

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

- 11.1 If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed. If the information is exempt information, the category of the exempt information must also be marked on the report.
- 11.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 11.3 If the matter is considered in public, any related report will also become available to the public.

12. RECORD OF DECISIONS

After any meeting of the Council or any of its Committees, whether held in public or in private, the Senior Solicitor and Monitoring Officer or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:

- 12.1 a record of the decision including the date it was made;
- 12.2 a record of the reason for the decision;
- 12.3 details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- 12.4 a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- 12.5 in respect of any declared conflict of interest, a note of dispensation if granted by the relevant local authority's head of paid service.

NDDC CONSTITUTION

Part 4

12.6 Inspection of background papers

12.6.1 Subject to Rule 17, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5, at the same time-

(a) a copy of a list compiled by the Proper Officer of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and

(b) at least one copy of each of the documents included in that list,

and must be available for inspection by the public at the offices of the Council and on www.northdevon.gov.uk.

13. JOINT COMMITTEES

These Access to Information Rules apply to the Council's Joint Committees.

14. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

14.1 Material relating to business to be transacted at a Public Meeting

14.1.1 All Members of the Council will be entitled to inspect any document (except those available only in unpublished draft form) in the possession or under the control of the Council or its Committees which contains material relating to any business previously transacted at a private meeting unless (a) or (b) applies:

(a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or

(b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract.

NDDC CONSTITUTION

Part 4

14.2 Meetings of Committees sitting in a Quasi-Judicial role

Where a Committee or Sub-Committee is meeting in a quasi-judicial role and a resolution is passed to exclude the press and public under Rule 10 and Rule 11, any Member present who is not a member of the Committee or Sub Committee will also be excluded.

15. NATURE OF RIGHTS

These rights of a Member are additional to any other right he/she may have.

16. MEMBERS' OTHER RIGHTS TO INFORMATION AND TO SPEAK AT COMMITTEES

16.1 A Member of the Council may, for the purposes of his duty as a Member and no other, inspect any document that has been considered by a committee or the Council including background papers. Applications should be made to the Senior Solicitor and Monitoring Officer and, if available, copies will be supplied upon request.

16.2 A member shall not knowingly inspect or request a copy of any document relating to a matter in which he/she:

16.2.1 is professionally interested; or

16.2.2 has a pecuniary, prejudicial or personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

16.3 This shall not preclude the Senior Solicitor and Monitoring Officer from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the General Data Protection Regulations 2018.

16.4 All reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.

NDDC CONSTITUTION

Part 4

- 16.5 A Councillor who is not a member of the Planning Committee may attend that Committee and speak on an item that affects their ward and in relation to all other Committees may attend and speak on a matter with the discretion of the Chair.

17. CONFIDENTIAL INFORMATION, EXEMPT INFORMATION

- 17.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

- 17.2 Nothing in these Rules:

17.2.1 authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Senior Solicitor and Monitoring Officer, that document or part of a document contains or may contain confidential information; or

17.2.2 requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Proper Officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political advisers or assistant.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. ADOPTION OF THE BUDGET AND THE FRAMEWORK

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Committees to implement it.

- 1.1 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 a Committee or officer, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

2. PROCESS FOR DEVELOPING THE BUDGET

- 2.1 The Council will follow the process set out in the Financial Procedure Rules in Part 4 of the Constitution. In addition, the draft budget will be reported to Policy Development Committee prior to firm proposals being recommended to Council and the views of the Policy Development Committee will be taken into account by Strategy and Resources Committee when drawing up the final recommendations to Council. Immediately after a vote is taken at a budget decision meeting of the authority, there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting and for the purposes of this provision:-

- (a) “*budget decision*” means a meeting of the relevant body at which it makes a calculation (whether originally or by way of substitution) in accordance with any of sections 31A, 31B, 34 to 3A, 42A, 42B, 45 to 49, 52ZF and 52ZJ of the Local Government Finance Act 1992, or issues a precept under Chapter 4 of Part 1 of that Act. This includes a meeting where the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting, and
- (b) references to a “*vote*” are references to a vote on any decision relating to the making of the calculation or the issuing of the precept as the case may be.

NDDC CONSTITUTION

Part 4

3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 3.1 Subject to the provisions of paragraph 4 Committees and Sub Committees and officers may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by full Council, then that decision may only be taken by the Council, subject to paragraph 5 below and subject also to article 11.7 of Part 1 of the Constitution.
- 3.2 Paragraph 3.1 above shall not apply where a decision is made by an officer or by the Planning Committee contrary to the then adopted Development Plan forming part of the Policy Framework

4. VIREMENT

- 4.1 In the event that virement across budget heads or budgets becomes necessary or desirable, it shall be carried out in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution. Beyond that limit, approval to any virement across budget heads shall require the approval of the Full Council.

5 IN-YEAR CHANGES TO POLICY FRAMEWORK

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by any committee or officers or joint arrangements must be in line with it. No changes to any policy or strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- 5.1 which will result in the closure or discontinuance of a service or part of a service to meet a budgetary constraint;
- 5.2 necessary to ensure compliance with the law, ministerial direction or government guidance;
- 5.3 in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under

NDDC CONSTITUTION

Part 4

consideration; for which provision is made within the relevant budget or policy.

NDDC CONSTITUTION

Part 4

FINANCIAL PROCEDURE RULES

DEFINITIONS

“Chief Financial Officer” shall be the holder of the post having responsibility for the statutory duties set out in Section 151 of the Local Government Act 1972 as identified by the Council.

Any reference to the “Chief Financial Officer” in Standing Orders or Financial Procedure Rules shall refer to the post holder defined above or a nominee, except in so far as any duty is required by statute to be performed personally by the post holder. A record of nominees and the duties allocated shall be kept by the Chief Financial Officer.

1 GENERAL

- 1.1 These financial procedure rules form part of the Constitution and may not be amended without a Council resolution.
- 1.2 The Chief Financial Officer is responsible for the proper administration of the Council’s financial affairs and must be consulted on any matter that could materially affect the Council’s finances.
- 1.3 Interpretation of these financial procedure rules is the responsibility of the Chief Financial Officer.
- 1.4 The Council operates a delegated budget system. It is the responsibility of all budget holders to ensure they are familiar with these procedural rules and adhere to them.

2 ACCOUNTING

- 2.1 The accounting procedures and records shall meet the standards that, in the opinion of the Chief Financial Officer, deliver financial information and control to a level required by him to be satisfied that the council's financial affairs can be properly administered.
- 2.2 Accounting duties shall be allocated to ensure wherever possible that-

NDDC CONSTITUTION

Part 4

- (a) The duties of providing information on amounts due to or from the Council (together with calculating, checking and recording) shall be separated as far as possible from the duty of collecting or paying; and
 - (b) Officers who examine or check the accounts of cash transactions should not be engaged in any of these transactions.
- 2.3 All paid accounts and vouchers shall be available for examination by Members of the Council at all reasonable times.
- 2.4 Financial records must be retained for audit and taxation purposes. Guidance on retention periods is contained in Schedule 1 to this document.

3. AUDIT

- 3.1 The Council has responsibility for maintaining an effective system of internal Audit. This responsibility has been formally delegated to the Chief Financial Officer.
- 3.2 The accounting and financial operations of the Council shall be subject to a continuous internal audit under the independent control and direction of the Chief Financial Officer.
- 3.3 The Chief Financial Officer or his authorised representative shall have authority to -
- (a) enter any Council premises within the Council's ownership or control at all reasonable times;
 - (b) have access to all records and documents relating to financial and other transactions of the Council;
 - (c) require explanations on any matter under investigation;
 - (d) require any Council employee to produce cash, stores or any other Council property under his control.
- 3.4 In any case of suggested or potential irregularity in the exercise of the Council's functions, the Head of Service concerned shall immediately notify the Chief Financial Officer who shall determine any necessary action.
- 3.5 The Chief Financial Officer shall have direct access to and freedom to report to Members, the Chief Executive and any member of the Senior Management Team as required.

July 2022

NDDC CONSTITUTION

Part 4

4 FINANCIAL PLANNING AND CONTROL

- 4.1 The format of the Capital and Revenue estimates shall be determined by the Chief Financial Officer. The draft budget shall be submitted to each relevant Committee for discussion prior to submission of the overall budget to the Strategy and Resources Committee if so delegated.
- 4.2 The Strategy and Resources Committee shall submit the draft budget, together with any amendments recommended by Policy Development Committee to the Council with a recommendation of the Council Tax to be levied in accordance with the Budget and Policy framework rules.
- 4.3 (a) Every Member shall be provided with a copy of the proposed Capital Programme and Revenue estimates and their implications on the Council Tax prior to the Council meeting called to set the Council Tax.
- (b) The Council shall set the Council Tax for the coming year.
- 4.4 (a) No capital liability shall be incurred (except as otherwise provided for in the Constitution including the Financial Procedure Rules) unless provision is included in the approved Capital Programme or Full Council approval is first secured.
- (b) No revenue liability shall be incurred (except as otherwise provided for in the Constitution including the Financial Procedure Rules) unless provision is included in the approved budget (as may be amended from time to time), is covered by authorised virement or Full Council approval is first secured.
- 4.5 (a) Revenue virement up to a limit of £5,000 may be exercised by a Head of Service or delegated budget holder holding a budget between heads of expenditure or between heads of income within their control provided there is no net change in the Council's overall budget and subject to any virements from a direct employee budget head being approved by the Chief Financial Officer.
- (b) Any revenue virement either above £5,000, or between income and expenditure, must be approved by the Chief Financial Officer who shall report any such approval to the Senior Management Team.

NDDC CONSTITUTION

Part 4

- (c) Any virement from earmarked reserves must be approved by the Chief Financial Officer who shall report any such approval to Strategy and Resources Committee.
 - (d) Any capital virement up to £25,000 in relation to a previously approved capital scheme must be approved by the Chief Financial Officer who shall report any such approval to the Senior Management Team. Any capital virement above £25,000 requires formal approval through Council, committee or sub- committee (as the case may be).
 - (e) All virement adjustments must be reported in writing to the Chief Financial Officer or any officer authorised by him to receive such notification as soon as reasonably practicable after the decision is made.
- 4.6 Other than as provided for in the Constitution (including the Finance Procedure Rules), no contractual commitment in excess of £10,000 in respect of land or capital works shall be entered into:
- (a) prior to a report being taken to and approved by Full Council; and
 - (b) appropriate budgetary provision exists in relation to the same.
- 4.7 Any report to a committee involving expenditure shall contain details setting out the planned means of financing the proposal.
- 4.8 The Chief Financial Officer shall provide each Officer holding a budget with periodical statements of receipts and payments under each budget head. The Officer holding the budget (or any other Officer authorised by him) shall monitor their financial performance against approved estimates.
- 4.9 When an Officer holding a budget becomes aware that a budgeted item of expenditure may be exceeded and/or income not achieved, the Officer holding the budget shall report thereon to the Chief Financial Officer. The report should set out how variation is proposed to be handled using virement powers or identify any need for a supplementary estimate as necessary.
- 4.10 In consultation with the Chair of Strategy and Resources Committee (or in his absence the Vice Chairman, the Chief Executive (or if unavailable any Head of Service), may incur such expenditure as in his opinion is appropriate to address an urgent situation even if there is no identifiable budgetary provision. Any such expenditure together with details of any proposed method of financing shall be notified to the Chief Financial Officer as soon as practicable thereafter and a report taken to the next available meeting or Full Council.

NDDC CONSTITUTION

Part 4

- 4.11 The Chief Financial Officer will set in place a timetable and allocate responsibilities for the production of the final accounts as soon as possible after the year end.
- 4.12 Following the closure of the Final Accounts, the Chief Financial Officer shall ascertain whether any underspend of actual expenditure against the original budget has occurred for report to the Council.
- 4.13 The annual accounts of the Council to the 31st March shall be compiled by the Chief Financial Officer and published within such time scales as are from time to time prescribed. Every Member shall be supplied with a set of final accounts.

5 BANKING ARRANGEMENTS

- 5.1 All arrangements with the Council's bankers shall be made by the Chief Financial Officer who is authorised to operate such bank accounts (including National Giro) as he/she considers necessary.
- 5.2 All cheques (including National Giro) shall be ordered by the Chief Financial Officer who shall make arrangements for their safe custody.
- 5.3 All cheques (including National Giro) shall:
 - (a) bear the facsimile signature of the Chief Financial Officer or, for the purpose only of using existing cheques held in stock, the facsimile signature of the immediate past holder of the post of Chief Financial Officer or
 - (b) be signed by the Chief Financial Officer or the Chief Executive or any other authorised bank signatory.
- 5.4 All cheques of £10,000 or above shall be countersigned by the Chief Financial Officer or any other Officer referred to in paragraph 5.3 (b) above.
- 5.5 Any alterations to the banking arrangements, including the opening and closing of bank accounts, shall be the responsibility of the Chief Financial Officer.

6 **EXPENDITURE**

(a) **Petty Cash**

- (i) The Chief Financial Officer shall provide:
such petty cash floats as he/she considers appropriate for Council Officers who need them for paying petty cash and other expenses. The accounts are to be kept on the imprest system.
- (ii) Payments from the petty cash floats shall be limited to minor items of expenditure and other items as approved by the Chief Financial Officer. Payments shall be supported by a receipted voucher.
- (iii) Officers responsible for petty cash floats shall, on request, give the Chief Financial Officer a certificate on the state of the accounts.
- (iv) An Officer who ceases to be entitled to hold a petty cash float shall account to the Chief Financial Officer for the amount advanced to them.

(b) **Orders for Work, Goods and Services**

- (i) Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services; periodical payments (e.g. rent and rates); petty cash purchases and any other exceptions approved by the Chief Financial Officer.
- (ii) Orders made by telephone shall be immediately confirmed by an official order which may consist of an email.
- (iii) The format of official orders shall be approved by the Chief Financial Officer. Official orders are to be authorised only by those officers authorised by the appropriate Head of Service who is responsible for all orders issued from the Service.
- (iv) A copy of each order number shall be supplied to the Chief Financial Officer with the invoice for the supplies duly authorised for payment.

NDDC CONSTITUTION

Part 4

- (v) The Council shall produce and maintain a Procurement Policy (as amended from time to time).
- (vi) Prior to making any commitment, officers must familiarise themselves with the requirement for quotations and tendering set out in the Constitution, Contracts Procedure Rules and Financial Procedure Rules.

(c) **Payments**

- (i) Payments of money due from the Council shall normally be made by cheque (or other instrument) drawn on the Council's bank or National Giro Accounts or by electronic transfer of funds from the Council's bank account.
- (ii) Invoices and payment vouchers shall be examined, verified and certified by the Officer holding a budget who is responsible for the initial order or service. A Head of Service may, in accordance with procedures in standing orders, further delegate authorisation powers to members of his staff to certify on his behalf. A Head of Service shall send a list of these officers so authorised, together with specimen signatures to the Chief Financial Officer.
- (iii) The certifying officer should ensure where appropriate that –
 - 1. The works, goods or services invoiced for have been received, carried out, examined and approved;
 - 2. The prices, arithmetic and allocation are correct;
 - 3. The expenditure has been properly incurred and is a proper liability of the Council; and
 - 4. The amount has not already been passed for payment.

Items (i) and (ii) should be independently verified insofar as they are relevant by an Officer other than the one authorising the voucher for payment.

- (iv) Certified accounts shall be passed to the Chief Financial Officer without delay. The Chief Financial Officer may examine the invoice and shall be entitled to make enquiries and receive such information as he/she requires.

NDDC CONSTITUTION

Part 4

- (v) Any permissible amendments to accounts must be in ink and initialled by the certifying officer.
- (vi) Officers holding budgets shall notify the Chief Financial Officer of any outstanding expenditure for the previous financial year, not later than the date specified and notified by the Chief Financial Officer.
- (vii) The Chief Financial Officer shall maintain the Council's tax records and is responsible for the completion and return of all associated returns by the due date.

(d) **Travelling and Subsistence Allowances**

- (i) All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses, shall be submitted, and duly certified on a form supplied by the Chief Financial Officer. Claims are to be made up to a date each month determined by the Chief Financial Officer and submitted to him within 7 days thereof.
- (ii) A Head of Service may, in accordance with procedures under standing orders, authorise members of staff to certify claims on their behalf and shall send a list of those officers so authorised, together with specimen signatures, to the Chief Financial Officer. Claims in respect of any individual must be authorised independently of that person.
- (iii) The certification shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, expenses properly and necessarily incurred and allowances are properly payable by the Council.
- (iv) Officers claims submitted more than 3 months in arrears will only be paid with express approval of the Chief Financial Officer.
- (v) Payments to Members for travelling and other allowances shall be claimed on a form supplied by the Chief Financial Officer and shall be certified by the Chief Executive or other delegated officer. All claims for a financial year should be made by the following 30th April.

NDDC CONSTITUTION

Part 4

(e) **Salaries and Wages**

- (i) Payment of all salaries, wages, gratuities, etc. to employees or former employees of the Council shall be made by the Chief Financial Officer.
- (ii) Each Head of Service shall provide the Chief Financial Officer via the Human Resources Manager as soon as possible with details of any matter affecting the payment of such emoluments, in particular –
 - (a) appointments, resignations, dismissals, suspensions, secondments and transfers;
 - (b) absence from duty for sickness or other reasons (apart from approved leave, training, etc.);
 - (c) changes in remuneration (excluding normal increments and nationally negotiated pay awards); and
 - (d) information required for Superannuation, tax and national insurance purposes.
- (iv) Appointments of all staff shall be made in accordance with the Council's policies (as amended from time to time), establishment, grades and rates of pay. Proposed permanent variations to the establishment must be submitted to Strategy and Resources Committee for approval, unless delegated to another body or individual.
- (v) Time records or other pay documents, including pay records for casual staff, shall be certified by or on behalf of the Head of Service on a form approved by the Chief Financial Officer. Each Head of Service shall provide the Chief Financial Officer with a list of those officers authorised to sign on his behalf, together with specimen signatures.
- (vi) Each submitted document must be signed by an appropriate officer, in line with the approved signatory list, before it is processed.

