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Cornwall Constitution – Contents

If you identify anything in this document which appears to be incorrect please notify the Monitoring Officer or Democratic Services Team Leader (Strategic) so that steps can be taken to put it right. Thank you.

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Summary and Explanation
Summary and Explanation

The Council's Constitution

Cornwall Council, which operates executive arrangements through a Cabinet, has agreed this 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 different parts which set out the basic rules governing the Council’s business as well as some of the detailed rules.

What’s in the Constitution?

Article 1 of the Constitution commits the Council to providing clear community leadership and operating in a way which is transparent, efficient and accountable. The Council has a strategic aim of:

Creating a prosperous Cornwall that is resilient and resourceful – a place where communities are strong and where the most vulnerable are protected.

This strategic aim has eight strategic themes, the detail of which is articulated in Cornwall Council’s Strategy and Business Plan:

- Ambitious Cornwall
- Engaging with our communities
- Partners working together
- Greater access to essentials for living
- Driving the economy
- Stewardship of Cornwall’s assets
- Healthier and safe communities
- Being efficient, effective and innovative

The remaining Articles explain the rights of the public and how the key parts of the Council operate.

These are:

- Members of the Council (Article 2)
- The Public and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny Committees (Article 6)
- The Cabinet (Article 7)
- Health-related Committees Joint Working Protocol (8)
- Chairing Committee Meetings (Article 9)
- Audit Committee (Article 10)
Standards Committee (Article 11)
Planning Committees (Article 12)
Licensing Act and Miscellaneous Licensing Committees (Article 13)
Constitution and Governance Committee (Article 14)
Appeals Committee (Article 15)
Pensions Committee (Article 16)
The Harbours Board and the Cornwall Inshore Fisheries and Conservation Authority (Article 17)
Health and Wellbeing Board (Article 18)
Chief Officers Employment Committee (Article 19)
Community Networks, the Mount Edgcumbe Joint Committee and the Tamar Bridge and Torpoint Ferry Joint Committee (Article 20)
Cornwall Council Farms Panel (Article 21)
Finance, Contract and Legal Matters (Article 22)
Officers (Article 23)
Decision Making (Article 24)
Review, Revision, Interpretation and Publication of the Constitution (Article 25)

How the Council Operates

The Council is comprised of 123 Councillors elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole community of Cornwall, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises on the Code of Conduct, including in relation to Parish, Town and City Councils.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public, as well as being broadcast on the Council’s website, and the Councillors decide the Council’s overall policies and set the revenue budget and capital programme each year. The Council appoints the Leader of the Council who in turn appoints Members to the Cabinet.

The Council also decides on the delegation of certain functions to the Cabinet and some committees and joint committees as well as to 19 area-based Community Networks.

The Council holds the Cabinet to account through the Overview and Scrutiny function which also provides an opportunity for pre-decision involvement in decisions and policy development for the wider membership.

How decisions are Made

The Cabinet is the part of the Council which is responsible for most day to day decisions. The Cabinet is made up of a Leader appointed by the Full
Council and between two and nine other Councillors appointed by the Leader.

When major (or ‘key’) decisions (see the Cabinet Procedure Rules and Access to Information Procedure Rules) are to be discussed or made, these are published in the Cabinet Work Programme insofar as they can be anticipated as well as public notice being given. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where exempt or confidential matters are being discussed. The Cabinet generally has to make decisions which are in line with the Council’s overall policies and budget. If it wishes to make a decision which materially departs from the Budget or Policy Framework, this must usually be referred to the Council as a whole to decide. Individual Cabinet Members may take individual decisions within the parameters set by the Leader.

**Scrutiny Function**

There are five Overview and Scrutiny Committees:

- Health and Adult Social Care Overview and Scrutiny Committee
- Children and Families Overview and Scrutiny Committee
- Customer and Support Services Overview and Scrutiny Committee
- Economic Growth and Development Overview and Scrutiny Committee
- Neighbourhoods Overview and Scrutiny Committee

These oversee the scrutiny work plans as well as supporting policy development, providing pre-decision scrutiny where appropriate, holding decision-makers to account and exercising the formal call-in of executive decisions to review any concerns about the making of the decision. The Committees may also deliver areas of their work in different ways, as set out in the Overview and Scrutiny Procedure Rules later in this Constitution. They shall contribute to the work of the Cabinet and the Council as a whole by providing:

- robust arrangements for holding the Cabinet to account
- effective scrutiny of cross-cutting issues and other public sector bodies
- clearly defined arrangements and responsibility for scrutiny of strategic and other issues
- multi-agency scrutiny of local issues within communities

The Overview and Scrutiny function also monitors the decisions of the Cabinet. It can call-in a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate and they may recommend that the Cabinet reconsider the decision. Call-in can be triggered by the Chairman of the Overview and Scrutiny Committee; three Members of the relevant Overview and Scrutiny Committee or any ten elected Members. They may also be consulted by the
Cabinet or the Council on forthcoming decisions and the development of policy.

**Community Networks**

In order to give local citizens a greater say in Council affairs, the Council has 19 Community Networks. Each of these covers a number of Council divisions (the area each Councillor represents) and they are responsible for:

- **empowering** local Members to take decisions and shape the delivery of services in their areas;
- **enabling** local people to access services and engage in the decision making process;
- **facilitating** joint working at a local level between the Council and its key partner organisations;
- **advising** the Council and other public bodies on issues of local interest or concern; and
- **delivering** key projects for local communities.

Community Network Panel meetings involve Cornwall Councillors and Town, Parish and City councillors for each particular area together with other partners and stakeholders and are held in public.

**The Council’s Staff**

The Council has people working for it, referred to as employees or officers, to give advice, implement decisions and manage the day-to-day delivery of services. The most senior of these is the Chief Executive who is also the Head of Paid Service. All employees and officers are required to ensure that the Council operates within the law and in addition some officers have more specific duties of monitoring and ensuring that the Council acts within the law and uses its resources wisely. The Protocol which governs the relationships between employees/officers and Members of the Council can be accessed as part of this Constitution.

**Rights of the Public**

Members of the public, the people who are the Council’s customers, 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.

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

The public have the right to:

- report upon meetings of the Council, Cabinet and committees where
the meetings are open to the public, subject to certain limitations;

• vote at local elections if they are registered and not otherwise excluded from voting;
• contact their local Councillor or a relevant Member of the Cabinet about any matters of concern to them;
• obtain a copy of the Constitution;
• attend meetings of the Council and its committees except where, for example, exempt or confidential matters are being discussed (as defined in the Access to Information Procedure Rules in the Constitution);
• petition to request a referendum on a mayoral form of Cabinet;
• find out, from the Cabinet’s Work Programme and other notices published on behalf of the Cabinet, what major (key) decisions are to be made by the Cabinet, Cabinet Members or officers, and when;
• attend meetings of the Cabinet where key decisions are being discussed or decided unless exempt or confidential matters are being discussed;
• inspect reports and background papers, and any record of decisions made by the Council and Cabinet, including where made by individuals under delegated authority, subject to any necessary limitations imposed in respect of confidential or other exempt matters; and
• make complaints to or about the Council and others as summarised below:

a) complain to the Council using the Council’s adopted complaints procedure (leaflets/information explaining how to complain are available at Council offices, on its website and at libraries);

b) complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, the Ombudsman generally requires that this should only be done after using the Council’s own complaints process; and

c) complain to the Monitoring Officer on behalf of the Standards Committee of the Council if they have evidence that they think shows that a Councillor of Cornwall Council or of a Town, Parish or City Council in Cornwall has not followed their Council’s Code of Conduct.

The Council welcomes participation by the public in its work. For further information on your rights, including a statement of your rights to inspect agendas and reports and to attend meetings, please contact the office of the Service Director - Assurance at New County Hall, Truro, TR1 3AY.
Article 1 The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

The documents identified in the contents page of this document together with the details to be provided by the Leader in accordance with the Council Procedure Rules and the Cabinet Procedure Rules comprise the Constitution of Cornwall Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

1. provide a clear statement of the operating rules and procedures of the Council;

2. enable the Council to provide clear leadership to the community in partnership with individuals, businesses and other organisations;

3. support the active involvement of the public in the process of Council decision-making;

4. help Councillors represent their constituents more effectively;

5. enable decisions to be taken efficiently and effectively;

6. create a powerful and effective means of holding decision-makers to public account;

7. ensure that no one shall review or scrutinise a decision in which they were directly involved;

8. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions;

9. provide a means of improving the quality and efficiency of delivery of services to the community; and

10. help realise the Council’s strategic aim to strengthen local government within and for Cornwall and to achieve a strong sustainable community for one and all.
1.4 **Interpretation and Review of the Constitution**

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

The Council shall monitor and evaluate the operation of the Constitution as set out in Article 25.
Article 2 Members of the Council

2.1 Composition and Eligibility

(a) Composition. The Council shall comprise 123 elected Members, otherwise called Councillors. Councillors shall be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Boundary Commission for England. There are some persons co-opted to some of the Council’s committees but the corporate body which is the Council is limited to the 123 elected Members.

(b) Eligibility. Only registered voters of Cornwall or those living or working there shall be eligible to hold the office of Councillor. Other rules as to eligibility can be ascertained, primarily from the Council’s Electoral Services Manager or the website of the Electoral Commission.

2.2 Election and Terms of Councillors

The regular election of Councillors shall be held on the first Thursday in May every four years. The next three scheduled all Council elections will be in 2021, 2025 and 2029. The 2021 elections will be based on the outcome of the electoral review being undertaken by the Local Government Boundary Commission for England culminating in April 2018. The terms of office of Councillors shall start on the fourth day after being elected and shall finish on the fourth day after the date of the next regular election. The exceptions to this are the Chairman and Vice-Chairman of the Council who shall continue in office until the successors to those roles are appointed. This is usually at the Annual General Meeting immediately following those elections.

2.3 Roles and Functions of all Councillors

(a) Key roles. The role profile for a Cornwall Councillor is attached as Annex A to this Article.

(b) Rights and Duties

(i) Members shall 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.

(ii) Members shall not make public or divulge to anyone, other than a Member or officer entitled to know it, any information which is given in confidence, is otherwise confidential or exempt without first obtaining consent properly given on behalf of the Council.

(iii) for these purposes, "confidential" and "exempt" information includes those classes of information defined in the Access to Information Procedure Rules in this Constitution as well as information which is confidential in the
wider sense.

2.4 **Conduct**

Members shall at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in this Constitution.

2.5 **Safeguarding**

Members shall at all times comply with the Council’s policies and procedures relating directly or indirectly to safeguarding, including the Members’ Safeguarding and Criminal Records Checks Policy.

2.6 **Allowances**

Members shall be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in this Constitution. As required by law, the Council has established an Independent Remuneration Panel to review and make recommendations on Members’ Allowances. The Council cannot amend its Scheme of Allowances or approve a new Scheme until it has considered a report from the Independent Remuneration Panel.
Annex A

Cornwall Councillor Role Profiles

The role profiles below have two main purposes:

- To provide clarity for councillors, officers and the public about what is expected of each role, encouraging and enabling accountability; and
- To support councillors in their development by providing a checklist to identify their development needs, both for the roles they are currently undertaking and for future roles to support succession planning.

Many Councillors will fulfil more than one of the roles described below, either at the same time or over the course of their life as a Councillor, so they are designed to be read together. The role profile for a Cornwall Councillor is the foundation for all other roles. The responsibilities, skills and knowledge required for roles attracting a Special Responsibility Allowance are in addition to those set out for the Cornwall Councillor.

The roles of chairmen are necessarily linked to the roles of their particular committee(s) and so will differ insofar as the committees differ. The roles of committees are set out in the Responsibility for Functions section of this Constitution, which should therefore be considered alongside these role profiles.

These role profiles have been produced following consultation with Councillors and officers in order to ensure that they reflect the changing role of Councillors and the future needs of the Council and local government.
Role of a Cornwall Councillor

SUMMARY
Cornwall Councillors represent their local communities, championing the needs and interests of residents and working to make a difference to the people, place and prosperity of their local area and Cornwall as a whole. It is a position of critical importance and great responsibility, and Councillors are held to account by the full Council and by the residents they serve.