NDDC CONSTITUTION

Part 4

- (vi) Heads of Service must inform the Chief Financial Officer and the Human Resources Manager of any additional benefits proposed for staff (cars, phones, clothing etc.) in order to determine any additional tax liabilities or remuneration issues.

7 CONTRACTS FOR BUILDING CONSTRUCTIONAL OR ENGINEERING WORK

- 7.1 The Chief Executive, or such other responsible officer, shall maintain a contracts register. All contract orders shall be held on the e-procurement system which will record payments made to contractors or for professional fees for any contract.
- 7.2 All interim payments to contractors shall be shown on the e-procurement system showing the value of work to date, the balance remaining and the amount of retention held.
- 7.3 Every extra or variation to a contract shall be authorised by the designated Project Officer, Architect or Engineer as nominated by the Project Officer in writing for the contract.
- 7.4 Any variation shall be reported to the Chief Financial Officer and the Strategy and Resources Committee where a substantial change in the design of any works or additional expenditure is involved. The Project Officer shall only need to report additional expenditure on a contract where the final cost is likely to exceed the contract sum by 15% or £15,000 whichever is the greater.
- 7.5 The Chief Financial Officer shall, as far as he/she deems appropriate, examine contract accounts. He/she shall be entitled to make such enquiries and receive such information and explanation as he/she may require to satisfy himself as to the accuracy of the accounts.
- 7.6 Claims from contractors for matters not clearly within the terms of any existing contract shall be referred to the Senior Solicitor and Monitoring Officer for consideration of the Council's legal liability and, if necessary, to the Chief Financial Officer for financial consideration before a settlement is reached.
- 7.7 Where completion of a contract is delayed, the designated Project Officer shall take appropriate action in respect of any claim for liquidated damages.
- 7.8 Project Officers should consider the need for a bond or parent company guarantee for all contracts in excess of £75,000 and if necessary should consult with the Chief Financial Officer and/or the Senior Solicitor and Monitoring Officer.

July 2022

NDDC CONSTITUTION

Part 4

8 INCOME

- 8.1 Each Head of Service shall provide the Chief Financial Officer with details of work done, goods supplied, services rendered, or any other amounts due, sufficient to enable the Chief Financial Officer to arrange for accounts to be raised for the recovery of the sums involved.
- 8.2 Each Head of Service is responsible, in conjunction with the Chief Financial Officer, for outstanding arrears relating to their service area. Aged debts outstanding will be reported to the Senior Management team and the Strategy and Resources Committee.
- 8.3 Heads of Service shall notify the Chief Financial Officer promptly of all contracts, leases and other agreements entered into which result in money due to the Council. The Chief Financial Officer shall have the right to inspect any relevant documents, etc. as he/she may require.
- 8.4 All receipts, tickets, etc. relating to income, shall be ordered and supplied (or under directions) by the Chief Financial Officer who shall satisfy himself/herself as to the arrangement for their control.
- 8.5 All Council money received by an Officer shall be paid directly to one of the Council's bank accounts, or to the Council's cash office within five working days of receipt.
Receipts paid into the cash office will be paid to the council's bank account. No deduction shall be made from such money without the express authority of the Chief Financial Officer. Each banking officer shall ensure that the paying in slip has a reference to the related debt or origin of each cheque banked.
- 8.6 No cheques shall be cashed out of Council money or Third Party cheques accepted unless authorised by the Chief Financial Officer.
- 8.7 Transfer of Council money from one member of staff to another must be recorded, together with the signature of the receiving officer.

NDDC CONSTITUTION

Part 4

9 STORES AND STOCKS

- 9.1 Heads of Service shall be responsible for the care and custody of all stocks and stores in their Service.
- 9.2 Stocks shall not be held in excess of normal requirements without committee approval.
- 9.3 Heads of Service shall arrange for periodic independent test checks of stocks and stores and shall ensure that all stocks are checked at least once in every year.
- 9.4 Heads of Service shall supply the Chief Financial Officer with sufficient information on stores for accounting costing and financial records.
- 9.5 Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction, including internet based auction sites, unless the Chief Financial Officer has previously agreed that the likely disposal value makes this unnecessary.

10 INSURANCES/SECURITY/RISK MANAGEMENT

- 10.1 The Chief Financial Officer shall effect all insurance cover and liaise with the Council's insurers on all matters including claims.
- 10.2 Heads of Service shall promptly advise the Chief Financial Officer of all new risks, properties, vehicles or plant which may require insurance cover and of any alterations affecting existing insurance. It is the responsibility of all Heads of Service to complete risk assessments and maintain such systems, procedures and controls as are necessary to manage and reduce risk.
- 10.3 Heads of Service shall promptly notify the Chief Financial Officer of any loss, liability, damage or event, which may lead to a claim.
- 10.4 All appropriate Council employees shall be insured by fidelity guarantee insurance.
- 10.5 The Chief Financial Officer shall regularly review all insurance subject to consultation with Heads of Service if necessary.

NDDC CONSTITUTION

Part 4

- 10.6 No indemnities shall be given without authority of the Chief Financial Officer and the Council's insurers.
- 10.7 Heads of Service shall promptly advise the Chief Financial Officer of any property whose custody has been temporarily accepted on behalf of the Council.
- 10.8 All valuables held on behalf of a Third Party e.g. jewellery, watches, documents of title, etc. shall be securely held under arrangements agreed by the Heads of Service with the Chief Financial Officer.
- 10.9 Heads of Service are responsible, in consultation with the Chief Financial Officer, for the security of all buildings, stocks, stores, furniture, equipment, cash, etc., under their control.
- 10.10 Maximum limits for cash holdings shall be agreed with the Chief Financial Officer and shall not be exceeded without his permission.
- 10.11 Keys to safes, etc. are to be carried by the person responsible. Any losses must be immediately reported to the Chief Financial Officer.
- 10.12 The Business is responsible for the security of the information held in the central computer network. Heads of Service are responsible for security of information held on computers in their units.
- 10.13 Any losses as a result of theft or fraudulent activity will be dealt with in accordance with the Council's Anti-Fraud and Corruption Strategy (as amended from time to time).

11 INVENTORIES

- 11.1 Heads of Service shall, in consultation with the Chief Financial Officer as to the form and content, maintain an inventory of all furniture, fittings, equipment, vehicles, plant and machinery held in their departments.
- 11.2 Heads of Service shall maintain an annual check on all items on the inventory and shall take action on any surplus or deficiency in consultation with the Chief Financial Officer.
- 11.3 The Council's property shall not be removed outside of the ordinary course of the Council's business without the authority of the responsible Head of Service.

July 2022

NDDC CONSTITUTION

Part 4

- 11.4 The ICT Manager shall maintain an inventory of all computer equipment. Heads of Service must inform the ICT Manager of any changes to this inventory.

12 ESTATES

- 12.1 The Head of Place, Property and Regeneration shall have custody of all title deeds and shall be responsible for their security.
- 12.2 The Head of Place, Property and Regeneration shall maintain a terrier of all land and buildings owned by the Council in a form approved by the Chief Financial Officer.

The terrier shall contain the following details:

holding committee; purpose for which held; location; extent and plan reference; purchase details; particulars of interest held; rents payable and tenancies granted.

13 TREASURY MANAGEMENT

- 13.1 This function will be discharged in accordance with the CIPFA Code on Treasury Management. All investments of money under its control shall be made in the name of the Council or such nominee as it approves.
- 13.2 All securities owned by or in the name of the Council or its nominees shall be held in custody by the Council's bankers.
- 13.3 All borrowing shall be effected in the Council's name.
- 13.4 The Chief Financial Officer shall be the Council's registrar of stocks, bonds and mortgages, and shall maintain a record of all Council borrowing.
- 13.5 Any officer acting as trustee by virtue of his official position shall, unless otherwise provided by the deed, deposit all securities, etc., relating to the trust with the Chief Financial Officer.
- 13.6 Borrowing limits will be reviewed annually and approved by Full Council. Officers with delegated powers may raise loans within approved borrowing limits (as amended from time to time), provided the same is in accordance with the terms of the code of practice for local authority borrowing (as amended from time to time).

July 2022

NDDC CONSTITUTION

Part 4

13.7 Investments of surplus revenue funds or capital receipts may be invested in accordance with the terms of the Council's Treasury Management Policy (as amended from time to time), by Officers with delegated power for investing monies.

13.8 Full Council is required to receive and approve as a minimum three treasury Management reports each year, which shall incorporate policies, estimates and actual performance.

14 WRITE OFFS

14.1 Irrecoverable debts not exceeding £1,500 in respect of Council Tax, NNDR, and overpayments may be written off on the authorisation of the Chief Financial Officer.

14.2 Other irrecoverable debts not exceeding £1,500 may be written off on the authorisation of the Chief Financial Officer.

14.3 Irrecoverable debts in excess of £1,500 shall be reported to the Chief Financial Officer who may write off such debts following consultation with the Leader.

14.4 The Chief Financial Officer shall report at least annually on the stewardship of debts due to the Council.

NDDC CONSTITUTION

Part 4

SCHEDULE 1

NORTH DEVON DISTRICT COUNCIL

RETENTION OF ACCOUNTING RECORDS

BANK ACCOUNT RECORDS

Cheques and Associated Records:	Disposal
--	-----------------

Cheque book / butts for all accounts	2 years
--------------------------------------	---------

Cancelled cheques	2 years
-------------------	---------

Dis-honoured cheques	2 years
----------------------	---------

Fresh cheques	6 years
---------------	---------

Paid / presented cheques	6 years
--------------------------	---------

Stoppage of cheque payment notices	2 years
------------------------------------	---------

Record of cheques opened books	2 years
--------------------------------	---------

Cheques registers	2 years
-------------------	---------

Records of cheques drawn for payments	6 years
---------------------------------------	---------

Bank Deposits:	Disposal
-----------------------	-----------------

Bank deposit books / slips / butts	2 years
------------------------------------	---------

Bank deposit summary sheets, summaries of daily banking, cheque schedules	2 years
---	---------

Register of cheques logged for collection	2 years
---	---------

NDDC CONSTITUTION

Part 4

Bank Reconciliations:

Disposal

Reconciliation files / sheets

2 years

Daily list of paid cheques

2 years

Unpaid cheque records

2 years

Bank Statements:

Disposal

Bank Statements,
Reconciliations

Periodic 2 years

Bank certificates of balance

2 years

Electronic banking and electronic funds transfer:

Cash transactions, payment instructions, deposits, withdrawals,

Action in-line
with paper records

Audit trails

Action in-line
with paper records

NDDC CONSTITUTION

Part 4

EXPENDITURE RECORDS

Cash Books and Sheets:

Disposal

Cash books / sheets

6 years

Expenditure sheets

6 years

Petty cash records:

Petty cash records / books / sheets

2 years

Petty cash receipts

2 years

Postal cash books / sheets / postage / courier account / cash records
Register of postage expenditure, postage paid record, postage
books / sheets

2 years

Summary cash books

2 years

Creditors:

Creditors' history records lists / reports

6 years

Statements:

Statements of accounts outstanding / outstanding orders

2 years

Statements of accounts rendered / payable

- 2 years

Subsidiary Records:

Copies of extracts and expenditure dissections

1 year

Credit note books

2 years

Debit note books

2 years

NDDC CONSTITUTION

Part 4

Vouchers:

Vouchers – claims for payment, purchase orders, requisition for Goods and services, account payable invoices etc	6 years
--	---------

LEDGER RECORDS

General subsidiary and ledgers:

General subsidiary and ledgers produced for the purposes of preparing certified financial statements or published information	6 years
---	---------

Creditors' ledgers	6 years
--------------------	---------

Journals:

Journals – prime records for the raising of charges	6 years
---	---------

Journals – routine adjustments	2 years
--------------------------------	---------

Trail and Balances:

Year-end balances, reconciliations and variations to support ledger balances and published accounts	6 years
---	---------

RECEIPTS AND REVENUE RECORDS

Books / butts:

Receipt books / butts, office copy of receipts-cashiers', cash register, fines and costs, sale of publications, general Receipt books / butts / records.	6 years
--	---------

Postal remittance books / records	6 years
-----------------------------------	---------

NDDC CONSTITUTION

Part 4

Cash Registers:

Copies of forms	6 years
Reconciliation sheets	6 years
Audit rolls	2 years
Summaries / analysis records	2 years
Reading books / sheets	2 years

Revenue Records:

Revenue cash books / sheets / records, receipt cash books / sheets	6 years
--	---------

Debtors records and Invoices:

Copies of invoices/debit notes rendered on debtors (invoices paid/unpaid, registers of invoices, debtors ledgers, etc) source documents / records used for raising of invoices/debit notes	6 years
--	---------

Debts and Refunds:

Copies of invoices and copies of source documents	2 years
Records relating to unrecoverable revenue, debts and overpayments (register of debts written off, register of refunds etc)	6 years

NDDC CONSTITUTION

Part 4

SALARIES AND RELATED RECORDS

Salary Records:

Employees pay histories	6 years
-------------------------	---------

Salary records	6 years
----------------	---------

OTHER FINANCIAL RECORDS

Asset Registers:

Assets / equipment registers / records	6 years after the asset is disposed of
--	--

Depreciation Registers:

Records relating to the calculation of annual depreciation

6 years after the asset is disposed of

Financial Statements:

Statements / summaries prepared for inclusion in annual reports	6 years
---	---------

NDDC CONSTITUTION

Part 4

OFFICER EMPLOYMENT PROCEDURE RULES

This part deals with the appointment and dismissal of staff.

PRESCRIBED STANDING ORDERS

These Rules incorporate the standing orders prescribed under the Local Authorities (Standing Orders)(England) Regulations 2001 as amended.

DEFINITIONS

“Chief Officer” means the Statutory Chief Officers, Non Statutory Chief Officers and the Deputies of those persons as defined within s2 of the Local Government and Housing Act 1989

“Chief Financial Officer” shall mean any officer appointed under s151 of the Local Government Act 1972

“Head of Paid Service” shall mean the officer appointed under section 4(1) of the Local Government and Housing Act 1989

“Independent Persons” means a person appointed by the Council under s28(7) of the Localism Act 2011

“Monitoring Officer” means any officer appointed under s5 of the Local Government and Housing Act 1989

“Proper Officer” means the Human Resources Manager

“Relevant Independent Person” means an Independent Person appointed by the Council or where there are fewer than two such persons, such Independent Persons as have been appointed by another authority.

1. RECRUITMENT AND APPOINTMENT

1.1 Declarations

1.1.1 The Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any councillor or officer of the Council;

1.1.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the Head of Paid Service or where the relationship is between the candidate and the Head of Paid Service, the authority of the Proper Officer.

July 2022

NDDC CONSTITUTION

Part 4

1.2 Seeking support for appointment

1.2.1 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.

1.2.2 No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

2. RECRUITMENT OF CHIEF EXECUTIVE/HEAD OF PAID SERVICE AND CHIEF OFFICERS

Where the Council proposes to appoint a Chief Executive/Head of Paid Service or a Chief Officer, including on a joint basis with another public body, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

2.1 draw up a statement including the following:

2.1.1 the duties of the Officer concerned; and

2.1.2 any qualifications or qualities to be sought in the person to be appointed;

2.2. 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

2.3 make arrangements for a copy of the procedures mentioned in paragraph 1 to be sent to any person on request.

3. PROCEDURE FOR RECRUITMENT OF HEAD OF PAID SERVICE MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

3.1 The appointment of the Head of Paid Service, Monitoring Officer and Chief Financial Officer shall be the responsibility of the Full Council following a recommendation on the appointment from the Appointments Committee.

3.2 The Appointments Committee or a Sub Committee of it shall carry out the interview process and will make a recommendation on the appointment to the Full Council.

3.3 In respect of the appointment of the Monitoring Officer and Chief Financial Officer, the interview process shall be chaired by the Head of Paid Service or a person nominated by him.

NDDC CONSTITUTION

Part 4

4. PROCEDURE FOR THE DISMISSAL OF HEAD OF PAID SERVICE, MONITORING OFFICER AND CHIEF FINANCIAL OFFICER

- 4.1 The dismissal for disciplinary reasons of the Head of Paid Service, Monitoring Officer and Chief Financial Officer shall be the responsibility of Full Council.
- 4.2 Before taking a decision, Full Council shall receive advice from a panel consisting of the Appointments Committee or a Sub Committee of it, two or more Relevant Independent Persons and such other persons as may be considered appropriate by Full Council ("the Panel").
- 4.3 The Panel must be appointed at least 20 working days before the meeting of Full Council at which a decision is to be made as to whether to dismiss the officer.
- 4.4 The Council shall appoint to the Panel the Relevant Independent Persons in accordance with the following priority order:-
 - (a) A relevant Independent Person who has been appointed by the authority and who is a local government elector,
 - (b) Such other Relevant Independent Person appointed by the Council,
 - (c) A Relevant Independent Person appointed by another authority.

5. RESPONSIBILITY FOR RECRUITMENT OR DISMISSAL OF OTHER OFFICERS

- 5.1 The function of the appointment and dismissal of and taking disciplinary action against any other officer will be discharged by the Head of Paid Service subject to any delegations contained within Part 3 of this Constitution, and shall not be the responsibility of Councillors.
- 5.2 Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry or where the Council's procedures as adopted from time to time allow a right of appeal to Councillors.

6. SUSPENSION

- 6.1 The Head of Paid Service, the Chief Financial Officer, or the Monitoring Officer may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and must terminate no later than 2 months after the suspension takes effect.

7. APPEALS

None of the above shall prevent a Councillor serving as a member of an appeals committee or body established to consider an appeal by:

July 2022

NDDC CONSTITUTION

Part 4

- 7.1 any person against any decision relating to the appointment of that person as a member of staff of the authority; or
- 7.2 a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff unless the dismissal relates to a capability issue, misconduct, some other substantial reason, some other statutory enactment or planned retirement where the member of staff has less than six months' notice – in these instances the appeal shall be conducted by a senior officer.

NDDC CONSTITUTION

Part 4

CONTRACT PROCEDURES RULES

PART 1 General

1. Definitions and interpretation

In these Contract Procedure Rules the following words and expressions shall have the following meanings:

2015 Regulations	the Public Contracts Regulations 2015 (as amended)
Central Purchasing Body	<p>an authority that:</p> <ul style="list-style-type: none">(a) acquires goods or services intended for one or more contracting authorities;(b) awards public contracts intended for one or more contracting authorities; or(c) concludes Framework Agreements for works, goods or services intended for one or more contracting authorities
Contracts Finder	a web-based portal provided, pursuant to the 2015 Regulations, by or on behalf of the Cabinet Office
Controlled Organisation	<p>an organisation which:</p> <ul style="list-style-type: none">(a) carries out more than 80% of its activities with the Council (or the Council jointly with other public authorities);(b) the Council (or the Council jointly with other public authorities) exercises decisive influence over in respect of both its strategic objectives and significant decisions; and(c) has no private sector ownership or any intention that there should ever be
Dynamic Purchasing System	an electronic market place through which the Council and other contracting authorities can source requirements by inviting tenders from economic operators admitted to the system
Financial Procedure Rules	the Financial Procedure Rules set out in Part 4 of the Constitution.

Feb 2023

NDDC CONSTITUTION

Part 4

FTS	the Find a Tender Service
Framework Agreement	an agreement, procured by a Central Purchasing Body, which sets up a framework which allows the Council to call off a contract with a supplier/contractor to provide goods, services or works without having to run its own procurement, provided such contract is called off in accordance with the terms of the agreement
Innovation Partnerships	long term partnerships which allow for both the development and subsequent purchase of new and innovative products, services or works
ITT	invitation to tender in the form available from Legal Services
Leader	the Leader of the Council
Officer	any officer of the Council designated by their Head of Service to deal with the contract in question
PQQ	pre-qualification questionnaire in the form available from the Legal Services Unit
Pre-Procurement Stage	<p>the stage of the commissioning process where the subject of a procurement is conceived ending on the earliest of:</p> <ul style="list-style-type: none">(a) the publishing of an advertisement or notice seeking expressions of interest for the contract, in any form whatsoever;(b) an expression of interest or offer being sought or responded to; or(c) a contract being entered into or a framework agreement being concluded
Procurement Documentation	shall include RFQ, PQQ, ITT (as defined in these Contract Procedure Rules) and associated documentation as relevant to the procurement being conducted
Procurement Portal	an online procurement portal compliant with paragraph 7.1 of these Contract Procedure Rules
Regulations	the 2015 Regulations as amended, extended or re-enacted from time to time and includes any

Feb 2023

NDDC CONSTITUTION

Part 4

subordinate legislation for the time being in force made under it.

RFQ	a request for quotation in the form provided on the Procurement Portal or available from the Legal Services Unit
RFW	a request for waiver from compliance with these Contract Procedure Rules in the form available from the Legal Services Unit
Specification	a description of exactly what goods, services, works or outcomes are to be provided under a contract
Standstill Period	as provided by the Regulations, the mandatory period of at least 10 calendar days between the notification of the intended award of a contract and the actual award of a contract
Suitability Questions	questions to assess whether a potential supplier can meet the Minimum Standard required to be invited to tender
Verifying Officer	the Senior Solicitor and Monitoring Officer or such other officer appointed by them to open tenders on the Procurement Portal.

2. Compliance with the Contract Procedure Rules

- 2.1 These Contract Procedure Rules refer to the selection, award and entry into any contract by the Council and by any person or representative acting on behalf of the Council or Council partnership.
- 2.2 Every contract to be entered into on behalf of the Council shall comply with:
- (a) domestic legislation, common law and UK procurement legislation;
 - (b) the Financial Procedure Rules; and
 - (c) any other policies and procedures of the Council, insofar as they are directly relevant to that contract.

NDDC CONSTITUTION

Part 4

- 2.3 It shall be a condition of any contract between the Council and any person who is required to supervise a contract on behalf of the Council (where that person is not an Officer), that in relation to such a contract he/she shall comply with the requirements of these Contract Procedure Rules as if he/she were an Officer. Failure to comply with the Contract Procedure Rules may result in the termination of any contract between the Council and any person who is required to supervise a contract on behalf of the Council.
- 2.4 Any non-compliance or breach of these Contract Procedure Rules shall follow the following procedure:
- (a) It will be reported immediately on discovery to the dedicated procurement email address and escalated to the Senior Solicitor & Monitoring Officer and the Head of Governance.
 - (b) The Senior Solicitor & Monitoring Officer will undertake an investigation, where deemed necessary, with the investigation findings reported to the Senior Management Team.
 - (c) Investigation findings will be referred to Human Resources where any breach of these Contract Procedure Rules requires further action in accordance with human resources policies, including disciplinary action.
- 2.5 In the event of failure by Officers to comply with the Contract Procedure Rules, the Council may invoke its disciplinary policy and procedure depending on all the circumstances of any such failures.

3. Delegated Authority

- 3.1 Any procurement carried out on behalf of the Council may be undertaken only by those Officers with the appropriate delegated authority to carry out such tasks as set out in the Council's scheme of delegation and such Officers authorised by Council and which have been notified and recorded in the register held by Members Services.

4. Exemptions and exceptions from the Contract Procedure Rules

- 4.1 Subject to the requirements of the Regulations and UK procurement legislation, the following contracts are exempt from the requirements of the Contract Procedure Rules:
- (a) contracts of employment;

NDDC CONSTITUTION

Part 4

- (b) contracts relating solely to the disposal or acquisition of an interest in land;
- (c) transactions conducted by the Chief Financial Officer in respect of dealing in the money market or obtaining finance for the Council; and
- (d) the appointment of counsel or specialist legal representative by the Senior Solicitor and Monitoring Officer to advise the Council generally.

4.2 Subject to the requirements of the Regulations, the following contracts are exempt from the requirements of Part 3 of the Contract Procedure Rules:

- (a) contracts of a value less than £5,000;
- (b) contracts procured through a Central Purchasing Body in accordance with paragraph 20 below;
- (c) contracts with another public authority where such contracts include no private sector participation whatsoever and, in the opinion of the Senior Solicitor and Monitoring Officer:
 - (i) the contract establishes or implements a co-operation between the Council and other participating public authorities with the aim of ensuring that public services they have to perform are provided with a view to achieving objectives they have in common;
 - (ii) the implementation of co-operation as referred to in 4.2(c)(i) is governed solely by considerations relating to the public interest; and
 - (iii) the participating public authorities (including the Council) perform, on the open market, less than 20% of the activities concerned by the cooperation.
- (d) contracts with Controlled Organisations.

4.3 An exception from the provisions in these Contract Procedure Rules relating to the selection, award and entry into contracts may be made by:

- (a) resolution of the Council;

NDDC CONSTITUTION

Part 4

- (b) resolution of the Strategy and Resources Committee;
- (c) an urgent decision of Chief Executive in accordance with Article 11.8 of Part 2 of the Constitution; or
- (d) by authorisation via a RFW in accordance with paragraph 12.2 below providing that they are satisfied that the exemption is justified on special circumstances and details of those special circumstances are recorded at the time the exception is given.

4.4 Whenever an exception is made under 4.3(a), 4.3(b) or 4.3(c) above, the Senior Solicitor and Monitoring Officer should make arrangements for an item to be placed on the agenda of the next meeting following of the Governance Committee for that Committee to note the details of the exception and the reasons for it.

4.5 Where authorisation is given to waive these Contract Procedure Rules in accordance with paragraph 4.3 above an appropriate contract must be issued to the supplier and the details of the award entered onto the Contract Register, Contract Finder and the FTS as appropriate and as required by the Regulations.

4.6 The Senior Solicitor & Monitoring Officer must keep a record of all cases where an exemption from these Procedures has been requested and authorised or declined and will report these to the Senior Management Team on a six-monthly basis.

5. Equality

5.1 In the procuring of works, services and supplies, organisations that are awarded tenders are acting on behalf of the Council and will be expected to comply with current equality legislation in the same manner as the Council, in both employment and service delivery.

5.2 In accordance with the requirements of the Public Services (Social Value) Act 2012; where the Council is conducting a procurement of services, and the value of such services is estimated to be in excess of the relevant threshold pursuant to the Regulations, full consideration must be given, and, where appropriate, consultation undertaken and conclusions recorded, at the Pre-Procurement Stage in respect of:

- (a) how what is proposed to be procured might improve the economic, social and environmental well-being of the Council's area; and

NDDC CONSTITUTION

Part 4

- (b) how the Council may act with a view to securing that improvement in conducting the process of procurement.

6. Procurement Strategy

- 6.1 The Devon Districts Procurement Strategy (and any variation, update or replacement to this Strategy from time to time) must be adhered to in the procuring of all works, services and supplies.

7. Procurement Portal

- 7.1 The Council shall at all times maintain an effective Procurement Portal which must:
 - (a) be an appropriate and secure system for transmitting Procurement Documentation and receiving responses to such Procurement Documentation;
 - (b) be capable of recording evidence and an audit trail of all activity in respect of a procurement; and
 - (c) be capable of preventing:
 - (i) the opening of tenders until the deadline for the receipt of tenders has passed; and
 - (ii) the editing of, or otherwise tampering with, tenders at any point.

PART 2

Before entering into a contract/procurement

8. Preparation

8.1 In the case of every contract Officers must ensure that they have sufficiently planned the procurement of a contract by:

- (a) estimating its value in accordance with paragraph 9 below; and
- (b) taking preparatory action as required in the Pre-Procurement Stage as appropriate to the complexity and value of the contract.

9. Estimating contract value

9.1 The calculation of the estimated value of a procurement shall be based on the total amount payable, net of VAT (save where paragraph 15.1 applies where the value shall be inclusive of VAT), as estimated by the Officer, including any form of option and any renewals of the contract(s) as explicitly set out in the Procurement Documents.

9.2 Where there is any provision for prizes or payments to potential suppliers or tenderers this must be taken into account when calculating the estimated value of the procurement.

9.3 As the Council is comprised of separate operational departments, account must be taken of the total estimated value for all of those departments.

9.4 Where a contract for services does not indicate a total price, the basis of calculating the estimated contract value shall be:

- (a) 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; or
- (b) in the case of contracts without a fixed term or with a term greater than 48 months, the monthly value multiplied by 48.

9.5 Where a contract for supplies relates to the leasing, hire, rental or hire purchase of products, the basis for calculating the estimated contract value shall be:

NDDC CONSTITUTION

Part 4

- (a) in the case of 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 the term of the contract is greater than 12 months, the total value including the estimated residual value; or
 - (b) in the case of contracts without a fixed term, or a term which cannot be defined, the monthly value multiplied by 48.
- 9.6 Where a supply or service contract is, by nature, regularly procured or are intended to be renewed within a given period, the calculation of the estimated contract value shall be based on either:
 - (a) 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; or
 - (b) 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.
- 9.7 In the case of the following service contracts, the basis for calculating the estimated contract value shall, where relevant, be as follows:
 - (a) in the case of insurance services, the premium payable and other forms of remuneration;
 - (b) in the case of banking and other financial service, the fees, commissions payable, interest and other forms of remuneration; and
 - (c) in the case of design contracts, the fees, commissions payable and other forms of remuneration.
- 9.8 In the case of a contract for works, the calculation of the estimated value shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the contractor by the contracting authority provided that they are necessary for executing the works.

NDDC CONSTITUTION

Part 4

- 9.9 The estimated value of a contract shall be calculated as at the moment at which the call for competition is sent or, in cases where a call for competition is not foreseen, at the moment at which the Council commences the relevant procurement procedure.
- 9.10 The method of estimating the value of a public services or works concession contract (which shall be where the consideration for the provision of the services or works consists either solely in the right to exploit the service/work or in this right together with payment) shall be:
- (a) for a public services concession contract: the total turnover of the concessionaire in consideration of the services being the object of the concession, as well as for the supplies incidental to such services, generated over the duration of the contract; or
 - (b) for a public works concession contract: the value of the consideration which the contracting authority would expect to give for the carrying out of the work or works if it did not propose to grant a concession.
- 9.11 Where a contract is proposed to be awarded in the form of separate lots, account shall be taken of the total estimated value of all such lots except that the Council may separately award individual lots where the estimated value (calculated in accordance with paragraph 9.1 above) of the lot(s) concerned:
- (a) is less than the threshold provided for this purpose in the Regulations; and
 - (b) the aggregate value of the lots awarded on this basis does not exceed 20% of the aggregate value of all of the lots into which the proposed contract has been divided.
- 9.12 In the case of Framework Agreements and Dynamic Purchasing Systems, the value to be taken into consideration shall be the maximum estimated value (calculated in accordance with paragraph 9.1 above) of all the contracts envisaged for the total term of the Framework Agreement or the Dynamic Purchasing System.
- 9.13 In the case of Innovation Partnerships, the value to be taken into consideration shall be the maximum estimated value (calculated in accordance with paragraph 9.1 above) 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.

Feb 2023

NDDC CONSTITUTION

Part 4

- 9.14 For consistency, contract values should be calculated in accordance with the Regulations even when the Regulations are not applicable. This includes the requirement to aggregate the value of a series of orders or contracts placed with the same supplier.
- 9.15 Contracts for works, services and supplies, or any combination of them, are not to be split or subdivided with the effect of preventing them from falling within the scope of either these Contract Procedure Rules or the Regulations.

10. Pre-Procurement Stage

10.1 The Pre-Procurement Stage shall include:

- (a) ensuring that an appropriate Specification (relevant to the value of the contract) is prepared or otherwise put in place;
- (b) the identification of relevant contract terms;
- (c) where a contract is not exempt from the requirements of Part 3 of these Contract Procedure Rules pursuant to paragraph 4.2 above:
 - (i) the preparation of all relevant Procurement Documentation (including, where applicable, an ITT prepared in accordance with paragraph 13.5 below); and
 - (ii) the engagement of all relevant officers (as appropriate to the value and/or complexity of the contract or procurement) to advise and assist; and
- (d) any other preparation which the relevant Head of Service and/or the Senior Solicitor and Monitoring Officer deems appropriate.

10.2 The Pre-Procurement Stage may, where the relevant Head of Service deems it fit, include conducting preliminary market consultations with a view to preparing the procurement and informing economic operators of the Council's procurement plans and requirements.

10.3 Such consultations referred to in 10.2 may include seeking or accepting advice from independent experts, authorities or from market participants. Such advice can then be used in subsequent planning and conduct of contract and the procurement procedure provided that a suitable audit trail is maintained on the relevant Officer's file and the advice does not, in the

NDDC CONSTITUTION

Part 4

opinion of the Senior Solicitor and Monitoring Officer, have the effect of distorting competition and does not breach requirements for non-discrimination and transparency.

10.4 Where an economic operator has advised the Council, or has been otherwise involved, in the Pre-Procurement Stage for a specific procurement and then wishes to participate in that procurement process that economic operator cannot automatically be banned from participating however appropriate measures must be taken to ensure, to the satisfaction of the Senior Solicitor and Monitoring Officer, that competition will not be distorted by the participation of that economic operator. Such measures shall include:

- (a) providing all potential suppliers with relevant information exchanged or arising out of the economic operator's prior involvement; and
- (b) where the procurement process involves tendering, the provision of adequate time limits for the return of tenders.

An economic operator may only be excluded on the basis of their prior involvement where, in the opinion of the Senior Solicitor and Monitoring Officer, there are no other means to ensure compliance with the duty to ensure equal treatment.

NDDC CONSTITUTION

Part 4

PART 3 Procurement

11. Procurement generally

- 11.1 All Procurement Documentation shall only be transmitted to interested parties via the Procurement Portal except in extenuating circumstances and with the authority of the relevant Head of Service.
- 11.2 Suppliers should also be required to respond to, or ask questions/seek clarification about, Procurement Documentation via the Procurement Portal except where a procurement is being conducted separately of the Procurement Portal in accordance with 11.1.
- 11.3 Oral communication between Officers and potential suppliers is permitted provided it does not affect essential elements of the procurement and provided that a record is kept of decisions made.

12. Obtaining Quotations

- 12.1 Subject to 12.2 below (or unless Council or the Strategy and Resources Committee resolve, or there is an urgent decision of the Chief Executive, that a tender process contained in paragraph 13 shall be used in relation to the proposed contract) where the Council intends to enter into a contract with an estimated value between £5,000 and £74,999.99 (or such other sum as the Council may from time to time determine):
 - (a) quotations from at least three alternative suppliers shall be obtained using an RFQ in accordance with paragraph 11 above; and
 - (b) only the lowest quotation received in respect to a RFQ shall be accepted

12.2 Where an Officer considers that they are unable to comply with paragraph

12.1s:

- (a) it is not appropriate in the circumstances for three quotes to be obtained; or
- (b) the lowest quotation received is not acceptable

Feb 2023

NDDC CONSTITUTION

Part 4

the Officer may only set aside the requirements of paragraph 12.1 with the approval of the Head of Paid Service, the Senior Solicitor & Monitoring Officer, the Chief Financial Officer or any Head of Service as defined by paragraph 4.1 of Part 3 of this Constitution, such approval to be sought and recorded on a RFW. Once approved, a copy of the RFW shall be held on the relevant file of the Officer undertaking the procurement for at least the duration of the contract and the Officer must ensure compliance with paragraph 4.5 above.