MAIN PURPOSE AND RESPONSIBILITIES
- To represent and provide visible leadership to local constituents, and the community of Cornwall as a whole, and to balance those roles as necessary and appropriate.
- To signpost constituents, and to facilitate them in achieving appropriate support within the Council and with partners, and support constituents with day to day service issues.
- To engage the community of Cornwall in the work we do, seeking feedback on our services and understanding the needs of residents to enable us to deliver better services and make better decisions and also to ensure our residents know they can influence our decisions.
- To support communities in being able to better help themselves, championing the empowerment of communities so they are more resilient, can support one another and rely less upon central services.
- To proactively identify opportunities for us to improve the services we offer our residents and the people and prosperity of Cornwall, balancing and respecting the needs of both urban and rural, as well as opportunities to deliver our work more efficiently and resourcefully.
- To identify opportunities for different groups to work together or partner for the benefit of our communities, including other public sector services, the private sector, the voluntary sector and community representatives.
- To scrutinise and challenge decision makers, acting as a critical friend, holding them to account and providing constructive feedback.
- To carry out the range of corporate responsibilities required of the role e.g. being a corporate parent; upholding safeguarding responsibilities; promoting equality, diversity and fairness; taking an active part in setting the Council's budget and policy framework; explaining decisions made by the Council; attending learning and development events to support in the delivery of their role and acting as a Member of the fire authority.
- Working across Cornwall to raise awareness and understanding of how public services are changing, and how that relates to Cornwall’s community.
- To attend and participate in meetings of the Council and its
committees as appointed by the Council, the Leader or the Group Leader or relevant democratic process and to contribute constructively using their local insight and experience.

- To represent the Council at Town and Parish Councils, including agreeing with them the best way to achieve it, and identifying opportunities to support greater devolution from Cornwall Council to the local councils.
- As appropriate, to represent and be an advocate of the Council on national or outside bodies and at national events.

VALUES

To be committed to and promote high standards of conduct and ethics through upholding the Principles of Public Life:-

i. Selflessness – to serve only the public interest and never improperly confer an advantage or disadvantage on any person.

ii. Honesty and Integrity – to not place themselves in situations where their honesty and integrity may be questioned, to not behave improperly and avoid the appearance of such behaviour.

iii. Objectivity – to make decisions on merit, including when making appointments, awarding contracts or recommending individuals for rewards or benefits.

iv. Accountability – to be accountable to the public for their actions and the manner in which they carry out their responsibilities and to cooperate fully and honestly with any scrutiny appropriate to their particular office.

v. Openness – to be as open as possible about their actions and those of their authority, and to be prepared to give reasons for those actions.

vi. Leadership – to promote and support these principles by leadership, and by example, and act in a way that secures or preserves public confidence.

To further observe the following principles:-

i. Duty to uphold the law – to uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

ii. Personal judgement – to take account of the views of others, including their political groups, but to reach their own conclusions on the issues before them and act in accordance with those conclusions.

iii. Respect for others – to promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. To respect the impartiality and integrity of the authority’s statutory officers and its other employees. To help encourage respect between Cornwall Council and other organisations.

iv. Stewardship – to do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.
SKILLS

No specific or formal qualifications are required to be a Councillor. The most important qualification is a clear passion for improving the way we support the People, Place and Prosperity of Cornwall but knowledge and experience picked up through personal and professional life are important to the role. Such knowledge may include, but is not limited to, housing, regeneration, the needs of specific groups, financial and business planning, legal and regulatory procedures.

Equally, having, or being able to develop the following skills, knowledge and attributes will help in the delivery of the role:

i. Communication – the ability to communicate clearly both orally and in writing; to demonstrate active listening and responding; public speaking; negotiation; mediation; peaceful resolution of conflict; knowledge of common communications methods including social media and creativity in delivering messages to different groups

ii. Relationship building and teamwork – the ability to create and maintain positive, trusting and constructive relationships across the community including interaction with constituents, the police, health service, charities and voluntary bodies, Town and Parish Councils and Council officers

iii. Problem solving and analytical skills – acting as a facilitator to enable issues to be resolved; thinking of innovative ways to resolve challenges and differences, being able to bring together different approaches or people to bring varying perspectives on issues, highlighting advantages and disadvantages of different options and acknowledging the potential friction between local and strategic priorities.

iv. Organisational skills – this includes workload and time management, planning activities, keeping up to date with Committee responsibilities and lines of working, making and keeping appointments and meeting deadlines.

v. Information technology skills – including the ability to use email to receive and respond to correspondence from a range of sources and to access information on the internet.
Role of a Cabinet Member

- To have strategic responsibility for their named portfolio of services, by providing political leadership in this area.
- To be the principal spokesperson for Cornwall on their portfolio area, including in the media.
- To have the responsibility for, and provide a lead on, the initiation of policy in respect of the relevant portfolio.
- To create, build and nurture a focus on outcomes for residents for the activities within their remit.
- To respect and have a desire to work with stakeholders and residents.
- To participate effectively as a Cabinet Member, taking joint responsibility for all actions including the development of strategic policy and being collectively accountable.
- To have an overview and be accountable for Council performance within their area of remit.
- To report to and account for their actions at Council.
- To support the role of the Leader.
- To support the development and management of the Cabinet work programme for their portfolio area.
- To discharge responsibilities delegated to them by the Leader, including making individual Cabinet Member decisions.
- To respond to questions relating to their Portfolio area.
- To attend Community Network Panels on Portfolio responsibilities.
- To attend Overview and Scrutiny meetings in respect of their Portfolio (including being a witness at inquiries and answering questions).
- To liaise with the Chief Executive, and other appropriate officers, on a regular basis to ensure the development and maintenance of effective working relationships.
- To maintain effective liaison with the relevant Overview and Scrutiny Chairmen and other key stakeholders.
- To represent the Council on outside bodies of a strategic nature which relate to their portfolio and feedback to the Council any issues of relevance and/or importance.
- To promote and support open and transparent governance that is accessible to all.
- To be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.
Skills and Knowledge for a Cabinet Member

Skills

- **Advanced leadership skills** including decision-making skills, ability to challenge the status quo and deal with complex strategic issues.
- **Team working and relationship building skills** in order to form and work as part of a team of members, officers and partners working for Cornwall.
- **Advanced communication skills** including public speaking, listening, presentation, negotiation and media skills, to facilitate communication with local, regional and national audiences on their portfolio area.
- **Organisational skills** to manage a busy and complex workload, often to tight timescales and deadlines.
- **Business and finance acumen** particularly in relation to their portfolio area.
- **Ability to assimilate and analyse** complex information to ensure that all reports are reviewed efficiently, appropriate and effective consultation is undertaken and options are fully explored before recommendations are made or decisions are taken.

Knowledge

- Knowledge of the key areas relating to their Cabinet portfolio and its relationship with other portfolios within the Cabinet.
- Detailed understanding of relevant council strategy, policies and operations.
- Understanding of the legally defined role of certain senior officers.
- Detailed knowledge of the challenges facing local government.
- Understanding of the national policy framework and its impact on local policy development.
- Knowledge of the role of local partners and the services they deliver.
- Understanding of the Council’s Constitution, Code of Conduct, budget and audit processes and key internal policies.
- Understanding of the principles and importance of making sound, evidenced-based decisions.
- Knowledge of the work of European, national, regional and local bodies and the role of the council within or in relation to them.
Role of Leader of the Council and Deputy Leader of the Council

The role profile for the Leader and Deputy Leader of the Council should be read in addition to the role profile for a Cabinet Member (above).

- To be the principal political spokesperson for Cornwall, including representing it in the media and engaging with statutory bodies and Government.
- To exercise political leadership both within and beyond Cornwall, including building a political consensus around Council policies and forming a vision for the Council and community.
- To be the main representative of the Council in dealing with the community, business, voluntary sector and other local/regional/national organisations.
- To have overall accountability for the Council’s performance and budget.
- To chair the Cabinet meetings and to take responsibility for its performance, individually and collectively.
- To ensure the effective running of Cabinet by developing and managing the Cabinet’s Work Programme.
- To represent the Council on regional and national bodies as appropriate and feed back to the Council any issues of relevance or importance.
- To appoint the Cabinet and designate the Deputy Leader and Portfolio Holders.
- To agree the delegations to individual Cabinet Members.
- To provide strong, clear leadership in the development and coordination of the Council’s budget, strategy, policies and service delivery.
- To be responsible for making appointments to outside bodies in accordance with the Council’s agreed Outside Body Framework.
- To respond to questions from Members, residents and Council stakeholders.
- To consider and approve applications by Members to attend conferences, training and seminars, taking into account the total costs associated with attendance.
- To liaise regularly with the Chief Executive and senior officers on all issues relating to the operation of the Council.
- To advise and mentor other Cabinet Members in their portfolio responsibilities.
- To promote learning and development opportunities for all Members to ensure ongoing development and understanding.
- To ensure that the Council’s equality, diversity, safeguarding, health and safety and corporate parenting responsibilities are met.
- To support the Leader (in the case of the Deputy Leader).
- To be responsible for personal development and undergo appropriate development and continuous improvement for any role undertaken.
Skills and Knowledge for Leader of the Council and Deputy Leader of the Council

The skills and knowledge for the Leader and Deputy Leader of the Council should be read in addition to those for a Cabinet Member (above).

Skills

- **Leadership skills** including the ability to drive forward the vision for Cornwall Council, leading members, officers and partners in turn.
- **Team working and relationship building skills** in order to form and work as part of a team of members, officers and partners working for Cornwall.
- **Communication skills** including public speaking, listening, negotiating and media skills in order to facilitate effective communication within and across the Council and to ensure the community is able to engage in the Council’s decision making processes.
- **Organisational skills** to manage the busy and complex workload of the Council, coordinating this effectively.
- **Consultative Skills**, to facilitate effective consultation within and across Cornwall as well as with national stakeholders as appropriate, and ensuring the community are able to shape and engage in the council’s deliberation and decisions.
- **Business and financial acumen**, including the ability to understand and manage the Council’s budget as a whole.

Knowledge

- Knowledge of the key areas relating to all other Cabinet Member’s portfolio areas and their relationships with other portfolios within the Cabinet.
- Understanding of the relationship between national politics, local politics and Cornwall Council’s leadership.
- Understanding of the wider, national issues facing national and local government, councillors, residents and communities and the practical implications thereof.
Role of Committee Chairmen and Vice-Chairmen

It is generally accepted that the Vice-Chairmen will take the chair in the absence of the Chairman, in accordance with this profile.

Committee management

- To ensure the effective conduct of meetings and open and transparent decision making.
- To chair meetings in a clear, disciplined and fair manner, making sure that decisions are made by the Committee using correct protocols and in a way which demonstrates high standards of behaviour and ethics, and in accordance with the Constitution.
- To ensure that the Committee fulfils its terms of reference and strives to meet the standards of best practice.
- To provide confident and effective management of meetings to facilitate inclusivity, participation and effective decision making.
- To guide the Committee as appropriate to reach informed and effective recommendations/decisions.
- To oversee the process of prioritisation of the Committee’s work, taking account of available resources.
- To co-ordinate any sub-committees, inquiries or task and finish groups of the committee in order to effectively feed into the decision-making process.
- To promote and support open and transparent governance that is accessible to all.