13. Lower value tendering under the Contract Procedure Rules

13.1 Where at the time of the decision to purchase goods, services or works on behalf of the Council it is reasonably believed that the value of the goods, services or works to which the proposed contract or Framework Agreement relates will be between £75,000 and the relevant thresholds set out in the Regulations, then tenders shall be invited in accordance with the procedure set out below.

13.2 A notice advertising the tendering opportunity and containing, as a minimum, the information set out in paragraph 13.3 shall be given in accordance with paragraph 14 below.

13.3 The notice shall:

- (a) express the nature and purpose of the contract;
- (b) invite tenders for its execution;
- (c) state the last date and time when tenders will be received, being a period not less than 10 working days from the date of the advert or such longer period as may be required by law; and
- (d) identify the form of the contract.

13.4 An ITT (prepared in compliance with 13.5) including a Specification and contract terms (or at least making specific reference to the applicable contract terms), all with content as agreed with the Senior Solicitor and Monitoring Officer, shall be published on the Procurement Portal with the notice set out in 13.2.

13.5 An ITT must include full details of the Council's requirements for the contract which it is procuring and shall set out:

NDDC CONSTITUTION

Part 4

- (a) where deemed appropriate to a procurement by the relevant Head of Service, Suitability Questions that are (in the opinion of the Senior Solicitor and Monitoring Officer):
 - (i) relevant to the subject matter of the procurement;
 - (ii) proportionate;
 - (iii) limited to assessing whether minimum standards of suitability, capability, legal status and/or financial standing are met; and
 - (iv) compliant with the Regulations, including any ministerial guidance issued by pursuant to the 2015 Regulations; and
- (b) the evaluation criteria pursuant to which the Council will award the contract although it may, if the Officer deems it fit, allow for the submission of variant bids to encourage supplier innovation.

14. Notices

14.1 Where an Officer wishes to place an advert for a contract or Framework Agreement of a value in excess of £30,000 (inclusive of VAT) in the public domain or to otherwise advertise to potential suppliers generally, and/or is required to do so pursuant to paragraph 14.2, the Officer must (having regard to any guidance issued by the Minister for the Cabinet Office):

- (a) ensure that the opportunity is published on Contracts Finder within 24 hours of the time when it first advertises the contract award opportunity in any other way including publishing at least the following:
 - (i) the time by which any interested supplier must respond if it wishes to be considered;
 - (ii) how and to whom such a supplier is to respond; and
 - (iii) any other requirements for participating in the procurement;
- (b) allow sufficient time for interested suppliers to become aware of the opportunity; and

NDDC CONSTITUTION

Part 4

- (c) ensure all relevant documents are made available free of charge by a hyperlink to the Procurement Portal.

14.2 A contract compliant with paragraph 13.1 above shall be advertised by a suitably accessible advertisement published to an extent sufficient to enable the market to be opened up to competition. This shall include a notice placed:

- (a) on the Procurement Portal;
- (b) where deemed appropriate by the relevant Head of Service, taking into account and recording in the relevant file the likely interest in the contract (including the likelihood of any interest in the contract across the UK or the potential for international interest in the contract):
 - (i) in at least one local newspaper or other publication;
 - (ii) in a newspaper or journal (paper or web-based) circulating among such persons or bodies that undertake such contracts;
 - (iii) on FTS; and
- (c) in such publications as the law may from time to time require.

14.3 Without limiting the other requirements to publish details of an awarded contract as provided by the Regulations or as set out in paragraph 25 below, where an Officer has awarded a contract with a value in excess of £30,000 (inclusive of VAT) they must, regardless of how the contract was initially advertised, within a reasonable time following contract award, ensure that at least the following information is published on Contracts Finder:

- (a) winning contractor's name;
- (b) date of contract conclusion;
- (c) value of the contract; and
- (d) if the contractor is a small to medium sized enterprise or a voluntary, community or social enterprise.

15. Tendering under the Regulations

15.1 Where, at the time of the decision to purchase goods, services or works on behalf of the Council, it is reasonably believed that the value of the goods, services or works to which the proposed contract or Framework Agreement relates will be around or in excess of the relevant threshold set out in the Regulations, then the Procurement Documentation must be prepared in accordance with the Regulations and in full consultation with the Senior Solicitor and Monitoring Officer.

15.2 A procurement conducted pursuant to the Regulations must be undertaken using one of the following procedures to be decided by the relevant Head of Service in consultation with the Senior Solicitor and Monitoring Officer:

- (a) open procedure;
- (b) restricted procedure;
- (c) competitive procedure with negotiation;
- (d) competitive dialogue procedure; or
- (e) innovation partnerships procedure.

15.3 The procedures provided at paragraphs 15.2(c), 15.2(d) or 15.2(e) may only be used with the authority of the Head of Paid Service and where:

- (a) needs cannot be met without adaptation of readily available solutions;
- (b) the contract includes design or innovative solutions;
- (c) the requirement is complex in nature, in its legal and financial make-up or because of its risks;
- (d) technical specifications cannot be established with sufficient precision; or
- (e) unacceptable or irregular tenders have been received in response to a procurement conducted in accordance with the procedures provided at paragraphs 15.2(a) or 15.2(b).

NDDC CONSTITUTION

Part 4

15.4 For the avoidance of doubt the same notice provisions as that set out at paragraph 14.2 shall apply when tendering under the Regulations save that all such contracts must be advertised by an appropriate notice on the FTS and the content of such notice shall be as stipulated by the Regulations and agreed following full consultation with the Senior Solicitor and Monitoring Officer.

15.5 In addition to the procedures set out in paragraph 15.2 the Council may, in exceptional circumstances and only with the authority of the Head of Paid Service in consultation with the Senior Solicitor and Monitoring Officer, award a contract by negotiation without prior publication of the contract opportunity on the FTS where (subject to any additional justifications provided by the Regulations):

- (a) no tenders/suitable tenders or requests to participate have been received in response to a procedure provided in paragraph 15.2;
- (b) only one supplier could apply for artistic/technical/exclusive rights reasons (in the last two cases provided no reasonable alternative exists and that the absence of competition is not the result of an artificial narrowing of the requirement);
- (c) extreme urgency from events unforeseeable by the Council (which means that the time limits for the procedures set out in paragraph 15.2 cannot be complied with) and the extreme urgency of the need is not attributable to the Council; or
- (d) products involved are manufactured purely for the purpose of research, experimentation, study or development.

16. Receipt of tenders

16.1 In accordance with the notice requirements set out in paragraphs 14 and 15.4, a procurement must be placed on the Procurement Portal and therefore, in accordance with paragraph 11, except where the relevant Head of Service determines the position should be otherwise (subject to the provisions of the Regulations), tenders must also be received through the Procurement Portal and should not be paper based.

16.2 Any tender received after the time and date specified in the ITT shall be rejected and shall not be considered under any circumstances.

NDDC CONSTITUTION

Part 4

16.3 Where the relevant Head of Service determines that a tendering process should be paper based the following tender receipt procedure shall be followed:

- (a) Every ITT shall contain a paragraph that makes it clear that no tender will be accepted unless:
 - (i) it is enclosed in a plain sealed envelope which shall bear the word “Tender” – followed by the subject to which it relates; and
 - (ii) the envelope does not include any other name or mark which is capable of identifying the sender.
- (c) Tenders received and accepted by the Council shall be kept in the custody of the Senior Solicitor and Monitoring Officer until the time and date specified for their opening.
- (d) Where a Tender is received after the specified deadline, the time of receipt will be recorded and, in addition, the tender envelope shall be stamped as ‘Late’. Once all other tenders to which the contract relates have been opened the late tenders will be opened and stamped as ‘Late’. The appropriate Officer can then inform the late tenderer that its tender was received after the deadline and therefore was not considered.

17. Opening of tenders

17.1 Tenders to be opened via the Procurement Portal shall be opened by a Verifying Officer at one time and only in accordance with the requirements of the Procurement Portal.

17.2 Paper based tenders shall be opened at one time and only in the presence of:

- (a) one Member; and
- (b) one person from the Member Services team (or such other team as the Head of Paid Service may otherwise direct); and
- (c) one of the following:
 - (i) the project leader of the project to which the contract relates; or

NDDC CONSTITUTION

Part 4

- (ii) the Head of Service/Service Manager with responsibility for the function to which the contract relates; or
- (iii) any other Officer nominated by either of them to perform such a role.

17.3 Details of any paper based tenders received, including the name of the organisation submitting the tender and the amount of the bid, shall be recorded in a register kept by the Member Services team.

18. Evaluation of tenders

18.1 All tenders, whether subject to the Regulations or otherwise, will be evaluated in accordance with the evaluation criteria set out in the ITT and upon no other basis whatsoever.

18.2 For each procurement subject to the Regulations, or where the value of the contract to be awarded exceeds £75,000, the project leader or the Head of Service/Business Unit Manager will form an evaluation panel with responsibility for evaluating the tenders in accordance with paragraph 18.1.

18.3 All contracts, except where the lowest price was predetermined to be the appropriate criteria in the ITT (procurements with a value beneath the relevant financial threshold stipulated by the Regulations only), will be awarded on the basis of the offer that represents the most economically advantageous for the Council as determined in the ITT.

18.4 An Officer shall require tenderers to explain the price or costs proposed in their tender where such a tender appears to be abnormally low in relation to the works, supplies or services being procured.

18.5 Prior to the award of any contract due diligence will be carried out to ensure that the tenderer has the experience and/or financial means to perform the contract. For the sake of clarity, this includes contracts for the provision of advice or consultancy services.

19. Award of contract

19.1 When a contract is awarded or a Framework Agreement is concluded pursuant to a tendering process under paragraphs 13 or 15 then all tenderers must be sent a notice simultaneously (via the Procurement Portal except where the tenders were paper based) notifying them of the Council's decision to award and specifying:

NDDC CONSTITUTION

Part 4

- (a) the criteria for the award of the contract;
- (b) (or where the contract or Framework Agreement was concluded pursuant to a tendering process under paragraph 13, offering by way of a separate debrief) the reasons for the decision, including a brief summary of:
 - (i) (for a successful tenderer) the characteristics and relative advantages of the successful tender; or
 - (ii) (for an unsuccessful tenderer) the reasons why the tenderer was unsuccessful;
- (c) the score (if any) obtained by:
 - (i) the tenderer which is to receive the notice; and
 - (ii) the tenderer to be awarded the contract or to become a party to the Framework Agreement;
- (e) the name of the tenderer to be awarded the contract or to become a party to the framework agreement; and
- (f) a statement of when the Council expects to enter into the contract or conclude the framework agreement.

19.2 When a contract is awarded or a Framework Agreement concluded pursuant to the procurement procedure in paragraph 15 any additional requirements as to contract award set out in the Regulations must also be complied with including:

- (a) that the notice set out in paragraph 19.1 must provide all additional information required by the Regulations including setting out the applicable Standstill Period; and
- (b) publishing a contract award notice compliant with the requirements of the Regulations on the FTS not later than 30 days following the award of the contract or conclusion of the Framework Agreement.

19.3 Where the Regulations require that a Standstill Period is observed by the Council, the Officer must ensure that the Council does not enter into a contract with its preferred supplier until the applicable Standstill Period has expired.

NDDC CONSTITUTION

Part 4

- 19.4 Letters of intent must only be used in exceptional circumstances and after consultation with, and the approval of, the Senior Solicitor and Monitoring Officer.

PART 4 Collaborative procurement

20. Collaborative procurement

20.1 The Council may, following consultation with and approval of the Senior Solicitor and Monitoring Officer, procure goods, services or works from or through a Central Purchasing Body.

20.2 The Council shall be deemed to have complied with the Regulations and UK procurement legislation to the extent that the Central Purchasing Body has itself complied.

20.3 The Officer must ensure that the Council is clearly identified in the call for competition by the Central Purchasing Body and may only award a contract to the supplier(s) appointed by the Central Purchasing Body and in accordance with the terms of the multi-purchaser arrangement.

20.4 Procurement through a Central Purchasing Body may include one or more of the following multi-purchaser structures:

- (a) Framework Agreements: subject to the provisions of the Framework Agreement, call-off contracts can be awarded:
 - (i) directly to the supplier able to fulfil the order most efficiently (whether in terms of price, timing, scale or some other fact that is pre-determined by the Framework Agreement), if this can be established by applying the terms set out in the Framework Agreement; or
 - (i) following a mini-competition among those suppliers on the framework. The use of mini-competitions is required when:
 - (A) not all the terms of the proposed contract are laid down in the Framework Agreement; or
 - (B) it is not possible to select a supplier from the information made available when the Framework Agreement was awarded;
- (b) contract permitting further direct contracts with the Supplier: the Council will be bound by the terms agreed between the Central

NDDC CONSTITUTION

Part 4

Purchasing Body and the supplier and the precise scope of the arrangement the Council may enter into with the supplier must be in compliance with that set out in the Central Purchasing Body's contract;

- (c) contracting with the Central Purchasing Body as prime contractor: the Council will only deal with the supplier as a sub-contractor of the Central Purchasing Body and the Council must enter into an agreement with the Central Purchasing Body detailing the basis of their arrangement; and
- (d) Dynamic Purchasing Systems: the Officer must issue an ITT, provide adequate time for responses and award a contract in accordance with the Dynamic Purchasing System established by the Central Purchasing Body.

PART 5 Contracts

21. Contract terms generally

21.1 Every contract the Council enters into shall be in writing.

21.2 Where a contract requires execution it shall be executed in accordance with Article 12 of this Constitution.

22. Terms and conditions of contracts of a value beneath the financial threshold provided in the Regulations

22.1 Subject to paragraph 22.2 below, where a contract is reasonably believed to be of a value beneath the relevant threshold set out in the Regulations then the Council's standard terms and conditions shall apply to that contract to the exclusion of any supplier terms and conditions that are provided in soft or hard copy. If supplier terms and conditions are provided they must be rejected and the rejection should be evidenced in writing.

22.2 Paragraph 22.1 shall not apply where:

- (a) an ITT, with content approved by the Senior Solicitor and Monitoring Officer, identifies alternative terms and conditions;
- (b) a Framework Agreement or Dynamic Purchasing System is being procured;
- (c) the contract for services is an IT contract;
- (d) the contract is for works;
- (e) the contract is being procured from a Framework Agreement or from a Central Purchasing Body in accordance with paragraph 20;
- (f) the relevant Head of Service and/or the Senior Solicitor and Monitoring Officer deems that the Council's standard terms and conditions are not appropriate and/or that other terms and conditions are preferable, provided that a written record is kept of this reasoning, to remain on the relevant file of the officer undertaking the procurement; provided such alternative terms and

NDDC CONSTITUTION

Part 4

conditions are agreed with the Senior Solicitor and Monitoring Officer in advance of being entered into.

23 Terms and conditions of contracts of a value in excess of the relevant financial threshold provided by the Regulations

23.1 Contracts and Framework Agreements must be entered into on the terms and conditions in the form provided with the ITT and must set out any provisions required for inclusion by the Regulations.

23.2 Any exception to the requirement set out in paragraph 23.1 must be approved by the Senior Solicitor and Monitoring Officer.

24. Changes to contracts/Framework Agreements

24.1 A contract or Framework Agreement may only be varied or changed without re- advertisement if an Officer can show, to the satisfaction of:

- (i) the Senior Solicitor & Monitoring Officer; or
- (ii) the Head of Paid Service, or the Chief Financial Officer or any Head of Service as defined by paragraph 4.1 of Part 3 of this Constitution (in each case in consultation with the Senior Solicitor & Monitoring Officer)

that (having regard, where relevant, to any additional requirements set out in the Regulations):

- (a) the change is provided for in the contract/Framework Agreement in clear, precise and unequivocal review clauses;
- (b) the change:
 - (i) requires additional works, services or supplies that have become necessary and where a change of supplier would not be practicable (for economic, technical or interoperability reasons) or involve substantial inconvenience/duplication of costs; and/or
 - (ii) is unforeseeable by the Officer, acting diligently, provided these changes do not affect the nature of the contract/Framework Agreement;

and the value of such a change does not exceed 50% of the original contract price. Where such a change has been made to a contract

NDDC CONSTITUTION

Part 4

procured pursuant to paragraph 15 the change must be in accordance with the Regulations and the appropriate notice must be published on the FTS;

- (c) corporate changes have occurred in the supplier linked to merger, takeover or insolvency provided:
 - (i) the new supplier complies with any pre-qualification criteria assessed in the procurement; and
 - (ii) the change in supplier does not require any other substantial amendments to the contract/Framework Agreement;
- (d) the modification to the original contract or Framework Agreement is not substantial, that is it:
 - (i) is not a modification which renders the contract/Framework Agreement materially different in character from the one concluded;
 - (ii) would not have resulted in a different outcome in the procurement;
 - (iii) does not shift the economic balance in favour of the supplier;
 - (iv) does not extend the scope of the contract considerably; or
 - (v) put in place a new contractor other than where this is allowed pursuant to paragraph 24.1(c); and/or
- (e) the value of the modification (or the cumulative modifications where there is more than one) is less than:
 - (i) the relevant procurement threshold provided by the Regulations; and
 - (ii). 10% of the initial contract value for services or supplies contracts or 15% of the initial contract value for works contracts;

provided also that the modification(s) do not alter the overall nature of the contract.

NDDC CONSTITUTION

Part 4

25. Register of contracts

25.1 In accordance with the Local Government Transparency Code 2014 (and any subsequent or similar statutory requirement) the Senior Solicitor and Monitoring Officer shall keep and maintain a register of all contracts awarded by the Council of a value in excess of £5,000 including at least the following detail:

- (a) reference number;
- (b) title of the agreement
- (c) the Council department responsible;
- (d) description of the goods, services or works being provided;
- (e) the name and details of the supplier;
- (f) the sum to be paid over the length of the contract or the estimated annual spending or budget for the contract;
- (g) Value Added Tax that cannot be recovered;
- (h) start, end and review dates;
- (i) whether or not the contract was the result of a RFQ or an ITT; and
- (j) whether or not the supplier is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, the relevant registration number must be provided.

25.2 It shall be the responsibility of Officers to monitor their contracts and ensure that the Senior Solicitor and Monitoring Officer is provided with correct, up to date and appropriate information to allow full compliance with paragraph 25.1.

PART 5: CODES AND PROTOCOLS

CONTENTS

Introduction

Members Code of Conduct

Employees Code of Conduct

Protocol on Officer/Councillor Relations

Planning Code of Conduct

CONSTITUTION PART 5: Codes and Protocols

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviors and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

All councils are required to have a local Councillor Code of Conduct.

This Code of Conduct has been adopted by North Devon District Council as its Code of Conduct and is based on the Model Code of Conduct developed by the Local Government Association and published in December 2020.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, 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, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA 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 councillor and local government.

General principles of councillor conduct

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.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor
- 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;

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
- 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.

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. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. 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 to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority 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 councillor, 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 councillors.

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 local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do 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. Councillors have a central role to play in ensuring that equality issues are integral to the local authority'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 councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority 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. You 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

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am 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:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities 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 local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, 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 councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors 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

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority 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 local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority'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 local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

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 councillor 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 local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors 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 councillors 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 Table 1, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do 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 my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I 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.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable pecuniary interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"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.

1. 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.
2. 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.
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.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate 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, just that you have an interest. Dispensation 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 a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must 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 (as set out in Table 2), 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 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 your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or 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 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;
- 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 as set out in **Table 1**

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.

10. Where you have a personal interest in any business of your authority 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.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	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 him/her in carrying out his/her duties as a councillor, or towards his/her 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	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>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* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her 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.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her 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* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(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 his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
--	---

* 'director' includes a member of the committee of management of an industrial and provident society.

* '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.

Table 2: Other Registerable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

EMPLOYEES CODE OF CONDUCT

This document should be read in conjunction with the Constitution and all approved and adopted Human Resources policies.

1. PURPOSE

North Devon Council (the Council) relies upon the goodwill, loyalty, commitment and reliability of its employees. It is important that employees are aware of the standards of conduct expected of them.

This Code sets out those standards. It is a living document and will be reviewed from time to time.

If employees are ever unsure of their position in relation to this Code of Conduct they should seek advice from their manager.

2. SCOPE

The Code applies to all employees who work for the Council.

3. PRINCIPLES OF PUBLIC LIFE

The Council and the public expect conduct of the highest standards from employees. Public confidence would be shaken should the motives of employees be questioned by suspicion or allegations of improper conduct.

Employees dealing with public funds must deal with them responsibly and lawfully.

To this end the following general principles of conduct must be observed:-

(a) **Community Leadership**

Employees should promote and support these Principles by example, always acting in such a way as to preserve public confidence in the Council.

(b) **Duty to Uphold the Law**

Employees have a duty to uphold the law, and act on all occasions in accordance with the public trust placed in them.

(c) **Constituency**

Employees have a duty to assist the Council to act as far as possible in the interests of the whole community that it serves. Where individuals' interests are in conflict with those of others, employees should help to ensure that the Council is aware of that conflict, and that those individuals are able to pursue their concerns.

(d) Selflessness

Employees should act solely in the public interest. They should never use their position as an employee to gain for themselves, their family or their friends any financial benefit, preferential treatment or other advantage, or to confer such benefits, treatment or advantage or disadvantage improperly on others.

(e) Integrity and Propriety

Employees should not put themselves in a position where their integrity is called into question by any financial or other obligation. As well as avoiding actual impropriety, they should avoid any appearance of it.

(f) Hospitality

Employees should record all gifts and hospitality received in connection with their employment by the Council. They should not accept gifts or hospitality that might reasonably be thought to influence, or be intended to influence, their judgement, or where to do so could bring discredit upon the Council.

(g) Decisions

It is every employee's responsibility to take a professional view on any question, which Councillors or they have to decide.

(h) Objectivity in Decision-Taking

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, employees should make decisions on merit.

(i) Accountability

Employees are accountable to the Council for their actions and their part in reaching decisions, and must submit themselves to whatever scrutiny is appropriate to their office.

(j) Openness

Employees should be as open as possible about all of their actions and their part in reaching decisions. They should seek to ensure that reasons are given for decisions of the Council and that disclosure of information is restricted only in accordance with the law and para (k) below.

(k) Confidentiality

Employees should ensure that confidential material, including material about individuals, is handled in accordance with the law and any decisions on such

handling taken by the Council having regard to the public interest; and is not used for private purposes.

(l) Stewardship

Employees have a responsibility to play their part in ensuring that the Council uses its resources prudently and in accordance with the law.

(m) Participation

Where employees take part in the consideration of questions which come before them, they may do so unless they have a private interest of a kind which, in accordance with this Code, precludes them from participation.

(n) Declarations

Employees have a duty to declare any private interests relating to their employment by the Council and to take steps to resolve any conflicts arising, in a way that protects the public interest. Employees should make relevant declarations of interest at meetings of the Council, its committees and working groups, or any outside body to which they are appointed or nominated by the Council, during informal contacts and in all circumstances where they are active in their role as an employee.

(o) Relations with Councillors

Employees should respect the role of Councillors and treat them in a way that engenders mutual respect at all times.

4. CUSTOMER CARE

All employees are expected to give the highest possible standard of service to the public and to adhere to any appropriate professional Code of Conduct that relates to them.

5. ADVICE TO COUNCILLORS/EMPLOYEES

Any employee who is called upon to provide advice to Councillors or fellow employees must do so impartially.

6. CONFIDENTIAL REPORTING PROCEDURE (WHISTLEBLOWING)

The Council is committed to the highest possible standards of openness, probity and accountability, and encourages employees who have serious concerns about any aspect of the Council's work to come forward and voice these concerns. The Whistleblowing Procedure is available for any employee who considers that it is an appropriate route for raising concerns.

Employees must ensure that public interest and assets are protected at all times. Any concerns about dishonesty or impropriety which they suspect has occurred, or is likely to

occur should be reported immediately to their line manager, (or alternative contacts as named in the Whistleblowing Procedure).

Initial enquiries will be made which, if appropriate, will result in an investigation.

Employees who fail to report their concerns may become implicated themselves and consequently the Council may treat failure by an employee to report such issues as a serious matter which could lead to disciplinary action, as could be the case should an employee make an allegation frivolously, maliciously or for personal gain. Additionally, the Council may take action against an employee who goes public when it is unreasonable for the employee to do so.

7. DISCLOSURE OF CONFIDENTIAL INFORMATION

- (a) Many employees, by the nature of the work undertaken, are likely to have access to information that is of a confidential nature: -
 - (a) Heads of Service and Service Managers are responsible for informing employees which information within the department is available to the public and which is not. Employees must not disclose to the public any information that they have been told is not available to them;
 - (b) Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor pass it on to others who might use it in such a way;
 - (c) If employees receive information from a Councillor, which is personal to that Councillor, and does not belong to the Council, they should not divulge it without the prior approval of that Councillor, except where such disclosure is legally required.
- (b) With the exception of employer confidential references and, where it is necessary, in co-operation with official investigative bodies, personal information concerning another employee should not, without their consent, be supplied to another person inside or outside the service of the Council.
- (c) No proceedings of the Council or any Committee taken in confidence, including the content of any data, document, paper, report nor the contents of any document before any such meeting in confidential session should be disclosed to the public, unless required by law, or expressly authorised by the relevant body in consultation with the Chief Executive or Monitoring Officer

8. POLITICAL NEUTRALITY

In providing a service to the Council, and its elected Councillors, employees may be expected to give advice and information to individual Councillors and their Party Groups. All employees must at all times maintain political neutrality. Certain employees will have been notified that the position they hold has been identified as falling with the definition of "politically restricted" and is therefore politically sensitive. Such employees are prevented from becoming Members of a local authority (other than Parish or Community Councils),

MPs or MEPs. They are also prevented from holding office in a Party Group and from canvassing, speaking in public or writing on party political matters.

In discharging their duties, employees must:-

- (a) Follow every policy of the Council and must not allow their own personal views or political opinions to interfere with their work;
- (b) Respect the individual rights of all Councillors, not just those of the controlling group;
- (c) Not allow their own personal or political opinions to interfere with their work, whether or not they hold a politically restricted post.

9. RELATIONSHIPS

In order to protect against any allegation of bias, employees should:-

- (a) Avoid close personal or social relationships with Councillors;
- (b) Ensure courteous, efficient and impartial service delivery to all Councillors, groups and individuals within the community;
- (c) Make known to the Monitoring Officer any relationship they have of a business or private nature with external or potential contractors, as soon as they are aware of the fact, and take no part in the contractual process, and in addition record their interest in the Register of Interests kept by Member Services ;
- (d) Employees who, as part of their duties, order equipment or services, or are involved in the awarding of contracts, do this on merit by fair competition. Employees should declare their interest and take no part in the selection process where businesses run by their partner, civil partner, spouse, other relative or personal friends are involved, and in addition record their interest in the Register of Interests kept by Member Services ;
- (e) Employees who, as part of their duties engage or supervise, or have any other official relationship with, contractors, must inform the Monitoring Officer of any private or domestic relationship they have had, or currently have with these contractors, and take no part in the contractual process. In addition they must record their interest in the Register of Interests kept by Member Services.

10. APPOINTMENT/EMPLOYMENT MATTERS

If employees have a Management or Supervisory role at work they: -

- (a) must ensure that they appoint employees based on merit;
- (b) must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with the applicant;

- (c) must not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a partner, civil partner, relative or person with whom you have a close personal relationship outside work.

Where operational difficulties arise or business interests are compromised as a result of employees who are related by marriage, or living together as partners, working in the same department, the Council reserves the right to address the issue, which may result in either one of the individuals being re-deployed.

11. OUTSIDE COMMITMENTS

The Council expects that all employees (except possibly those working on a part-time or job share basis) will work for the Council as their main or only employment. If employees do have any other employment they are expected to declare the same and the following principles will apply:-

The Council will have no objection to secondary employment provided there is no conflict of interest between the work the individual undertakes for the Council and their outside employment and:-

- (a) In every case, before accepting any offer of employment employees should inform their Head of Service or Service Manager in writing of the details and request his/her agreement in writing;
- (b) The Head of Service, or Service Manager will discuss the matter with the Chief Executive (who has been delegated responsibility to approve or refuse such requests) and will then reply in writing to the employees giving the Chief Executive's decision.

12. PERSONAL INTERESTS

Employees must declare in the Register of Employee Interests held in Member Services any financial or non-financial interests that they consider could bring about conflict with the Council's interests including membership of any organisation. Such registration should be renewed on an annual basis;

13. ACCOUNTABILITY

Employees must be able to justify any decision they make, or action they take, to their manager or any other senior member of staff or Council committee.

14. EQUALITY AND FAIRNESS

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals.

Employees should have mutual respect for each other and employees' language and behaviour should be conducive to a productive and harmonious work environment, with all employees having the right to be treated with fairness and equity.

The Council's Equal Opportunities Policy and all Equality schemes should be complied with at all times.

15. SEPARATION OF ROLES DURING TENDERING

When dealing with the tendering process employees must: -

- (a) Exercise fairness and impartiality when dealing with customers, suppliers, other contractors and sub-contractors;
- (b) Not disclose any confidential information to which they are privy on tenders or costs for either internal or external contractors to any unauthorised party or organisation;
- (c) Demonstrate accountability and fairness in all matters associated with the tendering process;
- (d) Inform the Monitoring Officer and withdraw from the contract awarding processes if employees are contemplating a management buy-out;
- (e) Ensure that no special favour is shown to current or recent former employees or their spouses, partners, civil partners, relatives, associates or personal friends in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

16. CORRUPTION

Corruption is a serious criminal offence and employees must always have regard to the Anti Fraud, Corruption and Bribery Policy adopted by the Council.

17. USE OF FINANCIAL RESOURCES

Employees must ensure that any public funds entrusted to them are used in a responsible and lawful manner. They must therefore act in accordance with the Council's Financial Procedure Rules and Contract Procedure Rules and so:-

- (a) Ensure value for money to the local community; and
- (b) Avoid legal challenge to the Council.

18. HOSPITALITY

It is in order to accept:-

- (a) Token gifts of insignificant value (e.g. diaries, pens etc.);
- (b) Hospitality offers if there is a genuine need to impart information or represent the Council in the community;

- (c) Hospitality through attendance at relevant conferences, courses, meetings or events, where it is clear the hospitality is corporate rather than personal and where the Council can be satisfied that any purchasing decisions are not compromised.

When accepting hospitality employees should:-

- (d) Be particularly sensitive as to its timing in relation to decisions which the Council including employees may be taking affecting those providing the hospitality;
- (e) Gain authorisation in advance from their Head of Service, or Service Managers and record the hospitality in the Register of Hospitality/Sponsorship, which is held in Member Services. The receipt of all gifts and hospitality must be recorded, even if of "insignificant value".

It is not in order to accept: -

- (f) Significant personal gifts;
- (g) Invitations to purely social or sporting functions unless these are part of the life of the community or where the Council should be seen to be represented;
- (h) The cost of visits to inspect equipment etc. (where these are required) as this may jeopardise the integrity of subsequent purchasing decisions. The Council should meet the costs of these visits.

When declining hospitality you should do so courteously but firmly, informing the offeror of the procedures and standards operating within the Council.

19. SPONSORSHIP

Heads of Service or Service Managers must:-

- (a) Ensure that any sponsorship for an activity in their department is gained in a fair, open and unbiased manner.

The Council also helps the community in various ways e.g. sponsorship, grant aid, financial or other means of support. If an employee's work involves any of these they must:-

- (b) Give impartial advice at all times and try not to put themselves in a situation where a conflict of interest could arise;
- (c) Declare in the Register of Hospitality/Sponsorship which is held in Member Services as soon as they realise that they, their spouse, partner, civil partner, other relative or personal friend could benefit from the proposed sponsorship, grant aid, support etc.

20. COPYRIGHT, PATENTS AND INVENTIONS

- (a) All records, documents and other papers which relate to the Council's business, and which are made or obtained by employees in the course of employment are the

property of the Council. The copyright on all such original records, documents and papers (including copies and summaries thereof) belong to the Council.

- (b) Any matter, or thing capable of being patented under the Patents Act 1977 (or any legislation amending or replacing this legislation), made, developed or discovered by an employee, either alone or with others, whilst in the performance of their duties should be disclosed to the Council through the appropriate Head of Service or Service Manager and, subject to the provisions of the Patents Act, it will belong to and be the absolute property of the Council.

21. HEALTH & SAFETY

The Health and Safety at Work Act 1974 places a duty on employees whilst they are at work.

Section 7 requires employees to take reasonable care for the health and safety of employees, themselves and other persons and also to co-operate with the employer to enable statutory duties to be complied with. Section 8 requires that nobody intentionally or recklessly interferes with, or misuses anything provided in the interests of health, safety.

To ensure that they meet the above legal obligations employees should comply with the Council's Health and Safety Policy and all associated documents.

22. MEDICATION

Employees taking prescribed drugs or other medication are required to advise their manager if any such drugs being taken are likely to have an effect on their ability to drive, to use equipment, etc as required by their employment with the Council.

23. TIMEKEEPING

Employees must comply with the Council's standards regarding attendance and absence.

24. INFORMATION SECURITY

Employees must positively prevent information misuse and assure the accuracy of information by:

- (a) Protecting information against unauthorised access;
- (b) Assuring the confidentiality of stored information;
- (c) Maintaining the integrity of information;
- (d) Meeting all regulatory, legislative and Council policy requirements;
- (e) Producing, maintaining and testing business continuity plans;
- (f) Providing and making available relevant information and security training for other employees;

- (g) Preventing improper use of office equipment that can be used for the storage, replication and transmission of information; and
- (h) Limiting the use of electronic mail and Internet as set out within the Council's email and internet policies.

25. CONDUCT AND PERFORMANCE AND FIDELITY

Employees are reminded that they are bound to the Council by their terms and conditions of employment, including compliance with all local agreements and having close regard to all Council policies.

In addition to the express terms, employees have common law duties implied into their contracts of employment that generally reflect the personal nature of the contract.

Employees must obey the lawful and reasonable instructions of the employer in a responsible manner, exercise reasonable skill and care in carrying out their work and abide by the law.

Failure to do so may result in disciplinary action.

26. PERSONAL APPEARANCE

The Council expects employees to observe standards of personal appearance appropriate to the nature of the work undertaken, so as to portray a professional approach in which the public may have confidence.

Those persons in receipt of Council branded clothing should:

- ensure that reasonable care is taken of the same, within the parameters of the particular area of work undertaken;
- be aware that they are the public face of the Council whilst wearing such clothing and as such must act responsibly and not in a way which would bring the Council into disrepute.

Service Managers/ Heads of Service will give their employees clear guidance on the use of Council branded clothing/personal protective equipment.

PROTOCOL ON OFFICER/COUNCILLOR RELATIONS

1.0 INTRODUCTION

- 1.1 This document should be read in conjunction with the Constitution and all approved and adopted Human Resources policies.
- 1.2 The purpose of this protocol is to guide Members and officers of the Council in their relations with one another. It is this Council's way of applying best principles:
 - ◆ Members have a right to information on a "need to know basis" and support
 - ◆ Officers must serve the whole Council objectively and impartially
 - ◆ Political processes and different roles of Members are a legitimate part of local democracy.
- 1.3 Given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues that most commonly arise. It is hoped, however, that the approach that it adopts will serve as a guide to dealing with other issues.
- 1.4 This protocol is to a large extent no more than a written statement of current practice and convention. In some respects, however, it seeks to promote greater clarity and certainty.
- 1.5 This protocol also 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 enhance and maintain the integrity (real and perceived) of local government and North Devon District Council in particular and they therefore demand very high standards of personal conduct.
- 1.6 This Protocol should be read in conjunction with the Members' and Employees' Codes of Conduct, the Council's Planning Code of Conduct, the Council's Constitution and any guidance issued by the Ethics Committee and/or Monitoring Officer.