Committee Leadership

- To provide leadership and strategic direction to the work of the Committee.
- To build relationships with key stakeholders including senior officers and decision-makers in order to create an environment in which the committee is best able to exert its influence and effective working relationships.
- To support Committee Members, ensuring their learning and development needs are understood and appropriate training provided.
- To report to and account for their actions at Council.
- To demonstrate appropriate independence/integrity and impartiality.
- To encourage Committee Members to undertake appropriate training.
- To champion the work of the Committee and those issues which are the committee’s responsibility as set out in the Responsibility for Functions. For example:
The Chairman of Constitution and Governance Committee will champion the arrangements for the annual development plan for Members

The Chairman of the Standards Committee will model and promote high standards of behaviour and ethics among all Councillors

**Skills and Knowledge for Committee Chairmen and Vice Chairmen**

**Skills**

- **Leadership and ambassadorial skills** to champion the role and work of the Committee, including coordinating the membership of the committee to agree a work programme
- **Chairmanship skills** including:
  - robust agenda management and time management skills in order to ensure the efficient conduct of business
  - communication, public speaking, facilitation and negotiation skills
  - the ability to assimilate and understand complex information and arguments and then simplify, summarise and sum-up into conclusions
- **Questioning and listening skills** – to ensure the fair interrogation of reports presented to meetings and to ensure that those present understand the implications, options and the final decision, through a process of respectful speaking and listening where all relevant points of view are taken into account.
- **Team working and relationship building skills** in order to build a functioning team within the committee, as well as to grow effective relationships with other parts of the political management structure, key officers, Council departments and external stakeholders.
- **Organisational skills** in order to coordinate both individual meetings and the overall programme of the committee’s work.
- **Consultative skills** – in order to engage with the public at meetings, ensuring that they are aware of their rights and responsibilities and understand the recommendations being made and/or decisions being taken, and allowing their voices to be heard.
- **To take responsibility for personal development** including attending chairmanship skills training as required.

**Knowledge**

- To demonstrate knowledge of business and finance issues such as they apply to their area of remit
- A good understanding of the Council’s Constitution (the Chairman of Constitution and Governance Committee should have a detailed understanding)
• A good understanding of the Members’ Code of Conduct and expected standards of behaviour (the Chairman of Standards Committee should have a detailed understanding)
• A good understanding of the subject area of the Committee, recognising that this is a constant process of learning. Some Committee Chairmen (and Members of their Committees) must have detailed knowledge of specific technical areas in the remit of their committees as set out in the Constitution under ‘Responsibility for Functions’.
Role of Chairmen and Vice-Chairmen of Regulatory Committees (e.g. Planning and Licensing)

The role of Chairmen and Vice-Chairmen of Regulatory Committees should be read in addition to the role of Committee Chairmen and Vice-Chairmen (above). It is generally accepted that the Vice-Chairmen will take the chair in the absence of the Chairman, in accordance with this profile.

- To provide confident and effective Committee leadership, both within and outside of meetings to facilitate inclusivity, participation and effective decision making
- To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process
- To provide support to Committee Members and ensure their training is up to date
- To guide the Committee to reach decisions which accord with legal, the Council’s constitutional and policy requirements
- To ensure that contributions by the public to meetings are facilitated/controlled in accordance with agreed procedures
- To understand and facilitate the role of divisional Members in the Committee’s process and how to handle conflicts of interest between being a divisional Member and a Member of the Committee

Skills and knowledge for Chairmen and Vice-Chairmen of Regulatory Committees (e.g. Planning and Licensing)

The skills and knowledge of Chairmen and Vice-Chairmen of Regulatory Committees should be read in addition to those of Committee Chairmen and Vice-Chairmen (above).

Skills

- **Leadership and communication skills** in order to support members to understand and work effectively within the constraints of the relevant regulatory framework, especially when this requires a suspension of judgement or following proscribed processes in order to handle complex issues or decisions with strategic implications.
- **Strong people and crowd management skills** in order to manage the business of meetings in the presence of – or with the participation of – multiple interested parties including members of the public.

Knowledge
- A strong understanding of the strategic implications of the Committee’s work and its interconnections with other aspects of the Council’s vision, objectives and business.
- An understanding of the operation and constraints of the relevant regulatory framework
- An up to date and in depth knowledge of relevant policy (eg local and national planning policy), law/regulations (eg licencing law) and any ongoing local and national developments on planning/licensing matters and their implications.
Role of Overview and Scrutiny Committee Chairmen and Vice-Chairmen

The role of Chairmen and Vice-Chairmen of Scrutiny Committees should be read in addition to the role of Committee Chairmen and Vice-Chairmen (above). It is generally accepted that the Vice-Chairmen will take the chair in the absence of the Chairman, in accordance with this profile.

Committee management

- To facilitate the Committee in considering and making recommendations to the decision maker as an effective ‘critical friend’.
- To facilitate the call-in process, in accordance with the Overview and Scrutiny Procedure Rules
- To model and encourage effective use of questioning and listening skills.
- To model and ensure an objective and evidence based approach to the work of overview and scrutiny, including the receipt of evidence in an impartial manner
- To enable the voice of the resident to be heard through the delivery of the Committee work programme and effective consultation and involvement in the work of the Committee

Committee leadership

- To build constructive working relationships with Cabinet Members, senior officers and partners working within the Committee’s remit.
- To work with Cabinet Members, officers and other stakeholders to formulate and manage a Committee work programme for the approval of, and in accordance with the wishes of, the Committee. This should take account of relevant factors such as Council priorities, decision timelines, risks and available resources in order to allow the committee to be efficient and impactful.
- To promote cross party working.
- To produce an Annual Report to Council on the activity of Overview and Scrutiny within their remit, which details their activities during the past year and proposed work programme for the following year.
- To take an active part in agreeing areas of work outside the ordinary schedule of Overview and Scrutiny meetings, as set out in the Overview and Scrutiny Procedure Rules.
- To agree the terms of reference for any work to be undertaken outside of the ordinary schedule of Overview and Scrutiny meetings, such that they are clear and will deliver the required outcomes.
- To ensure that recommendations to decision makers are constructive and evidence-based.
- To ensure that Overview and Scrutiny Committees fulfil their corporate responsibilities as regards budget management; corporate parenting; safeguarding; health and safety and equality and diversity.
To support Committee Members, ensuring that their learning and development needs are met.

**Skills and Knowledge for Overview and Scrutiny Committee Chairmen and Vice-Chairmen**

*The skills and knowledge for Chairmen and Vice-Chairmen of Scrutiny Committees should be read in addition to those for Committee Chairmen and Vice-Chairmen (above).*

**Skills**

- **Leadership and ambassadorial skills** to champion the role and work of Scrutiny with internal and external stakeholders, creating opportunities for the committee to add value by building bridges to other members, officers, departments, partners or segments of the community.

- **Chairmanship skills** including:
  - The ability to model and coach communication skills such as advanced listening and questioning skills, presentation and public speaking skills for the benefit and development of Overview and Scrutiny Committee Members.
  - The ability model and coach the assimilation and understanding of complex information and arguments for the benefit and development of Overview and Scrutiny Committee Members.
  - Ability to simplify, summarise and sum-up complex or contradictory information under pressure from time and colleagues, in order to bring the Committee to constructive conclusions.

- **Team working and relationship building skills** in order to build a functioning team within the committee and secure effective contributions from each member of the committee. The ability to grow effective relationships with other parts of the political management structure, key officers, Council departments and external stakeholders in order to secure their support for inquiries.

**Knowledge**

- A detailed awareness of the strategic importance of the scrutiny function within the council.
- A detailed awareness of the constitutional arrangements relating to the scrutiny function including the role and involvement of Overview and Scrutiny Committee Chairmen in the use of urgency procedures and approval of extra Overview and Scrutiny Committee time.
- Detailed knowledge of the challenges facing the scrutiny function and the role of the Chairman in addressing them.
- A good understanding of the subject area of the committee, recognising that this is a constant process of learning.
Chairman and Vice-Chairman of the Council

Article 5 of this Constitution sets out the role and function of the Chairman and Vice-Chairman of the Council.
Article 3 The Public and the Council

3.1 The Rights of the Public

The public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in this Constitution:

(a) Voting and Petitions. Those on the electoral roll for Cornwall have the right to vote and sign a petition to request a referendum for an elected mayor form of governance for the Council. The Council has a Petitions Scheme under which members of the public can submit other petitions to the Council, subject to complying with the Scheme.

(b) Information. The public have the right to:

(i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;

(ii) subject to exclusion in relation to confidential or exempt matters, attend at meetings of the Cabinet when key decisions are being considered;

(iii) find out from the notices required to be published by the Council what key decisions are to be taken and when by the Cabinet, Cabinet Members or authorised officers;

(iv) with the exception of confidential or exempt matters, inspect reports and background papers, and any records of decisions made by the Council, the Cabinet or any of its Committees and sub-Committees; and

(v) inspect the Council’s accounts and make their views known to the external auditor.

(c) Participation. Subject to the terms of the Constitution, the public have the right to:

(i) participate in public question time at those meetings where this is an agenda item;

(ii) speak and ask questions at meetings of the Cabinet and Committees under the direction of the Chairman;

(iii) contribute to the work of the Overview and Scrutiny Committees at the invitation of those Committees; and
(iv) submit petitions to the Council on relevant matters as referred to above.

(d) **Reporting on meetings.** Subject to the Council’s requirements, the public have the right to report on meetings that are open to the public of the Council, the Cabinet or any of the Council’s committees. This can be by filming, audio-recording, taking photographs and using social media or any other appropriate method of reporting subject to it being conducted in a manner which does not disrupt the meeting.

(e) **Consultation.** The public has the right to be consulted on certain areas of the Council’s work by virtue either of statutory provisions or in accordance with the terms of the Council’s Consultation Strategy.

(f) **Providing Feedback.** Members of the public have the right to comment on the Council’s services or its performance including highlighting good practice or making suggestions for improvement. Where they feel something has gone wrong they can complain to:

(i) the Council using the Council’s adopted complaints procedure (leaflets/information explaining how to complain are available at Council offices, its website and at libraries);

(ii) the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, the Ombudsman generally requires that this should only be done after using the Council’s own complaints process; and

(iii) the Monitoring Officer on behalf of the Standards Committee of the Council if they have evidence which they think shows that a Member of Cornwall Council or a Councillor of a Town, Parish or City Council in Cornwall has not followed their Council’s Code of Conduct.

Any person who is unsure how to make a suggestion, comment or complaint should write to the Customer and Support Services Directorate, Cornwall Council, County Hall, Truro, Cornwall TR1 3AY.

3.2 **Responsibilities of the Public**

The public must not be disruptive of the proceedings of meetings. They must not be violent, abusive or threatening to Members, officers, the Council’s contractors or agents and must not wilfully harm things owned by the Council, Members, officers, contractors or agents. If members of the public wish to exercise the rights they have there is an expectation that they will do so reasonably having proper regard to the requirements of the Council.
Article 4 The Council

4.1 Meanings

(a) **Policy Framework.** The Policy Framework means the following plans and strategies:

i) mandatory requirements:

- Council/Business Plan
- Children and Young People’s Plan
- Future Cornwall (the Community Strategy)
- Gambling Statement of Principles
- Crime and Disorder Reduction Strategy
- Local Transport Plan
- Development Plan Documents
- Youth Justice Plan
- Licensing Authority Policy Statement
- Pay Policy Statement

ii) those which have been adopted as a matter of local choice:

- Economic Development Strategy
- Corporate Asset Management Plan
- Cornwall Housing Strategy
- Child Poverty Strategy
- Waste Strategy
- Environmental Growth Strategy
- Health and Wellbeing Strategy
- Organisational Development Framework
- Such other plans or strategies as may be specified by the Council as part of the Policy Framework from time to time.

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

(c) **Housing Land Transfer.** Housing Land Transfer means the authorisation of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties or to dispose of land used for residential purposes where approval is required under the corresponding housing legislation.

4.2 **Functions of the Council**

Only the Council shall exercise the following functions:
(a) adopting and changing the Constitution, save as delegated to the Monitoring Officer;

(b) approving, adopting or making material changes to the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;

(c) subject to the urgency procedure contained in the Access to Information Procedure Rules in this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would materially depart from the Policy Framework or Budget;

(d) the appointment or removal of the Leader;

(e) agreeing and/or amending the terms of reference for Committees (other than those established by the Cabinet to discharge executive functions), deciding on their composition and making appointments to them or delegating to the Monitoring Officer the power to make such appointments in accordance with the wishes of Political Group Leaders so as to secure political balance (where applicable);

(f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;

(g) adopting the Members’ Allowances Scheme;

(h) changing the name of the area;

(i) making the appointment of the Chief Executive Officer;

(j) making the appointment of the Electoral Registration Officer and the Returning Officer;

(k) designating officers to be the Council’s Head of Paid Service, Chief Financial Officer and Monitoring Officer and appointing officers as Proper Officer for particular purposes;

(l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

(m) such local choice functions set out in the Responsibility for Functions section of this Constitution as the Council decides should be undertaken by itself rather than its committees or the Cabinet; and

(n) all other matters which, by law, must be reserved to Council.