2.0 OFFICERS AS EMPLOYEES

- 2.1 The Council as a Corporate Body employs officers.
- 2.2 Officers serve the Council as a whole and owe equal obligations to all Members of the Council.
- 2.3 Officers must act apolitically whether or not they hold politically restricted posts, and Members must not put officers in situations where their political neutrality may be compromised.

- 2.4 At the heart of this Protocol, is the importance of mutual respect. Member/officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and officers should observe reasonable standards of courtesy, and that neither party should seek to take unfair advantage of their position, or seek to exert undue influence on the other party. It should be remembered that inappropriate behaviour could be inferred from language and style, so Members and officers should always seek to address each other professionally and with courtesy in both formal and informal meetings.
- 2.5 A Member should not raise matters relating the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. An officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect and courtesy, or has concerns about the conduct or capability of an officer, and fails to resolve it through direct discussion with that officer, the Member should raise the matter with the respective Head of Service or Service Manager. If the matter relates to a Head of Service or Service Manager, the Member should raise the issue with Chief Executive. The appropriate line manager will then look into the facts and report back to the Member. If the Member continues to feel concern, then he/she should report the facts to the next appropriate level of line management or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive, who will look into the matter afresh.
- 2.6 Any action taken against an officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 2.7 An officer should not raise with a Member matters relating to the conduct or capability of another officer or internal management in a manner that is incompatible with the overall objectives of this Protocol. This does not, however, prevent an officer raising a concern with a Member under the Council's Whistleblowing Policy and Procedure.
- 2.8 Where an officer feels that a Member has not properly treated him/her with respect and courtesy, he/she should raise the matter with his Head of Service/ Service Manager or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the Manager will take appropriate action, either by approaching the individual Member and/or Party Group Leader. If the Group Leader does become involved the Chief Executive must be informed. If the matter cannot be resolved to the satisfaction of the employee concerned the matter will be treated as a grievance and dealt with under the Council's formal grievance procedure.
- 2.9 This procedure does not preclude the officer having the right to refer an allegation of misconduct of a Member to the Monitoring Officer or Governance Committee.
- 3.0 THE RELATIONSHIP: OFFICER SUPPORT TO MEMBERS – GENERAL POINTS**
- 3.1 Officers are responsible for day-to-day managerial and operational decisions within the Authority and will provide professional and impartial support to all Members.

- 3.2 Support from officers is needed for all the Authority's functions exercised through Council, one of the Committees or through individual Members representing their communities etc.
- 3.3 Day-to-day managerial and operational decisions are and should remain the responsibility of the Chief Executive and other officers.
- 3.4 A Member when attending external meetings or a planning site inspection may request to be accompanied by an officer. The Member must discuss the appropriateness of, and seek the approval for such attendance from the appropriate Head of Service or Service Manager.

4.0 OFFICER SUPPORT TO PARTY GROUPS

- 4.1 In discharging their duties and responsibilities, officers serve the Council as a whole and not any Party Group, combination of Groups or any individual Member of the Council.
- 4.2 There is statutory recognition for Party Groups and often such Groups give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Senior Officers may properly be called upon to support and contribute to such deliberations by Party Groups or to support individual Members, but must at all times, maintain political neutrality. All officers must, in their dealings with Party Groups and individual Members, treat them in a fair and even-handed manner.
- 4.3 The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with a Chairman or other Members prior to a meeting, to a presentation to a full Party Group meeting. It is an important principle that such assistance is available to all Party Groups and individual Members.
- 4.4 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular:
 - a) officer support in these circumstances must not exceed beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be nor are present at meetings, or parts of meetings, when matters of party business are to be discussed;
 - b) group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - c) similarly, where officers provide information and advice to a group meeting in relation to a matter of Council business, this cannot act as a substitute for

providing all necessary information and advice to the relevant Committee or Sub Committee when the matter in question is considered.

- 4.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a group meeting that includes persons who are not Members of the Council. Such persons will not be bound by Codes of Local Government Conduct (in particular, provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 4.6 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group.
- 4.7 Any particular cases of difficulty or uncertainty in this area of officer advice to groups should be raised with the Chief Executive or Monitoring Officer who will discuss them with the relevant group leader(s).

5.0 SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

- 5.1 The only basis on which the Council can lawfully provide support services (e.g.: stationery, typing, printing, photocopying, transport, IT, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

6.0 LEAD MEMBERS AND OFFICER SUPPORT

- 6.1 It is clearly important that there should be a close working relationship between Lead Members, where appointed, and the officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other Members and party groups.
- 6.2 It must be recognised that an officer will be under a professional duty to submit a report which presents an unbiased and balanced view of proposals for consideration at meetings of the Council, and that although a Lead Member may be consulted as part of the process, the professional officer as author of the report will always be fully responsible for the contents.
- 6.3 It is likely that in practice many officers will be working with Lead Members for a significant amount of their time. Officers must ensure that their political neutrality is not compromised and Lead Members must respect the political neutrality of officers.

7 MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 7.1 Members will be advised at any early stage about significant matters in their wards or which materially affect their ward. Members are free to approach any Head of Service/ Service Manager to provide them with such information, explanation and

advice about that department's functions 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 a constituent.

- 7.2 As regards the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.
- 7.3 Members have a statutory right to inspect any Council document that contains material relating to any business that is to be transacted at Council, Committee or Sub Committee meeting. This right applies irrespective of whether the Member is a member of the Committee or Sub-Committee concerned and extends not only to reports, which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items that may appear on the Confidential Restricted Information part of agendas for meetings. Details of these are contained in the Access to Information rules in Part 4
- 7.4 The common law right of Members is broader and is based on the principle that any Member has a *prima facie* right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the '*need to know*' principle.
- 7.5 The exercise of this common law right depends therefore upon the Member's ability to demonstrate that he/she has the necessary '*need to know*'. In this respect a Member has no right to '*a roving commission*' to examine Council documents. Mere curiosity is not sufficient. The crucial question is the determination of the '*need to know*'. This question must initially be determined by the particular Head of Service/Service Manager whose department holds the document in question (with advice, if necessary, from the Monitoring Officer).
- 7.6 The Council's Access to Information rules in Part 4 of the Constitution also deals with Members rights to inspect documents or to have access to other information and should be read in conjunction with this Protocol.
- 7.7 In some circumstances (eg: a Committee Member wishing to inspect documents relating to the functions of that Committee) a Member's '*need to know*' will normally be presumed. In other circumstances (eg: a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.
- 7.8 Whilst the term '*document*' is very broad and includes for example, any document produced with Council resources, it should be accepted that a Member of one group will not have a '*need to know*' and therefore a right to inspect, a document which forms part of the internal workings of another group.
- 7.9 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

- 7.10 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council. An example would be the early drafts of Committee reports/briefing papers that are not suitable for public disclosure and should not be used other than for the purpose for which they were supplied. This point is emphasised in paragraph 5(f) of the Members Code of Conduct, which should be observed when dealing with such information.
- 7.11 Members need to comply with the GDPR (Data Protection) and other legislation in relation to information held or accessed by them. Training on this will be given but if a Member has any doubt about how to handle particular information, they should contact the Council's Data Protection Officer.

8 OFFICER/CHAIRMEN & OTHER RELATIONSHIPS

- 8.1 It is clearly important that there should be a close working relationship between officers and Chairmen of Committees. However, relationships with a particular party group or such persons should not be such as to create public suspicion that an officer favours that group/person above others. 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 and other party groups.
- 8.2 Whilst a Chairman will routinely be briefed as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised an officer will be under a duty to submit a report on a particular matter and that the author will always be responsible for the contents of any report submitted in his/her name. A Chairman may comment upon a report in terms of readability and clarity and the inclusion of options or alternatives considered and rejected.
- 8.3 Members involved in the scrutiny process should have regard to the position of officers as impartial advisors to those making decisions. Questions asked of officers in Policy Development Committee should, as far as possible, be open in nature and should not in any circumstances breach the requirements of mutual respect.
- 8.4 Close personal and social relationships between Members and Officers should be avoided.

9.0 CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg: representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception

rather than the norm. Letters, which for example, create obligations or give instructions on behalf of the Council, should never be sent out over the name of a Member.

10 PUBLICITY AND PRESS RELEASES

- 10.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Council, explaining its objectives and policies to the electors and Council Taxpayers. In recent years, all Local Authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, Local Authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of a Council's activities is to be welcomed. Press releases should be agreed with the Council's Communications Team.

The Code of recommended practice on Local Authority Publicity should be observed at all times.

11 INVOLVEMENT OF WARD COUNCILLORS

11.1 Public Meetings

Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Ward or Wards affected will as a matter of course be invited to attend the meeting.

11.2 Consultations on Local Issues

Whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise.

11.3 Ombudsman Complaints

Whenever the Council receives a complaint via the Ombudsman, a copy of that complaint, together with the Council's response and, ultimately, the Ombudsman's decision, will be forwarded to the appropriate Ward Members.

12 PUBLIC MEETINGS CALLED BY INDIVIDUAL COUNCILLORS OR POLITICAL GROUP

- 12.1 If an individual Member or political group convenes a public meeting, publicity for the meeting must clearly state the basis on which it is being held and should not state or imply it is a Council meeting.
- 12.2 Any request for an officer to attend such a meeting must be made through the Head of Service or the appropriate Service Manager.

13 CONCLUSION

Mutual understanding, openness and basic respect are the greatest safeguard of the integrity of the Council, its Members and Officers, and should be demonstrated by strict compliance with this Protocol.