4.3 Council Meetings
There are three types of Council meeting:

(a) the Annual Meeting;

(b) Ordinary Meetings; and

(c) Extraordinary Meetings

and they shall be conducted in accordance with the Council Procedure Rules as set out in this Constitution.

4.4  Responsibility for Functions

The Council shall maintain details in this Constitution setting out the responsibilities for the Council’s functions which are not the responsibility of the Cabinet.
Article 5 Chairing the Council

5.1 Role and Function of the Chairman

The Chairman shall be elected by the Council annually or upon the office being vacated. To assist the Chairman in fulfilling their duties, they shall be briefed as required on current issues by the Chief Executive, Leader, Monitoring Officer and Chief Financial Officer. The Chairman shall have the following responsibilities:

(i) to uphold and promote the purposes of the Constitution and, after receiving advice, to interpret the Constitution when necessary;

(ii) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;

(iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community;

(iv) to ensure that the Council meeting is a place, where Members who are not on the Cabinet are able to hold the Cabinet to account;

(v) to promote public involvement in the Council’s activities;

(vi) to be the conscience of the Council; and

(vii) to attend as representative of the Council such civic and ceremonial functions of the Council as they determine appropriate.

5.2 The Vice-Chairman

The Vice-Chairman shall undertake the above responsibilities in the absence of the Chairman.
Article 6 Overview and Scrutiny Committees

6.1 Committees

There shall be five Overview and Scrutiny Committees:

- Children and Families Overview and Scrutiny Committee
- Customer and Support Services Overview and Scrutiny Committee
- Economy, Growth and Development Overview and Scrutiny Committee
- Health and Adult Social Care Overview and Scrutiny Committee
- Neighbourhoods Overview and Scrutiny Committee

6.2 Membership

Each Overview and Scrutiny Committee shall comprise 15 Members of the Council, and such co-optees as may be required by legislation or determined by the Council from time to time.

The Children and Families Overview and Scrutiny Committee shall also include in its membership the education representatives specified in the Overview and Scrutiny Procedure Rules.

Members of the Cabinet shall not sit on any of the Overview and Scrutiny Committees nor on any sub-committee or select committee of any of those Committees.

The Chairman of each Overview and Scrutiny Committee shall be a Cornwall Councillor.

6.3 Substitutes

Substitutes are allowed for the Cornwall Councillors appointed to the Committees.

6.4 Terms of Reference

The detailed terms of reference of the Overview and Scrutiny Committees are set out in the Responsibility for Functions.

6.5 General Role

Within their terms of reference and subject to the Overview and Scrutiny Procedure Rules, the Committees shall:

i) consider any Cabinet decisions that have been called-in to determine whether any such decisions should be reconsidered;
ii) other than by way of formal call-in, review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council’s functions;

iii) within the Council’s general responsibility for community wellbeing and having regard to the Health and Wellbeing Strategy and Future Cornwall, scrutinising the impact of health services provided by external authorities and agencies (this is reserved primarily to the Health and Adult Social Care Overview and Scrutiny Committee);

iv) make reports and/or recommendations to the Council and/or the Cabinet and/or any policy, joint or area committee in connection with the discharge of any functions; and

v) make reports and/or recommendations to the Council and/or the Cabinet on any matter affecting Cornwall or its residents.

6.6 Specific Functions

A summary of the scrutiny functions to be discharged by each of the Overview and Scrutiny Committees is given below, subject to the specific remit of each Committee:

(a) **Provide challenge to the Cabinet as well as external authorities and agencies by:**

- providing constructive, robust and purposeful challenge to decision-making;
- actively scrutinising priorities, actions, performance and decisions taken by the Cabinet, community networks, Council officers and, where appropriate, other external stakeholders in connection with any of the Council’s functions to ensure that they are in line with Council policy and in the interests of the local population;
- calling upon the Cabinet and relevant officers to respond to issues of concern; and
- making recommendations as appropriate to the Cabinet, Council, committees or others.

(b) **Make an impact on the delivery of public services by:**

- reviewing and scrutinising the performance of other public bodies in the area and inviting reports from them by requesting them to address the Committee and local people about their activities and performance;
- working with partners, stakeholders and, where appropriate, the media to ensure that recommendations resulting from the Committee’s work are effectively communicated and translated into meaningful outcomes;
- to the extent not undertaken by the Audit Committee, reviewing
performance in achieving service and corporate aims, objectives and targets, exploring trends in performance and making comparisons with best practice;

• liaising with external organisations operating in Cornwall, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and

• questioning Members of Cabinet, the Chief Executive and Strategic Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.

(c) Take the lead and own the scrutiny process on behalf of the public by:

• considering and implementing mechanisms to encourage and enhance community participation and raise awareness of the various ways in which the public may engage in the scrutiny process;

• actively seeking opportunities to promote the status and work of the scrutiny function;

• reviewing the operation of the function and seeking innovative and forward looking solutions to maximise its effectiveness;

• working jointly with other committees and, where appropriate, other organisations on issues of a cross cutting nature;

• evaluating the impact of the Committee’s work; and

• producing a report to Council at its Annual Meeting on the Committee’s work during that year and its future work programme and operation.

(d) Budget, performance management and reputation. The Customer and Support Services Overview and Scrutiny Committee shall exercise overall responsibility for the scrutiny of the budget, performance management and reputation of the Council and shall receive budget monitoring reports from the Council’s Scrutiny Officer and, as appropriate, the Service Director – Resources or such other Service Director as may be responsible for the finance function.

(e) Annual Report. Each Overview and Scrutiny Committee shall report annually to Council on the activity of the scrutiny function within their remit and make recommendations for future work programmes and amended working methods if appropriate. In an election year for Cornwall Council the annual report shall be referred to a meeting other than the Annual Meeting of the Council immediately following the election.

6.7 Joint Health Scrutiny Committee
A Joint Health Scrutiny Committee shall be established, if required, comprising Members of the Council to be appointed through the Health and Adult Social Care Overview and Scrutiny Committee, in conjunction with the Children and Families Overview and Scrutiny Committee where appropriate, and such representatives of other organisations as those organisations nominate. The Council’s nominees shall be drawn from the Health and Adult Social Care Overview and Scrutiny Committee and/or, where appropriate the Children and Families Overview and Scrutiny Committee.

6.8 **Proceedings of Committees**

The Committees shall conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in this Constitution.

6.9 **Quorum**

The quorum for each Committee shall be 4 Cornwall Councillors.
Article 7 The Cabinet

7.1 Membership

The Cabinet shall consist of the Cabinet Leader together with not less than 2 nor more than 9 Councillors appointed by the Leader, one of whom shall be nominated by the Leader as Deputy Leader. The Leader must give written notice to the Monitoring Officer of the appointment of Members to the Cabinet including details of their Portfolio responsibilities.

7.2 Role

The Cabinet shall be responsible for all executive functions. These are the functions which are not the responsibility of the Council nor any of the Council’s committees, whether by law or under this Constitution.

7.3 Leader

The Leader shall be a Member elected to the position of Leader by the Council. The Leader shall hold office until:

(a) the start of the Annual Meeting of the Council, save in an election year when paragraph (c) shall apply;

(b) they resign from the office;

(c) they are no longer a Member of the Council; or

(d) they are removed as Leader in accordance with the Council Procedure Rules.

7.4 Other Cabinet Members

Only Members of the Council may be appointed to the Cabinet. Save for the Deputy Leader, deputies shall not be permitted for Cabinet Members. Neither the Chairman nor Vice-Chairman of the Council shall be appointed to the Cabinet and Members of the Cabinet (including the Leader) shall not be Members any of the Overview and Scrutiny Committees or any sub-committee of those Committees.

Other Cabinet Members shall hold office until:

(a) they resign from office;

(b) they are no longer Members of the Council; or

(c) they are removed from office by the Cabinet Leader who must notify
the Member of their removal from the Cabinet and give written notice of the removal to the Monitoring Officer.

7.5 **Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in this Constitution.

7.6 **Substitutes**

No substitutes are permitted.

7.7 **Responsibility for Functions**

The Leader shall maintain a list, which shall form part of this Constitution, setting out which individual members of the Cabinet, sub-committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions. The Scheme of Delegation further sets out delegations to officers.

7.8 **Plan Publication**

The Cabinet shall publish a plan a year in advance showing the timetable for preparing, consulting and submitting draft plans to the Council for consideration and/or adoption. The published plan shall be updated as necessary in relation to, for example, additional matters to be considered or revisions to timetables.

7.9 **Quorum**

The quorum for the Cabinet, or a committee of it, shall be 3.
Article 8 Health-related Committees – Joint Working Protocol

This Article complements and should be read in conjunction with Articles 6, 7, and 18, as well as the corresponding parts of the Responsibility for Functions section of the Constitution. It is intended to assist understanding of the separate but complementary roles of the current health-related committees.

Health Committees

8.1 The Council has established:
(i) the Health and Adult Social Care Overview and Scrutiny Committee;
(ii) the Children and Families Overview and Scrutiny Committee; and
(ii) the Health and Wellbeing Board.

8.2 The responsibilities of each body are set out in the Responsibility for Functions section of this Constitution and summarised below:

<table>
<thead>
<tr>
<th>Health and Adult Social Care Overview and Scrutiny Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scrutiny functions relating to the health of children and adults:-</td>
</tr>
<tr>
<td>- Statutory powers under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013</td>
</tr>
<tr>
<td>- Scrutinising any matter relating to planning/provision/operation of any health services and making recommendations on improvements to ensure local needs are reflected</td>
</tr>
<tr>
<td>- Holding local health services to account for the operation of services</td>
</tr>
<tr>
<td>- Improving health services through improved partnership working</td>
</tr>
<tr>
<td>- Call-in of Cabinet decisions within its remit</td>
</tr>
<tr>
<td>- Ensuring proposals for substantial changes to services are equitable, reasonable and reflect local need</td>
</tr>
<tr>
<td>- Responding to consultations by NHS bodies in relation to any proposals they have that represent significant changes or substantial variations to health services</td>
</tr>
<tr>
<td>- Power (through full Council) to refer decisions taken by NHS bodies to the Secretary of State for Health</td>
</tr>
<tr>
<td>- Scrutinising the performance of the Health and Wellbeing Board against the Joint Strategic Needs Assessment (JSNA) and Health and Wellbeing Strategy</td>
</tr>
<tr>
<td>- Outside its ordinary schedule of meetings, conducting specific work on areas through a process agreed by the relevant Strategic Director, following consultation with the Chairman and the Monitoring Officer</td>
</tr>
<tr>
<td>- Monitoring action by decision-makers on any recommendations it makes</td>
</tr>
<tr>
<td>- Responding to matters raised by Healthwatch Cornwall</td>
</tr>
</tbody>
</table>

Overview and policy development functions:-
- Supports the development of policy, including options for future policy
- Strategic performance management
- Supports and advises the Cabinet Member
- Conducts pre-decision scrutiny through challenge of the Cabinet Member in relation to decisions due to be made
- Considering motions referred to it by the Council and making recommendations for full Council consideration
- Questioning of Cabinet Member at regular formal meetings
- Advisory, not decision making

**Children and Families Overview and Scrutiny Committee**

Scrutiny functions relating to the functions within the remit of the Children and Families Directorate:

- Call-in of Cabinet decisions within its remit
- Outside its ordinary schedule of meetings, conducting specific work on areas through a process agreed by the relevant Strategic Director, following consultation with the Chairman and the Monitoring Officer
- Monitoring action by decision-makers on any recommendations it makes
- Overview and policy development functions:- Supports the development of policy, including options for future policy
- Strategic performance management
- Supports and advises the Cabinet Member
- Conducts pre-decision scrutiny through challenge of the Cabinet Member in relation to decisions due to be made
- Considering motions referred to it by the Council and making recommendations for full Council consideration
- Questioning of Cabinet Member at regular formal meetings
- Advisory, not decision making

**Health and Wellbeing Board**

- Undertaking a JSNA in order to assess the needs of the local population
- Developing a new Joint Health and Wellbeing Strategy (JHWS) that spans the NHS, public health, social care and other related services, such as housing. The JHWS shall provide a high-level summary of how the health and wellbeing needs of the community are being addressed
- Promoting joined up working and integrated commissioning plans across the NHS, social care, public health and other related services, raising issues with the NHS Commissioning Board or local authority leadership where there are concerns
- Leading on the integration of commissioning, service delivery and/or pooled budget arrangements, where all parties agree this makes sense
- Producing a Pharmaceutical Needs Assessment
- Oversee the Better Care Fund and to sign off the proposals for joint funding under the Better Care Fund
- Encouraging close working between health-related services and social care services
- Participating in the Unity of Planning which signs up to five year strategic plans for the local health economy
8.3 These bodies operate in accordance with the specific Constitutional arrangements and Procedure Rules that may be established for them.