MEMBERS' CODE OF CONDUCT GENERAL NOTICE OF REGISTERABLE INTERESTS

~~~~~

I,

being a Member/Co-opted Member of North Devon District Council,

give notice below of those interests which I am required to declare under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and North Devon District Council's Code of Conduct:

I understand that in so doing I must declare any interest of my spouse or civil partner or of any person with whom I am living as a husband or wife and also, in relation to categories 3 and 4, of any member of my family, close associate or relevant person, as defined in the Council's Code of Conduct.

### 1. Employment, Office, Trade, Profession or Vocation

**Please give details of (i) every employment, job, trade, business or vocation you have, for which you receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. 'Accountant' or 'Farmer' and (ii) the name of any employer or body, firm or company which you own or in which you have any beneficial interest.**

|                                                                            |  |
|----------------------------------------------------------------------------|--|
| Description of employment, job, vocation, trade or business                |  |
| Name of Employer, body, firm or company by which you are employed or which |  |

|                                                           |  |
|-----------------------------------------------------------|--|
| <p>you own or in which you have a beneficial interest</p> |  |
|-----------------------------------------------------------|--|

## 2. Sponsorship

**Please give details of any person or body (other than the District Council) who has made any payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a District Councillor.**

## 3. Securities: Interests in Companies

**Please give details of body which has a place of business or owns land in the**

**District Council's area and in which you have a beneficial interest (a shareholding) of more than £25,000 (nominal value) or more than 1/100<sup>th</sup> of the total share issue of that body (whichever is the lower) or if there is more than one class of share, the total nominal value of shares in any class of that body of more than 1/100<sup>th</sup> of the total shares of that class**

***Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.***

#### **4. Contracts: for Goods, Works or Services with the Council**

**Please give details of any current, existing contracts for goods, works or services between the District Council and you or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest, as referred to at 3 above.**

#### **5. Landholdings and Licenses in the Area**

**Please give the address or other description (sufficient to identify the location) of any land or property in the District Council's area in which you have a**

**beneficial interest, indicating whether you are the owner, lessee or tenant, including land in which you may have a licence, alone or with others, to occupy for a period of one month or longer.**

**You must include the land and house you live in and for example an allotments you own or use.**

**6. Corporate Tenancies: Land leased from North Devon District Council**

**Please give the address or other description (sufficient to identify the location) of any land leased or licensed from the District Council by a you or any body firm or company by which you are employed or which you own or in which you have a beneficial interest (specified at 3 above).**

**7. Membership of Other Bodies**

**Please give details of your membership of, or any position of general control**

| or management, of any bodies in the categories listed below.                                                                                                                     |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Any Body or Organisation to which you have been appointed or nominated by the District Council as its representative                                                             |  |
| Any other body exercising functions of a public nature<br><br><i>(e.g. County or Parish Council; Health, Police or Fire Authority or Quasi Autonomous Non-Governmental Body)</i> |  |
| Any body directed to charitable purposes<br><br><i>(e.g., an Industrial and Provident Society or Charitable Body)</i>                                                            |  |

Any Body whose principle purpose is to influence public opinion or policy or which, in your view, might create a conflict of interest in carrying out their duties as a District Councillor.

*(e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or Interest Group (e.g. National Trust; RSPB: Greenpeace or membership of the Freemasons or similar body)*

## DECLARATION

I recognise that if I fail to comply with the Code of Conduct for Members of North Devon District Council or:

- (i) omit any information that should be included in this Notice;
- (ii) give false or misleading information; or
- (iii) do not tell the District Council of any changes to this Notice or new interests I acquire,

that may be a criminal offence and/or the matter may be referred to the Council's Standards Committee for investigation.

Signed : .....

## FOR OFFICE USE ONLY

Received:.....Update .....

## **PLANNING CODE OF CONDUCT**

### **1. Introduction**

- 1.1 Decisions on plan making and planning applications must be undertaken, on behalf of communities, in a fair, impartial and transparent way. This Code of Conduct has been written for officers and councillors involved in making planning decisions.
- 1.2 This Planning Code of Conduct is supplemental to the Council's Constitution, the Member's Code of Conduct and the Employee's Code of Conduct, should be read in conjunction with those documents and where there is any conflict or inconsistency then those documents shall prevail.
- 1.3 Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. The RTPI provides advice for planning professionals on matters of probity aimed at supporting planners in exercising their independent professional judgement, and promoting public confidence in the planning system.
- 1.4 Officers and (save insofar as their involvement is purely on the basis of their employment, trade, profession or vocation) councillors must not act as agents for people pursuing planning matters within their authority, even if they are not involved in the decision making on them. In addition, officers must always act impartially and in a politically neutral manner.

### **2. Interests**

- 2.1 Councillors should refer to the Member's Code of Conduct for the detail of the requirements for registering and declaring interests.
- 2.2 It is important for councillors to identify a potential interest in a planning decision early on and raise this with the Monitoring Officer as soon as possible. Advice should always be sought from the Council's Monitoring Officer where there is any uncertainty over what action the Councillor should take in compliance with the Member's Code of Conduct. Ultimately, responsibility for fulfilling the requirements rests with each councillor.
- 2.3 The provisions of the Localism Act 2011 (as amended) seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate or not.

### **3. Pre-disposition, Pre-determination and bias**

- 3.1 Members of a planning committee, local plan steering group or full council (when the local plan is being considered) need to avoid any appearance of bias or having 'predetermined' views when making a decision on a planning application or policy.

- 3.2 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is indicative of a 'closed mind' approach and may leave the grant of planning permission vulnerable to challenge by Judicial Review.
- 3.3 Predisposition is where a councillor may have a pre-existing opinion or attitude about the matter under discussion, but remains open to listening to all the arguments and changing their mind in light of the information presented at the meeting. Section 25 of the Localism Act 2011 (as amended) clarifies that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicates what view they might take in relation to any particular matter.
- 3.4 A councillor in the position as outlined in paragraph 3.3 above will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.
- 3.5 Planning issues must be assessed fairly and on their planning merits, even when there is a predisposition in favour of one side of the argument or the other. Avoiding predetermination and the impression of it is essential. The decision making process must be seen to be fair and impartial from the perspective of an external observer. Particular care must be taken when using social media (e.g. a councillor who posts: "Wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before the committee" will be perceived very differently from a councillor who posts: "Many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area").
- 3.6 If a decision maker (which, for the avoidance of doubt, may be an officer or a councillor as applicable) has predetermined their position, they should withdraw from being a member of the decision making body for that matter. This applies to any member of the planning committee who wants to speak for or against a proposal as a campaigner (for example on a proposal within their ward).
- 3.7 The leader of the Council and relevant lead member for the Council's planning service play an important role driving planning policies and proposals so (subject to paragraph 3.8 below) should normally exclude themselves from the Council's Planning Committee. This is to avoid the perception of a conflict of interests and predisposition.
- 3.8 Where a member who is a relevant lead member for the Council's planning service is to be involved in the Council's Planning Committee they will need to withdraw when the committee is considering the Council's own schemes or other applications that they have been seen to support previously.

#### **4. Development proposals**

4.1 Planning applications or proposals for changes to a local plan submitted by serving and former councillors, officers and their close associates and relatives can give rise to suspicions of impropriety. Such proposals must, subject to paragraph 4.2 below, be handled consistently with any other planning applications and not treated in such a way as to give grounds for accusations of favouritism.

4.2 In relation to proposals submitted by serving councillors or planning officers (or their respective partners):

- (a) if they submit:
  - (i) their own proposal; or
  - (ii) (in the case of a councillor or their partner only) a proposal on behalf of another acting pursuant to their employment, trade, profession or vocation (or have otherwise been formally contracted in connection with such proposal);to the Council they should play no part in its consideration;
- (b) a system should be devised to identify and manage such proposals and ensure probity in decision making; and
- (c) the Monitoring Officer should be informed of such proposals.

4.3 A councillor would undoubtedly have a disclosable pecuniary interest in their own or their partner's application and should not participate in its consideration. They have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as an applicant, should also not seek to influence the decision improperly.

4.4 Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

#### **5. Lobbying of and by councillors**

5.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee. Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, and so care and common sense must be exercised by all parties involved.

5.2 In line with paragraph 3 on pre-determination above, when being lobbied:

- (a) councillors should try to take care expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have considered all the application materials and arguments for and against the development proposal; and
- (b) a councillor should restrict themselves to giving advice about the process and what can and can't be taken into account. Councillors can raise issues which have been raised by their constituents with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final

decision after they have heard all the relevant arguments, and have taken into account all relevant material and planning considerations at committee

- 5.3 If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision making committee, they should withdraw from the meeting once any public or ward member speaking opportunities have been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence.
- 5.4 Lobbying can take many forms and where there are concerns, advice should immediately be sought from the Monitoring Officer, although it must be reiterated that compliance with this paragraph 5 is ultimately the responsibility of the individual councillor.
- 5.5 Planning decisions cannot be made on a party political basis in response to lobbying - the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration
- 5.6 Planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors
- 5.7 Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.
- 5.8 Where a councillor seeks to require a proposal that would normally be determined under the delegated authority of an officer to be called in for determination by the planning committee, the reasons for call-in must be recorded in writing and refer solely to matters of material planning concern.
- 5.9 Councillors and officers should be cautious about accepting gifts and hospitality in general and especially where offered by lobbyists. It is not enough to register such gifts. Any councillor or officer receiving offers over £50 should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined, such consideration being based on the purpose of the hospitality, proportionality and the avoidance of any conflict of interest.

## **6. Discussions before a decision is taken**

- 6.1 Pre-application discussions between a potential applicant and the Council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- 6.2 Section 25 of the Localism Act 2011, which establishes prior indications of view of a matter not to amount to predetermination, has given councillors much more freedom to engage in pre-application discussions.

Nevertheless, in order to avoid the perception that councillors might have fettered their discretion, such discussions should ensure:

- (a) Clarity at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- (b) Consistent advice is given by officers based upon the development plan and material planning considerations.
- (c) That councillors avoid giving separate advice on the development plan or other material planning considerations, as they may not be aware of all the issues at an early stage. Councillors should not become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the Council's position is co-ordinated.
- (d) A commitment is made that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.

6.3 Officers should arrange any meetings where discussions as envisaged by paragraph 6.2 may take place, attend these with councillors and make a written record of the meeting placing this note on the case file. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.

6.4 Councillors also talk regularly to constituents to gauge their views on matters of local concern – which can include planning applications. Where it is apparent that such discussions may engage paragraph 6.2 above and an officer is not present then such discussions should be registered by the councillor with the planning officer and notes written to evidence compliance with paragraph 6.2.

## **7. Officer reports**

7.1 Officer reports on planning applications must have regard to the following:

- (a) Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- (b) Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the NPPF, any local finance considerations, and any other material planning considerations.
- (c) Reports should have a written recommendation for a decision to be made.
- (d) Reports should contain, where relevant, technical appraisals which clearly justify the recommendation.

- (e) If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.
- (f) Where an application is being taken to Committee which might otherwise have been decided under delegated officer powers in accordance with paragraph 5.25 of Annexe 2 to Part 3 of the Constitution (including applications covered by paragraph 4 above) this should be highlighted.
- (g) Any oral updates or changes to the report should be recorded.

7.2 Appropriate interventions by the legal officer at the committee meeting itself might be needed in order to correct any misconceptions on specific issues raised in an officer report.

## **8. Public speaking at Planning Committees**

- 8.1 Clear protocols as provided by 8.2 below should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.
- 8.2 In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the local planning authority in writing.
- 8.3 New documents should not be circulated to the committee as councillors may not be able to give proper consideration to the new information, and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. Late information might lead to a deferral. This should be made clear to those who intend to speak.
- 8.4 Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

## **9. Decisions which differ from an officer recommendation and 'departures'**

- 9.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990). This applies to all planning decisions.
- 9.2 Any reasons for refusal must be justified against the development plan and other material considerations. The committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other non-material considerations which might cause local controversy, will rarely satisfy the relevant tests.

- 9.3 If a councillor is concerned about an officer's recommendation they should discuss their areas of difference and the reasons for that with officers in advance of the committee meeting. Care should be taken, however, to ensure that this does not lead to predetermination of a decision.
- 9.4 The detailed reasons as to why the planning committee should differ from an officer recommendation must be recorded as part of the mover's motion.
- 9.5 The committee meeting should be adjourned for a few minutes for those reasons to be discussed and then agreed by the committee.
- 9.6 Where there is concern about the validity of reasons, consideration should be given to deferring to another meeting to have the reasons tested and discussed.
- 9.7 If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or section 106 planning obligations):
- (a) A detailed minute of the committee's reasons should be made and a copy placed on the application file.
  - (b) Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation, which should be set in the context of the development plan or the NPPF.
  - (c) The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome based on policies set out in the development plan and the NPPF, and chances of a successful award of costs against the local authority, should one be made
- 9.8 All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departures' from the development plan. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.

## **10. Committee site visits**

- 10.1 The Member's Code of Conduct applies to site visits and the Council must adopt a clear and consistent approach on when and why to hold a site visit and how to conduct it as follows:
- (a) Site visits should only be used where the benefit is clear and substantial in light of (e) below. Officers will have visited the site and assessed the scheme against policies and material considerations already
  - (b) The purpose, format and conduct should be clear at the outset and adhered to throughout the visit
  - (c) Where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test (at (a) above) should still apply

- (d) A record should be kept of the reasons why a site visit is called, this includes where the planning committee defer consideration of an application for a site inspection.
  - (e) A site visit is only likely to be necessary if:
    - (i) the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers;
    - (ii) the comments of the applicant and objectors cannot be expressed adequately in writing; and/or
    - (iii) the proposal is particularly contentious.
- 10.2 Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.
- 10.3 Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

## **11. Training**

- 11.1 Councillors must undertake training on planning organised by the Council when first appointed to the planning committee or any local plan steering group.
- 11.2 Councillors shall attend regular ongoing training on decision making, the Member's Code of Conduct as well as on planning matters.
- 11.3 Failure to attend the above mandatory training will result in the councillor not being able to sit on planning committee or take part in decision making.

## **12. Reviewing past planning decisions and the outcomes**

- 12.1 The Planning Committee shall visit a sample of implemented planning permissions, to assess the quality of the decisions and the development, on an annual or more frequent basis to improve the quality and consistency of decision making, strengthen public confidence in the planning system, and help with reviews of planning policy.
- 12.2 Reviews should include visits to a range of developments such as major and minor schemes, upheld appeals, listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

## **13. Complaints and record keeping**

- 13.1 Where a complaint is raised pursuant to this Planning Code of Conduct then it shall be dealt with as follows:
- (a) By the Service Manager (Development Management) insofar as it relates to a decision taken by the local planning authority or the operation of the planning service.

- (b) By the Monitoring Officer insofar as it relates to the Member's Code of Conduct as supplemented by this Planning Code of Conduct or decisions are considered to have been made unlawfully or otherwise in contravention of the Council's Constitution including as provided by paragraph 4.2 above.
  - (c) By the Council's Feedback team if a general complaint is to be raised in relation to an apparent failure to comply with this Planning Code of Conduct or a matter is considered to have not been dealt with appropriately.
- 13.2 Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

## NORTH DEVON COUNCIL

### SCHEME OF MEMBER ALLOWANCES AND EXPENSES POLICY 2022/23

#### **(A BASIC ALLOWANCE IN THE SUM OF £5,171 WILL BE PAYABLE TO ALL MEMBERS OF THE COUNCIL.**

1. **Special Responsibility Allowances** will be payable to the following Council positions (Note: Members are only eligible to claim one Special Responsibility Allowance):

| Position                                            | Multiplier of Basic Allowance | Amount per annum                             |
|-----------------------------------------------------|-------------------------------|----------------------------------------------|
| <b>Single person positions</b>                      |                               |                                              |
| Leader                                              | 2.5                           | £12,927.50                                   |
| Deputy Leader                                       | 1                             | £5,171.00                                    |
| Chair of Planning Committee                         | 1                             | £5,171.00                                    |
| Chair of Licensing and Community Safety Committee   | 1                             | £5,171.00                                    |
| Chair of Harbour Board                              | 0.5                           | £2,585.50                                    |
| Chair of Governance Committee                       | 0.5                           | £2,585.50                                    |
| Chair of Policy Development Committee               | 1                             | £5,171.00                                    |
| Chair of Strategy and Resources Committee           | 0                             | 0                                            |
| Chair of Appointments Committee                     | 0                             | 0                                            |
| <b>Multiple person positions</b>                    |                               |                                              |
| Lead Members (maximum of 6)                         | 0.5                           | £2,585.50                                    |
| Group Leader (there are 3)                          |                               | £222 per group member with a minimum of £500 |
| Parish Council co-optees to Governance Committee    | 2                             | 0                                            |
| Independent Member (for consultation on complaints) |                               | £200                                         |
| Co-opted Board Members (there are 4)                |                               | £200                                         |

#### **2. Carer's Allowance**

- (a) When a carer for a dependent has been engaged to allow a member to carry out an approved duty an allowance may be claimed that is equivalent to the national living wage relevant to the carer's age or national minimum wage if under the age of 25;

(b) A carer will be any responsible adult who does not normally live with the member as part of his/her family;

(c) An allowance will be payable if the dependent being cared for:

(i) is a child under the age of 14; or

(ii) is an elderly person; or

(iii) has a recognised physical or mental disability who normally lives with the member as part of that member's family and should not be left unsupervised

### 3. **Travelling Allowance** for approved duties

(a) For car travel (including fully electric cars) the single rate of 45 pence per mile will apply to all engine sizes (this is the HMRC approved mileage rate).

(b) If passengers are carried to whom a travelling allowance would otherwise be payable, an additional 5 pence per mile will be paid.

(c) The motorcycle mileage rate is 24 pence per mile (this is the HMRC approved mileage rate).

(d) The cycle mileage rate is 20 pence per mile (this is the HMRC approved mileage rate).

(e) In any other case, the amount of the fare for travel by appropriate public transport.

(f) In cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity will be paid.

### 4. **Subsistence Allowances** for approved duties will not exceed:

(a) In case of an absence, not involving an absence overnight, from the Councillor's usual place of residence:

i. Breakfast Allowance of £6.61 if more than 4 hours away from normal place of residence before 11.00 am

ii. Lunch Allowance of £9.12 if more than 4 hours away from normal place of residence, including the lunchtime between 12 noon and 2.00 pm

iii. Tea Allowance of £3.57 if more than 4 hours away from normal place of residence including the period 3.00 pm to 6.00 pm

iv. Evening Meal Allowance of £11.30 if more than 4 hours away from the normal place of residence ending after 7.00 pm

(b) Out of pocket allowances for residential courses

i. £5.04 per night, or

ii. £20.24 per week

(c) Absence overnight from the Councillor's usual place of residence will lead to reimbursement of reasonable receipted expenditure.

#### **5. Payment of Allowances to Suspended Members**

The payment of any Basic Allowance or Special Responsibility Allowance to any Member shall be withheld should that Member be suspended from attending meetings of the Council or any of its Committees as a result of a ruling of a breach of the Members Code of Conduct.

#### **6. Approved duties for which travelling and subsistence allowance will be paid:**

- Formal meetings, Locality Forums and Member Briefings.
- Lead Member task groups.
- Chairman of Committee duties, including Chairman's agenda meetings.
- Leader of Council duties.
- Members' Training and other Member events arranged by the Council, including conferences.
- Meetings authorised by the Chief Executive, attendance at which is to discharge Council functions.
- Joint meetings with other Local Authorities.
- Attendance at meetings of outside bodies identified as approved duties for the purpose of payment of travelling and subsistence.
- Town or Parish Council meetings within the Member's Ward.
- The opening of tenders where a Member's attendance is required by the Constitution.

#### **7. Indexation**

The levels of the basic allowance and special responsibility allowances listed in paragraphs 1 and 2 of this Scheme can be varied with effect from the beginning of the year in accordance with the percentage change in the levels of the Council's staff's remuneration for that year.

## **COUNCILLORS' EXPENSES POLICY**

### **1 POLICY OBJECTIVES**

- 1.1 This policy sets out the Council's arrangements for the control, accountability for, and reimbursement of, expenses incurred during the course of Council business.
- 1.2 The Council will reimburse actual expenses incurred in relation to approved duties in accordance with the terms of this Policy.
- 1.3 All expenses are subject to the Council's normal checking and signatory procedures before reimbursement is made.

### **2 COUNCILLOR'S RESPONSIBILITIES**

- 2.1 It is a Councillor's responsibility to ensure that s/he is familiar with the content of this Policy.
- 2.2 Before committing to a journey or other expenditure a Councillor must ensure that it relates to an approved duty.
- 2.3 A Councillor must always:
  - Select the most appropriate option to meet their requirements in order to keep overall costs to the Council taxpayer to a minimum
  - Only submit legitimate expense claims, and supply VAT receipts or invoices in order to validate their claims
  - Claim any expenses incurred within the financial year in which they are incurred
  - Sign the claim form and pass it to the Corporate and Community Services Team
- 2.4 It is worth noting that claims made by the end of a month will be paid by the 25<sup>th</sup> of the following month, although this is likely to differ in December.