**Joint Working Protocol**

8.4 The Chairmen of the Committees have a duty to promote joint and common working with regard to health and to ensure an ongoing understanding of one another’s priorities and work plans.

8.5 The Constitution and Governance Committee will keep the operation of this protocol under review.


Article 9 Chairing Committee Meetings

Presiding

The Chairman shall preside. In their absence, the Vice-Chairman shall preside or if both the Chairman and Vice-Chairman are absent, a person from amongst those present shall be elected to preside for that meeting.

Responsibilities

The Chairman of each committee shall ensure the effective working of the committee through:

(a) encouraging Members of the committee to assist with and contribute to the formulation of the work plan for the committee, where the committee has a work plan;

(b) encouraging Members of the committee to assist with identifying issues for inclusion within the agendas for formal meetings, save to the extent that agenda items are dictated by the nature of the committee, such as the routine reporting of development control issues;

(c) managing the alignment of the work of the committee so that, so far as possible, it contributes to the achievement of the Council’s objectives by discussing proposed work plan and/or agenda items with the responsible Cabinet Member and/or Strategic Director, as appropriate, to ensure that any such items should be included;

(d) ensuring that agendas are balanced and current, that there is sufficient business to be transacted to warrant a meeting being held and cancelling meetings where this is not the case;

(e) managing the conduct of meetings in accordance with the applicable procedure rules;

(f) ensuring that Members, officers and others contributing to the transaction of the committee’s work, particularly at formal meetings, are afforded appropriate opportunity to make their contribution and that they are treated with dignity and respect;

(g) effective agenda management at meetings so that debates are kept to an acceptable length and not unduly prolonged and that Members attending meetings who are not members of the committee are, where appropriate and subject to the corresponding procedure rules, permitted to participate but in a proportionate and appropriate manner that does not unnecessarily prolong or dominate meetings; and

(h) complementing the information available to all Members on the
Council’s intranet by e-mailing all Members to bring to their attention issues which the Chairman considers are sufficiently significant and likely to be of interest to the wider membership.
Article 10 Audit Committee

10.1 Membership

10 Members of the Council and not less than 2 independent lay members.

Members of the Cabinet are not permitted to sit on the Audit Committee. No more than half of the Members of the Council on the Audit Committee may be members or substitute members of any Overview and Scrutiny Committee. The independent non-elected members of the Committee shall neither have voting rights nor Chair any meeting of the Committee.

10.2 Substitutes

Substitutes are permitted, subject to compliance with the training requirement below.

10.3 Training

No Member is permitted to sit on the Audit Committee, as a substantive Member or substitute, unless they have undertaken the mandatory training package, those training requirements being fulfilled and subject to compliance with the corresponding procedure rules.

10.4 Terms of Reference

The terms of reference and responsibilities of the Committee are as set out in the Responsibility for Functions section of this Constitution.

10.5 Quorum

The quorum shall be 3 Members of the Committee. The absence of independent lay members from the membership of the Committee or from any meeting of the Committee shall not make a meeting inquorate or affect the validity of proceedings.
Article 11 Standards Committee

11.1 Membership

18 members made up of:

8 Members of Cornwall Council;
4 independent lay members;
1 clerk currently employed by a City, Town or Parish Council in Cornwall; and
5 Parish, Town and City Council representatives from the Councils within Cornwall.

Only Members of Cornwall Council on the Standards Committee have voting rights.

11.2 Substitutes

No substitutes are allowed.

11.3 Terms of Reference

The terms of reference and responsibilities of the Committee are as set out in the Responsibility for Functions section of this Constitution.

11.4 Panels Involved in the Assessment of Complaints

In accordance with the Council’s procedures for the assessment and determination of allegations of breaches of the Code of Conduct by Councillors, whether of Cornwall Council or any of the local councils in Cornwall, a Panel may be convened to assist the Monitoring Officer with the determination of the allegations, as may be required by the Monitoring Officer. Such Panels shall be drawn from the membership of the Standards Committee and shall usually comprise 1 Member of the Council, 1 lay member and 1 Parish, Town or City Council representative.

11.5 Independent Persons

The Council shall appoint at least one independent person to discharge the functions prescribed in section 28 of the Localism Act 2011. Those appointed to this role shall not be members of the Standards Committee.

11.6 Chairmanship of Committees, Sub-Committees and Panels

The Standards Committee may only be chaired by a Member of the Council.

11.7 Attendance at Meetings
The independent lay members of the Standards Committee may attend meetings of any Committee of the Council, but, unless they are members of that Committee, shall not be allowed, except with the consent of the Committee, to take part in the discussion or debate and may not attend any meeting during such period as the press and public are excluded without the consent of the Committee.

11.8 **Quorum**

The quorum for the Standards Committee shall be 3 Members of Cornwall Council. The absence of independent lay members, Parish, Town and City Council representatives or the local council Clerk representative shall not make a meeting inquorate or invalidate the proceedings of the Committee.

The quorum for any Panels that are convened in accordance with Article 11.4 shall be 3 members of the Standards Committee including at least 1 Member of the Council.
Article 12 Planning Committees

Sub-Area Planning Committees (East, Central and West)

12.1 Membership

Each of the East, Central and West Sub-Area Planning Committees shall be comprised of 15 Members.

12.2 Substitutes

Substitutes are allowed, subject to compliance with the training requirement below.

12.3 Training

No Member is permitted to sit on any of the Council’s Planning Committees, as a substantive Member or substitute, unless they have undertaken the Mandatory Planning Training Programme, following their election and each re-election, and they are required to undertake Refresher Training at least every two years.

12.4 Participation as Electoral Division Members

A Member of a Planning Committee shall not participate in the debate on and determination of a planning application for a site within their Electoral Division other than (i) by addressing the Committee as the Electoral Division Member during the period allocated for public speaking on the Committee Agenda; and (ii) in accordance with the procedural requirements determined by the Council that:

(a) no time be imposed on Member speeches during Planning Committees but if a Member is still speaking after 5 minutes the Chairman will request the Member to sum up; and

(b) all Members be allowed to speak and ask questions at Planning Committees, regardless of whether they are a Member of that Committee or not.

12.5 Terms of Reference

The terms of reference and responsibilities of the Committees are as set out in the Responsibility for Functions section of this Constitution.

12.6 Quorum

The quorum shall be 4 Members of the Committee.

12.7 Adjournment

Meetings should run until the business is finished but the Chairman has a duty to review whether to adjourn the meeting at an appropriate time and
in any event no later than 10.30 p.m.

**Strategic Planning Committee**

12.8 **Membership**

15 Members.

12.9 **Substitutes**

Substitutes are allowed, subject to compliance with the training requirement below.

12.10 **Training**

No Member is permitted to sit on any of the Council’s Planning Committees, as a substantive Member or substitute, unless they have undertaken the Mandatory Planning Training Programme, following their election and each re-election, and they are required to undertake Refresher Training at least every two years.

12.11 **Participation as Electoral Division Members**

A Member of a Planning Committee shall not participate in the debate on and determination of a planning application for a site within their Electoral Division other than (i) by addressing the Committee as the Electoral Division Member during the period allocated for public speaking on the Committee Agenda; and (ii) in accordance with the procedural requirements determined by the Council that:

(a) no time be imposed on Member speeches during Planning Committees but if a Member is still speaking after 5 minutes the Chairman will request the Member to sum up; and

(b) all Members be allowed to speak and ask questions at Planning Committees, regardless of whether they are a Member of that Committee or not.

12.12 **Terms of Reference**

The terms of reference and responsibilities of the Committee are as set out in the Responsibility for Functions section of this Constitution.

12.13 **Quorum**

The quorum shall be 4 Members of the Committee.

12.14 **Adjournment**

Meetings should run until the business is finished but the Chairman has a duty to review whether to adjourn the meeting at an appropriate time and in any event no later than 10.30 p.m.
Article 13 Licensing Act and Miscellaneous Licensing Committees

Licensing Act Committee

13.1 Membership
The Licensing Act Committee shall be comprised of 15 Members.

13.2 Substitutes
Substitutes are not allowed.

13.3 Terms of Reference
The terms of reference and responsibilities of the Committee are as set out in the Responsibility for Functions section of this Constitution.

13.4 Quorum
The quorum shall be 4 Members of the Committee.

Miscellaneous Licensing Committee

13.5 Membership
The Miscellaneous Licensing Committee shall be comprised of 12 Members.

13.6 Substitutes
Substitutes are allowed, subject to the necessary training requirements being fulfilled, and subject to compliance with the corresponding procedure rules.

13.7 Terms of Reference
The terms of reference and responsibilities of the Committee are as set out in the Responsibility for Functions section of this Constitution.

13.8 Quorum
The quorum shall be 3 Members of the Committee.
Article 14 Constitution and Governance Committee and Electoral Review Panel

Constitution and Governance Committee

14.1 Membership
The Constitution and Governance Committee shall comprise 10 Members of the Council.

14.2 Substitutes
Substitutes are allowed.

14.3 Terms of Reference
The terms of reference of the Committee are as set out in the Responsibility for Functions section of this Constitution.

14.4 Quorum
The quorum shall be 3 Members of the Committee.

Electoral Review Panel

14.5 Membership
The Electoral Review Panel shall comprise 10 Members of the Council.

14.6 Substitutes
Substitutes are allowed.

14.7 Terms of Reference
The terms of reference of the Panel are as set out in the Responsibility for Functions section of this Constitution.

14.8 Quorum
The quorum shall be 3 Members of the Panel.
Article 15 Appeals Committee

Appeals Committee

15.1 Membership

The Appeals Committee shall be comprised of 7 Members. The Committee shall not have a standing Chairman or Vice-Chairman. The first item of business for each Panel or Committee meeting shall be the appointment of a Chairman for the duration of that meeting.

15.2 Substitutes

Substitutes are not allowed.

15.3 Terms of Reference

The terms of reference and responsibilities of the Committee are as set out in the Responsibility for Functions section of this Constitution.

15.4 Panels

The Committee may convene a Panel of 3 Members drawn from its membership to exercise any of the appeal functions for which the Committee is responsible.

15.5 Quorum

The quorum, whether sitting as the Committee or a Panel of the Committee, shall be 3 Members of the Committee.
Article 16 Pensions Committee

Pensions Committee

16.1 Membership

Up to 14 members made up of:

10 Members of the Council;
2 employee representatives appointed by the Trade Unions who shall be offered the option of taking up voting rights; and
Up to 2 additional co-opted individuals with voting rights to represent the other employers in the Council’s pension scheme.

16.2 Substitutes

Substitutes are not allowed.

16.3 Terms of Reference

The terms of reference and responsibilities of the Committee are as set out in the Responsibility for Functions section of this Constitution.

16.4 Quorum

The quorum shall be 5 members of the Committee, at least 3 of whom must be Members of the Council.

16.5 Local Pension Board

The Council has established a Local Pension Board to assist the Council, as the pension scheme manager, in its management and administration of the pension scheme, as required by legislation.
Article 17 The Harbours Board and the Cornwall Inshore Fisheries and Conservation Authority

Harbours Board

17.1 Membership

The Harbours Board shall be comprised of:

6 Members of the Council; and
6 Co-opted members.

All members of the Board are entitled to vote at meetings.

17.2 Substitutes

Substitutes are not allowed.

17.3 Terms of Reference

The terms of reference and responsibilities of the Board are as set out in the Responsibility for Functions section of this Constitution.

17.4 Quorum

The quorum for a meeting of the Board shall be 6 members of whom not less than 4 must be Council Members.

The Cornwall Inshore Fisheries and Conservation Authority

17.5 Membership

The Authority shall be comprised of:

7 Members of Cornwall Council;
12 General Members who must be appointed by the Marine Management Organisation (MMO) and who must include at least one employee of the MMO; and
2 Additional Members, 1 of whom must be from Natural England and 1 from the Environment Agency.

All Members of the Authority shall be entitled to vote at any Meeting of the Authority.

17.6 Substitutes

Substitutes are not allowed.
17.7 **Terms of Reference**

The terms of reference and responsibilities of the Authority are as set out in the Responsibility for Functions section of this Constitution.

17.8 **Quorum**

The quorum at any meeting of the Authority shall be 5 with at least one Council Member and one General member required to be present.
Article 18 Health and Wellbeing Board

18.1 Health and Wellbeing Board – Background

The Health and Social Care Act 2012 requires that the Council establish a Health and Wellbeing Board as a Committee of the Council.

Membership of the Health and Wellbeing Board reflects that outlined in the Health and Social Care Act 2012. Additional membership will be considered by the Health and Wellbeing Board alongside the framework to engage with the widest forum of stakeholders, with this been undertaken in consultation with the Council.

The Health and Social Care Act mandates a minimum membership of:

- one local elected representative (councillor)
- a representative of the local Healthwatch organisation (Healthwatch Cornwall)
- a representative of each local clinical commissioning group (NHS Kernow)
- the local authority director for adult social services
- the local authority director for children’s services
- the director of public health for the local authority

It is on this basis that the current membership of the Health and Wellbeing Board is set.

18.2 Membership and Procedure Rules

The membership of the Health and Wellbeing Board shall be fixed to the following principal members who are to be classed as full voting members of the Health and Well Being Board:

The Leader of the Council or their nominated representative

Four elected members of Cornwall Council nominated by the Leader

Two Senior Cornwall Representatives

- The Strategic Director for Children, Families and Adults
- The Director of Public Health

NHS Kernow

- Managing Director
- Chairman

Healthwatch Cornwall

- Healthwatch Cornwall Director
- Healthwatch Cornwall Theme Lead
NHS England Area Team
- Area Director

Partnership
- Chair of Safer Cornwall (Community Safety Partnership)

Voluntary Sector
- Changing Lives Lead

Devon and Cornwall Police
- Police and Crime Commissioner
- Chief Superintendent for Cornwall

Department of Work and Pensions
- Senior European Programmes and Partnership Manager

Provider
- Representative of NHS Provider

The Board may also co-opt further members onto the Board to act as advisors to the Board. Such co-optees will be non-voting members of the Board.

The Board is not politically proportionate and is not subject to political balancing rules.

Observers
The following may attend the Board as observers only and are not classed as voting members of the Board;

- Chairman of the Health and Adult Social Care Overview and Scrutiny Committee
- Chairman of the Children and Families Overview and Scrutiny Committee
- Chair of the Isles of Scilly Health and Wellbeing Board
- Chair of the Devon Health and Wellbeing Board
- Chair of the Plymouth Health and Wellbeing Board
- Chair of the Adult’s Safeguarding Board
- Chief Executive, or their nominee, in an advisory capacity
- Chairman of the Local Children’s Safeguarding Board
Substitutes

Named substitutes are allowed and Board members are to advise Democratic Services 5 days prior to the meeting who their substitute will be should they be unable to attend.

Voting

The rules on voting will be as set out in Council Procedure Rule 16 in the Constitution of the Council.

Questions from the Public

Members of the public, who live or work in Cornwall, may ask questions of the Board at the start of its meetings subject to the following conditions;

- Questions are to relate to an item on the agenda;
- Questions are not to be frivolous or defamatory, and the Chairman has the right to refuse a speaker to be heard;
- Questions are to be delivered to the Democratic Services at Cornwall Council no later than 3 clear working days before the day of the meeting;
- Only one person may ask a question on a particular subject, if multiple questions on the same subject are received the person entitled to ask the question will be the person who submitted the question first;
- A supplementary question may be asked if it relates to the same matter as the original question. The ability to ask a supplementary question is at the discretion of the Chairman;
- The Board have a right to submit written responses to questions that are long or complicated;
- No person or organisation may submit more than one question at any one meeting and no more than two in any one year;
- It is not intended that the same or a similar question should be put to a future meeting of the Board and where there is an overlap between the remit of committees, the same or similar question shall not be put to any of those committees once dealt with or rejected.

The time set aside for the asking of questions will not exceed 15 minutes.

18.3 Role and Appointment of Board Chair and Vice Chair

18.3.1 The Chair of the Health and Wellbeing Board will be one of the Council's Portfolio Holders.

18.3.2 The Vice Chair will be determined by the majority of Board members present and voting.

18.4 Purpose of the Health and Wellbeing Board
The core purpose of the Health and Wellbeing Board is to integrate commissioning across the NHS, public health and social care services in order to improve efficiency, secure better care and, ultimately, health and wellbeing outcomes for the local community. In Cornwall, the Council is required to lead on the strategic planning and coordination of related NHS services, social care and public health improvement and this shall be discharged through the statutory Health and Wellbeing Board.

The Health and Wellbeing Board is expected to facilitate effective democratic, patient and carer input into the commissioning of these services and is intended to become the forum through which those responsible for associated commissioning decisions are held to account.

### Functions

18.5.1 The Department of Health defines the key functions of the Health and Wellbeing Boards as follows:

(a) To undertake a Joint Strategic Needs Assessment (JSNA) in order to assess the needs of the local population. The JSNA shall be a statutory requirement for both local authorities and the GP Commissioning Consortia and the Health and Wellbeing Board shall be required to demonstrate that due regard has been given to the findings of the JSNA;

(b) To develop a new Joint Health and Wellbeing Strategy (JHWS) that spans the NHS, public health, social care and other related services, such as housing. The JHWS shall provide a high-level summary of how the health and wellbeing needs of the community are being addressed and shall be a statutory requirement for both local authorities and GP Commissioning Consortia;

(c) To promote joined up working and integrated commissioning plans across the NHS, social care, public health and other related services. If the Health and Wellbeing Board is not satisfied that commissioning plans are consistent with the JSNA or JHWS it shall have the authority to raise this issue with the NHS Commissioning Board or local authority leadership;

(d) To lead on the integration of commissioning, service delivery and pooled budget arrangements, where all parties agree this makes sense;

(e) To produce a Pharmaceutical Needs Assessment;

(f) Being part of the Unity of Planning considering the strategic plans for the local health economy; and

(g) To oversee the Better Care Fund and to sign off the areas proposals for joint funding under the Better Care Fund.
This means the Board, either itself or through a sub-committee, working group or by an officer acting under delegated authority will:

18.5.1.1 Define, agree and manage a realistic work programme which is considered by the Board every quarter that includes:

- Identifying and ensuring key stakeholders are engaged in the development of arrangements as required in the new Health and Social Care Act 2012, the Care Act 2014 and the Children and Families Act 2014;
- Community Safety Partnerships
- Contribute to the ongoing development of the Joint Strategic Needs Assessment;
- Prepare and maintain a Pharmaceutical Needs Assessment;

18.5.1.2 Promote ‘joined up’ working and integrated commissioning plans across the NHS, social care, public health and other related services; and taking the lead on the integration of commissioning, service delivery and pooled budget arrangements, where all parties agree this makes sense:

- Ensuring that risks to quality of service are identified and managed.
- Development and oversight of a Joint Health & Wellbeing strategy.
- Overseeing further integration of health and social care services.
- Accurately reflecting the views of service users and patients in the context of commissioned services.

18.6 Operational Arrangements of the Health and Wellbeing Board

18.6.1 The Board may:

- Encourage persons who arrange for the provision of any health related services in its area to work closely with the Board;
- Encourage persons who arrange for the provision of any health or social care services in its area and persons who arrange for the provision of any health related services to work closely together;
- Exercise any other functions that are exercisable by the authority if these functions are delegated to it by Council;
• Provide the Council with an opinion as to whether the Council is discharging its duty to involve people living and working in Cornwall during the preparation of its Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy

• Arrange with another Board for its functions to be discharged jointly.

18.6.2 Key Relationships and Accountabilities

• A Health and Wellbeing Stakeholder Group will be established by the Board to act in an advisory capacity to the Board and participate in co-production activity relating to commissioning strategies.

• Utilising the Council’s Overview and Scrutiny Committees as a mechanism for consulting widely with Councillors on relevant areas of its activity, particularly the Health and Adult Social Care Overview and Scrutiny Committee and the Children and Families Overview and Scrutiny Committee

18.7 Delegation and Details of Supporting Arrangements

18.7.1 The Board can delegate its functions to a Sub Committee of the Board and the Board or a Sub Committee of the Board can delegate its functions to an officer of the Authority. Such delegations and details of the related supporting arrangements can only take place with the agreement of the Board.

18.8 Working Arrangements of the Health and Wellbeing Board

18.8.1 Meetings.

18.8.1.1 It is proposed that the Health and Wellbeing Board will meet a minimum of 4 times a year (on a quarterly basis) with additional (extraordinary) meetings held should they be required, following approval by the Monitoring Officer.

18.8.1.2 The Board is bound by the Access to Information Procedure Rules in the Constitution of Cornwall Council. The Board will meet in public and will publish its agendas and Minutes as with all other Council Committees and these can be found on the Council’s website.

18.8.1.3 The Board may hold informal meetings which will seek to build relationships and knowledge between board members and explore issues in more depth. Informal meetings of the Board may not necessarily be held in public.
18.9 **Quorum**

18.9.1 At least 60% of the voting Members of the Health and Wellbeing Board need to be present of which at least 2 elected representatives from Cornwall Council, a representative from NHS Kernow representative and a representative from Healthwatch Cornwall must be present to form a quorum.

18.10 **Support for the Board**

18.10.1 The Health and Wellbeing Board will be supported by Democratic Services within Cornwall Council who will be responsible for the organisation and all administration relating to meetings of the Board, including the coordination and publication of the Board’s work programme.
Article 19  Chief Officers Employment Committee

The Committee shall consider the performance, development and remuneration of the Chief Executive and Strategic Directors.

19.1  Membership

The Committee shall be comprised of 7 Members of the Council, one of whom shall be the Leader, and be representative of the recognised political groups of the Council.

19.2  Substitutes

Substitutes are allowed, subject to the necessary training requirements being fulfilled, and subject to compliance with the corresponding procedure rules. This is on the basis that any substitution should apply for the whole process i.e. long and shortlisting and interview.

19.3  Terms of Reference

The terms of reference of the Committee are as set out in the Responsibility for Functions section of this Constitution.

19.4  Quorum

The quorum shall be 2 Members of the Committee.
Article 20 Community Networks, the Mount Edgcumbe Joint Committee and the Tamar Bridge and Torpoint Ferry Joint Committee

Community Networks

20.1 The Council has established 19 Community Networks. The Community Networks shall operate in accordance with any specific constitutional arrangements that may be established for them.

20.2 The Access to Information Procedure Rules in the Constitution apply save that in relation to the Community Networks, compliance with those Rules shall only be required when the Networks are formally constituted as joint committees.