### **3 THE CORPORATE AND COMMUNITY SERVICES TEAM'S RESPONSIBILITIES**

- 3.1 It is the Team's responsibility to ensure that they are familiar with the content of this Policy and the Constitution's Financial Procedure Rules. In addition they will:
  - provide Councillors with details of the applicable expenses rates
  - arrange any bookings
  - provide verbal and written advice to Councillors on this Policy. This includes explaining why a claim might not be payable
  - encourage Councillors to arrange journeys so as to minimise expenses such as mileage
- 3.2 The Team will only authorise legitimate and compliant claims. They will check that:
  - the expense relates to an approved duty
  - the expense claim is accurate
  - all invoices or receipts are attached to it

### **4 AUDIT TRAIL**

- 4.1 HMRC require a VAT invoice to evidence, as a minimum, that sufficient fuel was purchased to cover the journey being reimbursed. It should be for fuel purchased on or before the journey being claimed. It is accepted that not all claims will have a

VAT receipt where, through low usage, a tax receipt may cover more than one claim.

- 4.2 In general, appropriate VAT receipts must be obtained for all expenses incurred. Where it is impossible to obtain an appropriate receipt, the claim form must include the reasons. Reimbursement of the VAT element, or the entire sum may be withheld in cases where there is no receipt. Approval to pay such a claim must be approved by the Chief Executive or their nominated representatives.
- 4.3 Council resources including cash can only be spent within certain limits of authority and amount. Councillors are expected only to claim for expenses legitimately incurred on approved duties, and only up to approved limits. Any allegation that a Councillor's claim was fraudulent or broke the rules governing such claims will be investigated and, may be referred to the Governance Committee. If a criminal offence is suspected the Council will also report the allegation to the police. Depending on the circumstances the Council's internal fraud procedures may be invoked.

## 5 EXPENSES

### 5.1 Mileage

Mileage rates will be paid at the rate shown in the Scheme of Members' Allowances, which is agreed annually.

For each journey the expenses form should detail the Councillor's:

- Vehicle registration number
- The mileage and route taken (including all places visited)

Please note in order to make a legitimate claim for mileage, vehicles must have an up to date MOT and be taxed and insured (see the note below).

#### **A note on motor insurance:**

Failure to buy the correct type of motor insurance can mean you will be unable to make business trips, but more importantly in the event of an accident your insurers are quite entitled not to pay out on a claim. It could also harm your future renewals if they consider that you have given wrong information.

The most basic cover (social domestic and pleasure with commuting) may not cover you for any form of business activities or travelling during the day. Instead, you will need at least class one business use (this may be referred to in your policy documents as "in connection with your employers business" or similar). If business use of a vehicle is very occasional (once or twice a year), you are advised to speak with your insurer to determine if occasional business use can be included, rather than taking out class one cover.

Class one business use will cover your vehicle in connection with your approved duties, such as driving to different sites.

In all cases you are advised to double check with any potential or current insurer the precise terms of cover your policy holds. This includes if you are a named driver and/or the policy is in the name of your partner/spouse. Remember, at first glance the lowest price for your insurance may not be the best for you.

## **5.2 Car Parking**

If a Councillor travelling on an approved duty uses public car parks (that their Council car parking permit does not include) they must buy a ticket. This cost can be claimed back. The ticket should be attached to the claim form whenever possible. The Council will not cancel any excess charges, or reimburse a Councillor for them.

## **5.3 Rail Travel**

Tickets should be purchased through the Corporate and Community Services Team. Doing this as far in advance as possible enables significantly cheaper tickets to be purchased to minimise costs. All tickets will be standard class, and Councillors should use any discounts available to them.

The procedure for doing this is as follows:

- 1.The Councillor should contact the Corporate and Community Services Team with their travel request details.
- 2.The Councillor should provide as much notice as possible. The minimum amount of time being seven working days. This is to allow time for the tickets to arrive.
- 3.When the ticket arrives the Corporate and Community Services Team will contact the Councillor to arrange collection.

If tickets cannot be purchased in this way at least seven days in advance, Councillors might have to purchase the ticket themselves. They may then claim the cost back from the Council as long as they can demonstrate that they had purchased the cheapest ticket available at that time.

## **5.4 Subsistence**

Subsistence is reimbursement from the Council to a Councillor in respect of actual food and drink costs they have incurred during their approved duty. Expenses will not be paid where a suitable meal is provided as part of the event (e.g. at a course or conference).

The maximum amount payable will be same as paid to Officers, and as shown in the annually agreed Scheme of Members' Allowances.

In exceptional circumstances, if a Councillor must stay away from home overnight on an approved duty, then dinner, bed and breakfast (at a reasonably priced rate with full supporting receipts) may be claimed.

### **5.5 Hotel accommodation**

Where hotel accommodation is essential it will be in a reasonably priced hotel (e.g. Travel Inn or 3 star hotel), and will normally be booked in advance by the Corporate and Community Services Team.

Where possible, arrangements should be made for the account to be sent directly to the Corporate and Community Services Team.

Where a Councillor pays the hotel bill and seek reimbursement for the accommodation costs, such claims will need to be supported by a receipt.

### **5.6 Air travel**

This must be specifically agreed by the Corporate and Community Services Team before booking because of tight budgetary constraints.

### **5.7 Taxis**

In rare cases of urgency, for example a medical emergency, or where no public transport is reasonably available the amount of the actual fare and any reasonable gratuity will be paid.

In any other case, the amount of the fare for travel by appropriate public transport will be paid.

## NORTH DEVON COUNCIL

### SCHEME OF MEMBER ALLOWANCES AND EXPENSES POLICY 2023/24 TO 2025/26

1. A **Basic Allowance** in the sum of £5,421 will be payable to all Members of the Council in 2023/24. The Basic Allowance for 2024/25 and 2025/26 will be increased by either a flat rate or be uplifted in line with the staff percentage pay award for that financial year, whichever is the higher). (NOTE: The flat rate recommended for 2024/25 is £250 and for 2025/26 is £140)
2. **Special Responsibility Allowances** will be payable to the following Council positions (Note: Members are only eligible to claim one Special Responsibility Allowance. Special Responsibility Allowances for 2024/25 and 2025/26 will be calculated each financial year).

| Position                                                                           | Multiplier of Basic Allowance                                                                                                                                 | 2023/24                                        |
|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| Leader                                                                             | 2.5                                                                                                                                                           | £13,552.50                                     |
| Deputy Leader                                                                      | 1                                                                                                                                                             | £5,421                                         |
| Chair of Planning Committee                                                        | 1                                                                                                                                                             | £5,421                                         |
| Chair of Licensing and Community Safety Committee                                  | 1                                                                                                                                                             | £5,421                                         |
| Chair of Harbour Board                                                             | 0.5                                                                                                                                                           | £2,710.50                                      |
| Chair of Governance Committee                                                      | 0.5                                                                                                                                                           | £2,710.50                                      |
| Chair of Policy Development Committee                                              | 1                                                                                                                                                             | £5,421                                         |
| Chair of Strategy and Resources Committee                                          | 0                                                                                                                                                             | 0                                              |
| Chair of Appointments Committee                                                    | 0                                                                                                                                                             | 0                                              |
| Lead Members (maximum of 6)                                                        | 0.5                                                                                                                                                           | £2,710.50                                      |
| Group Leader (there are 3) (NOTE: 2 Group Leaders currently already receive a SRA) | Governance Element of 10% Basic Allowance for each Group Leader<br><br>AND<br><br>30+ Members – 100% Basic Allowance<br><br>21-30 Members 75% Basic Allowance | £542.10<br><br><br><br>£5,421<br><br>£4,065.75 |

| Position                                            | Multiplier of Basic Allowance        | 2023/24   |
|-----------------------------------------------------|--------------------------------------|-----------|
|                                                     | 10-20 Members<br>50% Basic Allowance | £2,710.50 |
|                                                     | 5-9 Members 25%<br>Basic Allowance   | £1,355.25 |
|                                                     | 2-4 Members 10%<br>Basic Allowance   | £542.10   |
| Parish Council co-optees to Governance Committee    | 2                                    |           |
| Independent Member (for consultation on complaints) |                                      | £200      |
| Co-opted Board Members (there are 4)                |                                      | £200      |

### 3. Carer's Allowance

- (a) When a carer for a dependent has been engaged to allow a member to carry out an approved duty an allowance may be claimed that is equivalent to the national living wage relevant to the carer's age or national minimum wage if under the age of 25;
- (b) A carer will be any responsible adult who does not normally live with the member as part of his/her family;
- (c) An allowance will be payable if the dependent being cared for:
  - (i) is a child under the age of 14; or
  - (ii) is an elderly person; or
  - (ii) has a recognised physical or mental disability who normally lives with the member as part of that member's family and should not be left unsupervised

### 4. Travelling Allowance for approved duties

- (a) For car travel (including fully electric cars) the HMRC approved mileage rate (which is currently 45 pence per mile) will apply to all engine sizes.
- (b) If passengers are carried to whom a travelling allowance would otherwise be payable, an additional 5 pence per mile will be paid.
- (c) The motorcycle mileage rate is 24 pence per mile (this is the HMRC approved mileage rate).
- (d) The cycle mileage rate is 20 pence per mile (this is the HMRC approved mileage rate).

- (e) In any other case, the amount of the fare for travel by appropriate public transport.
- (f) In cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity will be paid.

**5. Subsistence Allowances** for approved duties will not exceed:

- (a) In case of an absence, not involving an absence overnight, from the Councillor's usual place of residence:
  - i. Breakfast Allowance of £7.33 if more than 4 hours away from normal place of residence before 11.00 am
  - ii. Lunch Allowance of £10.12 if more than 4 hours away from normal place of residence, including the lunchtime between 12 noon and 2.00 pm
  - iii. Tea Allowance of £3.96 if more than 4 hours away from normal place of residence including the period 3.00 pm to 6.00 pm
  - iv. Evening Meal Allowance of £12.54 if more than 4 hours away from the normal place of residence ending after 7.00 pm
- (b) Out of pocket allowances for residential courses
  - i. £5.04 per night, or
  - ii. £20.24 per week
- (c) Absence overnight from the Councillor's usual place of residence will lead to reimbursement of reasonable receipted expenditure.

**6. Payment of Allowances to Suspended Members**

The payment of any Basic Allowance or Special Responsibility Allowance to any Member shall be withheld should that Member be suspended from attending meetings of the Council or any of its Committees as a result of a ruling of a breach of the Members Code of Conduct.

**7. Approved duties for which travelling and subsistence allowance will be paid:**

- Formal meetings, Locality Forums and Member Briefings.
- Lead Member task groups.
- Chair of Committee duties, including Chair's agenda meetings.
- Leader of Council duties.
- Members' Training and other Member events arranged by the Council, including conferences.
- Meetings authorised by the Chief Executive, attendance at which is to discharge Council functions.
- Joint meetings with other Local Authorities.

- Attendance at meetings of outside bodies identified as approved duties for the purpose of payment of travelling and subsistence.
- Town or Parish Council meetings within the Member's Ward.
- The opening of tenders where a Member's attendance is required by the Constitution.

## **8. Indexation**

The levels of the basic allowance and special responsibility allowances listed in paragraphs 1 and 2 of this Scheme will be varied with effect from the beginning of the years 2024/25 and 2025/26 by either a flat rate or be uplifted in line with the staff percentage pay award for that financial year, whichever is the higher).

(NOTE: The flat rate recommended for 2024/25 is £250 and for 2025/26 is £140)

## **COUNCILLORS' EXPENSES POLICY**

### **1 POLICY OBJECTIVES**

- 1.1 This policy sets out the Council's arrangements for the control, accountability for, and reimbursement of, expenses incurred during the course of Council business.
- 1.2 The Council will reimburse actual expenses incurred in relation to approved duties in accordance with the terms of this Policy.
- 1.3 All expenses are subject to the Council's normal checking and signatory procedures before reimbursement is made.

### **2 COUNCILLOR'S RESPONSIBILITIES**

- 2.1 It is a Councillor's responsibility to ensure that s/he is familiar with the content of this Policy.
- 2.2 Before committing to a journey or other expenditure a Councillor must ensure that it relates to an approved duty.
- 2.3 A Councillor must always:
  - Select the most appropriate option to meet their requirements in order to keep overall costs to the Council taxpayer to a minimum
  - Only submit legitimate expense claims, and supply VAT receipts or invoices in order to validate their claims
  - Claim any expenses incurred within the financial year in which they are incurred
  - Sign the claim form and pass it to the Corporate and Community Services Team
- 2.4 It is worth noting that claims made by the end of a month will be paid by the 25<sup>th</sup> of the following month, although this is likely to differ in December.

### **3 THE CORPORATE AND COMMUNITY SERVICES TEAM'S RESPONSIBILITIES**

- 3.1 It is the Team's responsibility to ensure that they are familiar with the content of this Policy and the Constitution's Financial Procedure Rules. In addition they will:
  - provide Councillors with details of the applicable expenses rates
  - arrange any bookings
  - provide verbal and written advice to Councillors on this Policy. This includes explaining why a claim might not be payable
  - encourage Councillors to arrange journeys so as to minimise expenses such as mileage
- 3.2 The Team will only authorise legitimate and compliant claims. They will check that:
  - the expense relates to an approved duty
  - the expense claim is accurate
  - all invoices or receipts are attached to it

### **4 AUDIT TRAIL**

- 4.1 HMRC require a VAT invoice to evidence, as a minimum, that sufficient fuel was purchased to cover the journey being reimbursed. It should be for fuel purchased on or before the journey being claimed. It is accepted that not all claims will have a

VAT receipt where, through low usage, a tax receipt may cover more than one claim.

- 4.2 In general, appropriate VAT receipts must be obtained for all expenses incurred. Where it is impossible to obtain an appropriate receipt, the claim form must include the reasons. Reimbursement of the VAT element, or the entire sum may be withheld in cases where there is no receipt. Approval to pay such a claim must be approved by the Chief Executive or their nominated representatives.
- 4.3 Council resources including cash can only be spent within certain limits of authority and amount. Councillors are expected only to claim for expenses legitimately incurred on approved duties, and only up to approved limits. Any allegation that a Councillor's claim was fraudulent or broke the rules governing such claims will be investigated and, may be referred to the Governance Committee. If a criminal offence is suspected the Council will also report the allegation to the police. Depending on the circumstances the Council's internal fraud procedures may be invoked.

## 5 EXPENSES

### 5.1 Mileage

Mileage rates will be paid at the rate shown in the Scheme of Members' Allowances, which is agreed annually.

For each journey the expenses form should detail the Councillor's:

- Vehicle registration number
- The mileage and route taken (including all places visited)

Please note in order to make a legitimate claim for mileage, vehicles must have an up to date MOT and be taxed and insured (see the note below). You will be required to provide proof of holding the correct insurance, and a valid MOT, to the Corporate and Community Services team.

#### **A note on motor insurance:**

Failure to buy the correct type of motor insurance can mean you will be unable to make business trips, but more importantly in the event of an accident your insurers are quite entitled not to pay out on a claim. It could also harm your future renewals if they consider that you have given wrong information.

The most basic cover (social domestic and pleasure with commuting) may not cover you for any form of business activities or travelling during the day. Instead, you will need at least class one business use (this may be referred to in your policy documents as "in connection with your employers business" or similar). If business use of a vehicle is very occasional (once or twice a year), you are advised to speak with your insurer to determine if occasional business use can be included, rather than taking out class one cover.

Class one business use will cover your vehicle in connection with your approved duties, such as driving to different sites.

In all cases you are advised to double check with any potential or current insurer the precise terms of cover your policy holds. This includes if you are a named driver and/or the policy is in the name of your partner/spouse. Remember, at first glance the lowest price for your insurance may not be the best for you.

## **5.2 Car Parking**

If a Councillor travelling on an approved duty uses public car parks (that their Council car parking permit does not include) they must buy a ticket. This cost can be claimed back. The ticket should be attached to the claim form whenever possible. The Council will not cancel any excess charges, or reimburse a Councillor for them.

## **5.3 Rail Travel**

Tickets should be purchased through the Corporate and Community Services Team. Doing this as far in advance as possible enables significantly cheaper tickets to be purchased to minimise costs. All tickets will be standard class, and Councillors should use any discounts available to them.

The procedure for doing this is as follows:

- 1.The Councillor should contact the Corporate and Community Services Team with their travel request details.
- 2.The Councillor should provide as much notice as possible. The minimum amount of time being seven working days. This is to allow time for the tickets to arrive.
- 3.When the ticket arrives the Corporate and Community Services Team will contact the Councillor to arrange collection.

If tickets cannot be purchased in this way at least seven days in advance, Councillors might have to purchase the ticket themselves. They may then claim the cost back from the Council as long as they can demonstrate that they had purchased the cheapest ticket available at that time.

## **5.4 Subsistence**

Subsistence is reimbursement from the Council to a Councillor in respect of actual food and drink costs they have incurred during their approved duty. Expenses will not be paid where a suitable meal is provided as part of the event (e.g. at a course or conference).

The maximum amount payable will be same as paid to Officers, and as shown in the annually agreed Scheme of Members' Allowances.

In exceptional circumstances, if a Councillor must stay away from home overnight on an approved duty, then dinner, bed and breakfast (at a reasonably priced rate with full supporting receipts) may be claimed.

### **5.5 Hotel accommodation**

Where hotel accommodation is essential it will be in a reasonably priced hotel (e.g. Travel Inn or 3 star hotel), and will normally be booked in advance by the Corporate and Community Services Team.

Where possible, arrangements should be made for the account to be sent directly to the Corporate and Community Services Team.

Where a Councillor pays the hotel bill and seek reimbursement for the accommodation costs, such claims will need to be supported by a receipt.

### **5.6 Air travel**

This must be specifically agreed by the Corporate and Community Services Team before booking because of tight budgetary constraints.

### **5.7 Taxis**

In rare cases of urgency, for example a medical emergency, or where no public transport is reasonably available or if a Councillor is unable to drive due to medical reasons, the amount of the actual fare and any reasonable gratuity will be paid.

In any other case, the amount of the fare for travel by appropriate public transport will be paid.

### **PART 7: MEMBERS' ROLE DESCRIPTIONS**

In this part of the Constitution, descriptions of the various roles performed by Councillors are set out.

#### **CHAIR OF THE COUNCIL**

The Chair of the Council is 'the first citizen' of the District.

1. To uphold and promote the purposes of the Constitution.
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
3. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community.
4. To attend such civic and ceremonial functions as the Council and he determines appropriate.
5. To represent the District at all civic and ceremonial functions and act as the ambassador for the Council at such functions.

In the absence of the Chair, this role will be undertaken by the appointed Vice-Chair of the Council.

#### **LEADER OF THE COUNCIL**

1. To represent the strategic leadership of the Council provided by the Full Council and Strategy and Resources Committee and ensure that the Council successfully discharges its responsibilities.
2. To provide visible political leadership in relation to citizens, stakeholders and partners in the overall co-ordination of Council policies, strategies and service delivery.
3. To lead the Strategy and Resources Committee in its work to develop the policy framework and budget, and be responsible for overall political control of the Council within the agreed policy framework.
4. To lead the development of local, regional, national and European policy and strategic partnerships.

# NDDC CONSTITUTION

## Part 7

5. To provide leadership to the Council and its political administration.
6. To chair the Strategy and Resources Committee and conduct meetings in accordance with the Council's rules and procedures contained in the Constitution.
7. To act as the lead spokesperson for the Council, to issue press releases, and to present the Council's position on any issue to the media.
8. To ensure effective communication between all political groups, officers, partners and the community.
9. To encourage and facilitate cooperation between all political groups with a view to reaching consensus on major issues.
10. To respond to consultation documents issued by the government or any agency or body where the Council has been asked to give a response.

### **MEMBER OF STRATEGY AND RESOURCES COMMITTEE**

1. To work collaboratively and to cooperate with all other members of the Committee in formulating the Council's policies, strategies, budget and other decisions referred to the Committee and to take decisions in accordance with those policies etc.
2. To have a clear understanding of the challenges facing Local Government and the Council in particular and to take decisions with a view to meeting those challenges.
3. To be open to imaginative and different ways of delivering services.
4. To formulate and implement the strategies and policies of the Council and to take decisions on issues presented to the Committee for the benefit of the whole District and not particular wards or areas.

### **LEAD MEMBER**

1. To contribute actively to the formation of the Council's policies, budget, strategies and service delivery so far as they affect the area for which they lead.
2. To have a clear understanding and in depth knowledge of the area of responsibility and an awareness of current agreed policies in respect of that area.

3. To consult and communicate with members of all party groups, Council officers and key partners as appropriate to ensure decisions are well informed and that Council policies are widely understood and positively promoted.
4. To attend, if required, the Policy Development Committee where necessary in order to participate and contribute to policy development or studies.
5. To act as spokesperson for the relevant area unless the Leader considers differently.

### **COUNCILLOR**

1. To communicate with the public in a variety of ways including electronically and in person.
2. To look for ways to promote democracy and increase public and community engagement including town and parish councils and interest groups.
3. To represent effectively and be an advocate for local residents, their communities and wards in their relations with the Council and other local and national government bodies.
4. To provide a conduit through which residents can make better use of Council services and be the key link between Council officers and local communities.
5. To keep up-to-date with local concerns by drawing information from diverse sources including hard to reach groups.
6. To communicate with constituents, for example, through holding 'drop-in surgeries', usually in community buildings such as a local community centre; a place where local people visit regularly.
7. To deal with constituent enquiries about aspects of Council business.
8. To undertake case work such as representing an individual or a family.
9. To support local partnerships and organisations.
10. To campaign on local issues, championing the causes which further the interests, quality of life and development of the community.

11. To listen to the needs of local people and take their views into account when considering policy proposals and in decision making.
12. To attend meetings of the Council and of any relevant committees.

### **COMMITTEE CHAIR**

1. To lead the work of the Committee ensuring the overall co-ordination and management of its functions.
2. To chair and manage committee meetings and ensure the committee acts within its terms of reference in accordance with the Constitution.
3. To ensure that the agenda items meet the needs of the committee.
4. To answer questions at a committee raised by a member of that committee on any matter in relation to which the Council has powers or duties or which affect the district and which fall within the terms of reference of that committee.
5. To answer questions from Councillors at Council on their committee.
6. To develop and maintain a working knowledge of the practices, procedure, services and functions which fall within the committee's terms of reference.
7. To meet regularly with relevant officers to ensure the receipt of appropriate independent advice to inform the committee's activities.

In the absence of the Chair, this role will be undertaken by the appointed Vice-Chair of the Committee.