Mount Edgcumbe Joint Committee

20.3 This is a joint committee with Plymouth City Council that deals with issues relating to Mount Edgcumbe Country Park. The administration of the Committee is carried out by Plymouth City Council and the functions of the Committee are as follows:

“...to be responsible for the management and control of the Estate and for this purpose to exercise all the powers of the constituent Councils (except power to acquire and sell land) under sections 6, 7, 8 and 10 of the Countryside Act 1968, and under section 19 of the Local Government (Miscellaneous Provisions) Act 1976, and such other powers as may be conferred on them from time to time by the constituent authorities, subject to such standing orders of the constituent authorities as may, in the opinion of the Joint Clerks, be applicable;

Revenue and Capital expenditure incurred to be defrayed and income shared by the two constituent Councils in equal portions; and

Power to let land and to grant easements etc for terms not exceeding twenty-one years.”

Tamar Bridge and Torpoint Ferry Joint Committee

20.4 This is a joint committee with Plymouth City Council that deals with issues relating to the Tamar Bridge and Torpoint Ferry. The administration of the Committee is carried out by Cornwall Council and the functions of the Committee are as follows:

"1. A joint committee of the Authorities shall be appointed under the provisions of the Local Government Act of 1972 relating to joint committees and:
(a) all matters relating to the discharge of the functions of the Authorities under the Tamar Bridge Act 1957 to 1998 shall stand referred to such joint
committee for consideration; and
(b) there shall be delegated to such joint committee all the powers of the Tamar Bridge Act conferred upon the Authorities except:
(i) those relating to the acquisition, appropriation, leasing or disposal of land;
(ii) those relating to the ceasing to demand and take and recover tolls and those relating to resuming the demanding, taking and recovering of tolls; and
(iii) those contained in Part VI (Finance) of the Tamar Bridge Act.

2. The Authorities may make byelaws:
(a) for preventing injury and damage to the bridge;
(b) for regulating the conduct of all persons using the bridge;
(c) for regulating the traffic along, over and under the bridge and also for regulating the use of the bridge and for prohibiting the use thereof in certain cases and by certain engines, carriages, vehicles and animals or other classes of traffic and for providing that the bridge may be temporarily closed to road traffic for repairs or other emergencies and for ensuring that road traffic shall not be unreasonably delayed;
(d) for prohibiting the conveyance upon the bridge of any goods which may, in the opinion of the Authorities, be injurious to or prejudicially affect the use of the same or the traffic to be carried thereon or endanger the safety of the bridge or the passenger and other traffic carried thereon;
(e) relating to the issue and inspection of tickets and collection of tolls;
(f) generally for regulating and controlling the use of the bridge and section 236 of the Act 1972 in its application to byelaws made under this section shall have effect as if in subsection (7) after “confirm”, where it secondly occurs, there were inserted “or confirm with modification”. Provided that where the Secretary of State proposes to make a modification which appears to him to be substantial he shall inform the Authorities and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification and shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for consideration of, and comment upon, the proposed modification by the Authorities and by other persons who have been informed of it.

Delegation of Functions

1. The Joint Committee to be responsible for the management and control of the Estate and for this purpose to exercise all the powers of the constituent Councils (except power to acquire and sell land) under section 6, 7, 8 and 10 of the Countryside Act 1968, and under section 19 of the Local Government (Miscellaneous Provisions) Act 1976, and such other powers as may be conferred on them from time to time by the constituent authorities, subject to such standing orders of the constituent authorities as may, in the opinion of the Joint Clerks, be applicable.

2. Revenue and Capital expenditure incurred to be defrayed and income shared by the two constituent Councils in equal portions.
3. Power to let land and to grant easements etc. for terms not exceeding twenty-one years.”
Article 21 Cornwall Council Farms Panel

Cornwall Council holds a portfolio of farms and other rural property extending to some 4,550 hectares (11,250 acres) managed as statutory smallholdings in accordance with the Agriculture Act 1947. The types of farm are split between dairy farms and mixed holdings with the remainder being classed as rural business opportunities. The primary aim of the portfolio is to positively encourage and ensure that new generations will be given the opportunity to make their living in agriculture and in farm-based businesses.

The Panel’s role will involve contributing to performance monitoring of the Farms Strategy, reviewing the Farms Strategy and tenant selection.

21.1 Membership

The Panel will be comprised of 8 Members. The rules relating to political balance shall not apply to the Panel.

21.2 Substitutes

Substitutes are not allowed.

21.3 Terms of Reference

The terms of reference of the Committee are as set out in the Responsibility for Functions section of this Constitution.

21.4 Quorum

The quorum shall be 3 Members of the Committee for both full Panel meetings and tenant interview meetings.
Article 22 Finance, Contract and Legal Matters

22.1 **Financial Management**

The management of the Council’s financial affairs shall be conducted in accordance with the Financial Regulations and Procedure Rules set out in this Constitution.

22.2 **Contracts**

Every contract made by the Council shall comply with the Contract Procedure Rules set out in this Constitution.

22.3 **Legal Proceedings**

The Service Director – Assurance is authorised to settle disputes prior to, and to institute, defend, participate in or settle, legal proceedings in accordance with the Scheme of Delegation in this Constitution.

Each Strategic Director is authorised, following consultation with the Service Director – Assurance, to authorise the institution or defence or involvement in criminal or civil proceedings to the extent permitted by the Scheme of Delegation in this Constitution.

22.4 **Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it shall be signed by the Service Director - Assurance or other person authorised by him unless any enactment otherwise authorises or requires or the Council has given authority to some other person.

22.5 **Common Seal of the Council**

The Common Seal of the Council shall be kept in a safe place in the custody of the Service Director - Assurance. A decision of the Council, or any part of it, shall be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal shall be affixed to those documents which in the opinion of the Service Director - Assurance should be sealed. The affixing of the Common Seal shall be attested by the Service Director – Assurance or some other person authorised by them.
Article 23 Officers

23.1 Management Structure

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

(b) Chief Executive and Directors. The Council shall engage persons to the posts of Chief Executive and such number of Strategic Directors and Service Directors as are required.

(c) Statutory and Proper Officers. The Council shall appoint such statutory and proper officers as it is required to appoint and shall, where appropriate, nominate the Chief Executive, Strategic Directors or other senior officers to discharge statutory and proper officer functions. In the absence of a statutory requirement or a specific designation, proper officer functions shall be discharged by the Service Director – Assurance, in that capacity or as Monitoring Officer as appropriate.

(d) Management Structure. The management structure of the Council can be summarised as below and further detail can be obtained from the Council’s website as to the responsibilities of the Council’s senior officers. Statutory officer responsibilities shall be assigned within the more general descriptions to which reference is made.

<table>
<thead>
<tr>
<th>Role</th>
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<tr>
<td>Chief Executive</td>
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<td>Strategic Directors</td>
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<tr>
<td>Service Directors and Director of Public Health</td>
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<tr>
<td>Heads of functional areas</td>
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<tr>
<td>All other staff</td>
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</tbody>
</table>

(e) General Functions of the Chief Executive. The Chief Executive shall have responsibility for some operational service areas of the Council, which responsibilities shall vary according to the changing business needs of the Council.

The general functions of the Chief Executive are:

- Overall corporate management and operational responsibility (including overall management responsibility for all officers).
- Provision of professional advice to all parties in the decision making process.
- Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council’s decisions.
- Representing the Council on partnership and external bodies (as required by statute or the Council).
- Powers – the Chief Executive or an appropriate nominee shall have all the powers of any other officer in the event of their absence or inability to act, except insofar as the exercise of such powers is by law limited to a specific postholder or not capable of being held by the Head of Paid Service. The Chief Executive also has the power to exercise powers of other officers in accordance with paragraphs 2.2 and 2.3 of the Scheme of Delegation in this Constitution.

(f) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.** The Council shall ordinarily designate the following posts as shown:

<table>
<thead>
<tr>
<th>Post</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head of Paid Service</td>
<td>Chief Executive</td>
</tr>
<tr>
<td>Monitoring Officer</td>
<td>Service Director – Assurance</td>
</tr>
<tr>
<td>Chief Financial Officer</td>
<td>Chief Operating Officer</td>
</tr>
</tbody>
</table>

Any decision by the Council to change any or all of the designations above shall not invalidate the designation or the actions of the person so designated notwithstanding such changes having not been made to this document. Such posts shall have the functions described in Articles 23.2 to 23.4 below.

**23.2 Functions of the Head of Paid Service**

(a) **Discharge of Functions by the Council.** The Head of Paid Service shall report to full Council on the manner in which the discharge of the Council’s functions is coordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if a qualified accountant.

**23.3 Functions of the Monitoring Officer**

(a) **Maintaining the Constitution.** The Monitoring Officer shall maintain and keep up-to-date the Constitution and shall ensure that it is widely available to Members, staff and the public, including through the Council’s website.

(b) **Ensuring Lawfulness and Fairness of Decision Making.** After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer shall report to the Council or, in relation to an executive function, to the Cabinet if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission would give, is likely to give, or has given rise to contravention of any enactment or rule of law, or any
maladministration or injustice. Such a report shall have the effect of stopping the proposal or decision being implemented until the report has been considered. The Monitoring Officer shall also report on maladministration where the Ombudsman has issued a report.

(c) **Supporting the Standards Committee.** The Monitoring Officer shall contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee, including in relation to all aspects of the assessment and determination of Code of Conduct complaints.

(d) **Conducting Investigations.** The Monitoring Officer shall ensure that investigations are conducted into matters referred for investigation under the Council’s Code of Conduct complaint procedures and ensure that reports or recommendations are considered in the determination of such complaints.

(e) **Proper Officer for Access to Information.** The Monitoring Officer shall ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible, but having regard to the Access to Information Procedure in relation to exempt and confidential information.

(f) **Advising Whether Cabinet Decisions are Within the Budget and Policy Framework.** The Monitoring Officer shall advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

(g) **Providing Advice.** The Monitoring Officer shall provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members.

(h) To be responsible for all Monitoring Officer functions in respect of Parish, Town and City Councils within Cornwall (to the extent required by statute).

(i) To make arrangements in conjunction with the Standards Committee for the provision of advice and training to Members of the Council and Members of Parish, Town and City Councils in Cornwall on the ethical framework.

(j) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

(k) To maintain and update the statutory register of Members’ interests to include such information as is required by the Code of Conduct for Members or regulatory requirement and to publicise such register on the Council’s internet site or through such other means, if any, as the
Monitoring Officer shall deem appropriate.

23.4 **Functions of the Chief Financial Officer**

(a) **Ensuring Lawfulness and Financial Prudence of Decision Making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer shall report to Council or to the Cabinet in relation to an executive function and the Council’s external auditor if they consider that any proposal, decision or course of action shall involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of Financial Affairs.** The Chief Financial Officer shall have responsibility for the administration of the financial affairs of the Council. This does not detract from the powers and duties of those with budget responsibility as to the use and management of the budgets for which they are responsible.

(c) **Contributing to Corporate Management.** The Chief Financial Officer shall contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing Advice.** The Chief Financial Officer shall provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members and shall support and advise Members and officers in their respective roles.

(e) **Give Financial Information.** The Chief Financial Officer shall provide financial information to the media, members of the public and the community as appropriate or as required by law.

23.5 **Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Financial Officer**

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

23.6 **Conduct**

Officers shall comply with the Employee Code of Conduct and the Protocol on Member/Officer Relations adopted by the Council.

23.7 **Employment**

The recruitment, selection and dismissal of officers shall comply with the Council’s adopted Officer Employment Procedure Rules.
The appointment of staff cannot be the responsibility of the Cabinet. Appointment of staff other than the Chief Executive, Strategic Directors and Statutory Officers must be the responsibility of the Chief Executive or their nominee.
Article 24 Decision Making

24.1 Responsibility for Decision Making

Principles of Decision Making

All decisions of the Council shall be made in accordance with the following principles. In the general public interest and specifically to guard against the possibility of successful legal challenge to decisions made by the Council, the Cabinet, individual Cabinet Members or Committees, it is necessary to demonstrate:

(a) that, where appropriate, there was adequate consultation with stakeholders prior to a decision being made;

(b) that there was adequate evidence on which to base a decision and that all relevant matters were fully taken into account in reaching a decision;

(c) that a decision did not materially depart from the Budget or Policy Framework;

(d) that a decision was proportionate to the desired outcome;

(e) that a decision took into account the provisions of the Human Rights Act 1998 and the public sector equality duty;

(f) that a decision-maker consulted with and took professional advice from all relevant officers including the Monitoring Officer and the Chief Financial Officer, as appropriate, and had sufficient regard to that advice;

(g) that a decision is within the powers or terms of reference of the decision maker responsible for the decision;

(paragraphs (a) to (g) above are reflected in the Overview and Scrutiny Procedure Rules as the grounds, at least one of which must be satisfied, for a call-in of an executive decision. The principles in the paragraphs which follow are also important but are not grounds upon which a call-in of an executive decision can be based)

(h) that Council Procedure Rules, Cabinet Procedure Rules, Contract Procedure Rules and Financial Procedure Rules were complied with;

(i) that any Member concerned considered whether they had any declarable interest in the particular item and, if necessary, made a declaration of interest and acted in accordance with the Code of Conduct for Members;
(j) that the Leader’s delegation to Cabinet Members and the Scheme of Delegation to Officers (to the extent relevant) had been complied with;

(k) that a decision was taken in an open and transparent manner;

(l) that a decision was taken in accordance with the Council’s aims, objectives and strategies;

(m) that a decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers; and

(n) that where appropriate the views of the local Member had been sought.

This means that a clear audit trail of decision-making must be maintained and kept available for future reference. The Service Director – Assurance advises Members and officers on these issues, ensures that the Council's decision-making processes meet the requirements of the law and of good governance and is responsible for the proper implementation of these procedures.

The Service Director – Assurance shall maintain a record of which part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions which shall be set out in this Constitution. This excludes the responsibility for maintaining a record of delegations made by Strategic Directors to officers within their Directorate, which responsibility remains with the respective Strategic Directors. Strategic Directors shall be required to provide copies of formal delegations they have granted upon being requested to do so by the Monitoring Officer.

24.2 **Types of Decision**

(a) Decisions reserved to Council. Decisions relating to the functions listed in Article 4.2 shall be made by the Council and not delegated.

(b) Key Decisions.

   (i) A key decision means an executive decision which is likely:-

      a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates: or

      b) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the area of the Council.
Note – the financial threshold in respect of a) above adopted by the Council is £500,000 on the basis that this does not include operational or capital expenditure by the Chief Executive or Strategic Directors which is within the Budget and Policy Framework.

(ii) Key decisions shall be taken in accordance with the requirements of the Cabinet Procedure Rules and the Access to Information Procedure Rules set out in this Constitution.

24.3 Decision Making by the Council

Subject to Article 24.1, the Council meeting shall follow the Council Procedure Rules set out in this Constitution when considering any matter.

24.4 Decision Making by the Cabinet

Subject to Article 24.1, the Cabinet shall follow the Cabinet Procedure Rules set out in this Constitution when considering any matter.

24.5 Decision Making by the Scrutiny Function

Subject to Article 24.1, the Overview and Scrutiny Committees and any sub-committees of them shall follow the Overview and Scrutiny Procedure Rules set out in this Constitution when considering any matter.

24.6 Decision Making by Other Committees and Sub-Committees Established by the Council

Subject to Article 24.7, other Council committees and sub-committees shall follow those parts of the Council Procedures Rules set out in this Constitution as applying to them.

24.7 Decision Making by Council Bodies Acting as Tribunals

The Council, Committees, a Member 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 shall 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.
Article 25 Review, Revision, Interpretation and Publication of the Constitution

25.1 Review of the Constitution

The Council is ultimately responsible for maintaining the Constitution.

25.2 Revision of the Constitution

For changes that are outside of the powers of the Monitoring Officer, as set out in paragraph 25.3, changes to the Constitution shall only be approved by the Council after consideration of proposals by the Constitution and Governance Committee.

25.3 Monitoring Officer’s Powers to Make Amendments

25.3.1 The Monitoring Officer has delegated authority to make minor amendments to the Constitution as follows:

(i) the correction of grammatical, spelling or formatting errors;
(ii) amendments to the text for the purpose of clarity, provided that the amendments do not alter the effect of the Constitution;
(iii) updating the designations of officers;
(iv) updating references to legislative provisions provided that this would not amount to a change to the effect of the Constitution; and
(v) the correction of cross-referencing errors or improvements to the cross-referencing to make the Constitution easier to use.

25.3.2 The Monitoring Officer is authorised to amend the Scheme of Delegation to ensure that the Council’s officers have delegated to them such powers as may be required from time to time as may be appropriate to the execution of their duties, including powers of entry, inspection and survey of land, buildings or other premises and to serve statutory notices to ascertain interests in land.

25.3.3 Changes may be made to the Constitution by the Monitoring Officer to give effect to decisions of the Council without further consideration of those changes by the Constitution and Governance Committee or the Council.

25.4 Interpretation of the Constitution

The ruling of the Chairman 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 shall have regard to the purposes of this Constitution contained in Article 1.
25.5 **Publication of the Constitution**

(a) The Monitoring Officer shall make a printed copy of this Constitution available to each Member of the Council upon their request. Requests from Members for the Constitution to be made available in alternative formats shall be facilitated wherever possible.

(b) The Monitoring Officer shall ensure that copies of the Constitution are available for inspection at Council offices, libraries and other appropriate locations and can be purchased by the local press and the public on payment of a reasonable fee.

(c) The Monitoring Officer shall ensure that the Summary and Explanation of the Constitution is made widely available within Cornwall and is updated as necessary.

(d) The Monitoring Officer shall ensure that the Constitution is published on the Council’s website.
Description of Executive Arrangements
Description of Executive Arrangements

The following parts of this Constitution constitute the Executive Arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 20 (Community Networks, the Mount Edgcumbe Joint Committee and the Tamar Bridge and Torpoint Ferry Joint Committee);
4. Article 24 (Decision Making);
5. Access to Information Procedure Rules;
6. Responsibility for Functions;
7. Scheme of Delegation (to officers) – only insofar as it relates to the delegation of executive functions; and
8. Such Protocol or other means by which the Leader delegates executive functions to individual Portfolio Holders (Cabinet Members).
Responsibility for Functions
Responsibility for Functions

If at any time the delegations set out within this part of the Constitution do not accord with any statutory provision, the delegations shall be interpreted and applied in accordance with such statutory provision so as to ensure the lawful exercise of the Council’s powers but so far as possible to give effect to the intentions of Council as set out hereunder.

The Local Government Act 2000 provides that all the functions of the Council shall be functions of the Cabinet except insofar as they are reserved to Full Council by the Local Government Act 2000, by subsequent legislation or by regulations made under the Local Government Act 2000. The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (“the Functions Regulations”) define those functions as:

(a) those functions which are not to be the responsibility of the Cabinet;
(b) those functions which may be the responsibility of the Cabinet;
(c) those functions which are not to be the sole responsibility of the Cabinet; and
(d) circumstances in which functions, which would otherwise be functions of the Cabinet, fall to be discharged other than by the Cabinet.

The Council only has discretion to determine the allocation of functions which fall within categories (b) and (c) above.

Joint Arrangements

The Council has two formal joint committees with Plymouth City Council for Mount Edgcumbe and the Tamar Bridge and Torpoint Ferry. Further detail on these is set out in Article 18 in this Constitution. Plymouth City Council administers the Mount Edgcumbe Joint Committee and Cornwall Council administers the Tamar Bridge and Torpoint Ferry Joint Committee.

Council Functions

“Council Functions” are:

(a) those functions which are reserved as Council functions by the Local Government Act 2000 and by subsequent legislation;
(b) those functions which are reserved as Council functions by Regulation 2 of, and Schedule 1 to, the Functions Regulations and subsequent regulations made under the Local Government Act 2000;
(c) those functions set out in Regulation 3 of, and Schedule 2 to, the Functions Regulations which are not shown in the table of local choice functions as being the responsibility of the Cabinet; and
(d) the plans and strategies, the adoption or approval of which shall be a Council function, namely those plans and strategies set out in Schedule 3 to the Functions Regulations together with such other plans and strategies as the Council may identify from time to time for this purpose.
The Council has determined that certain Council functions shall be carried out by the committees as set out below.

**Cabinet Functions**

All other functions, including those shown in the local choice table, shall be Cabinet functions, subject to the savings that are specifically mentioned in the table. These functions, to the extent that they fall to the Cabinet, are also known as executive functions.

All executive functions are vested in the Leader and the Leader shall appoint Cabinet Members, allocate and determine the remit of the portfolios for which they shall be responsible and in turn delegate such powers to those Members as are necessary to enable them to carry out the duties associated with their portfolios.

The Council has also determined that all powers of the Council including Cabinet powers shall be delegated concurrently to officers in accordance with the Scheme of Delegation to Officers, save to the extent that such delegation is not permitted by law.

**Local Choice Functions**

These are functions which may but need not be the responsibility of the Cabinet and it is for full Council to decide by whom they shall be exercised. The local choice functions are for convenience listed in the table below and any changes to the local choice functions prescribed from time to time shall be taken to be incorporated below. Local choice functions shall be exercised as indicated in the table below.

<table>
<thead>
<tr>
<th>Function</th>
<th>Responsible body</th>
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<tbody>
<tr>
<td>1</td>
<td>Any function under a local Act that might be an executive function</td>
</tr>
<tr>
<td>2</td>
<td>The determination of any appeal against any decision made by or on behalf of the Council</td>
</tr>
<tr>
<td>3</td>
<td>The appointment of review boards under regulations made under section 34(4) of the Social Security Act 1998 (determination of reviews)</td>
</tr>
<tr>
<td>4</td>
<td>The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools</td>
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<tr>
<td>5</td>
<td>The making of arrangements under sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admission appeals)</td>
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<tr>
<td>6</td>
<td>The making of arrangements under section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing</td>
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<tr>
<td>7</td>
<td>Any function relating to contaminated land</td>
</tr>
<tr>
<td>8</td>
<td>The discharge of any function relating to the control of pollution or the management of air quality</td>
</tr>
<tr>
<td>9</td>
<td>The service of an abatement notice in respect of a statutory nuisance</td>
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<tr>
<td>10</td>
<td>The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council’s area</td>
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<tr>
<td>11</td>
<td>The inspection of the Council’s area to detect any statutory nuisance</td>
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<td>12</td>
<td>The investigation of a complaint as to the existence of a statutory nuisance</td>
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<tr>
<td>13</td>
<td>The obtaining of information under section 330 of the Town and Country Planning Act 1990 and which function shall be undertaken by such officer or officers as are giving effect to matters within the remit of the Committee</td>
</tr>
<tr>
<td></td>
<td>This function is also exercisable by the Strategic Planning Committee and the Sub-Area Planning Committees</td>
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<tr>
<td>14</td>
<td>The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976</td>
</tr>
<tr>
<td>15</td>
<td>The making of agreements for the execution of highway works</td>
</tr>
<tr>
<td>16</td>
<td>The appointment of any individual: (a) to any office other than an office in which he is employed by the authority; (b) to any body other than - (i) the Council; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment save that the Council reserves to itself appointments to the following bodies: (i) Institute of Cornish Studies; and (ii) Local Government Association (including the County Council Network).</td>
</tr>
<tr>
<td>17</td>
<td>The making of arrangements with other local authorities for the placing of staff at the disposal of those authorities</td>
</tr>
<tr>
<td>18</td>
<td>Any function of the Council in its capacity as</td>
</tr>
</tbody>
</table>
Responsibility for Council Functions

These are functions which cannot be or are otherwise not the responsibility of the Cabinet. Where a Council function is not stated to be delegated to a committee, it remains to be discharged by Council. The first section sets out, for the avoidance of doubt, some functions that shall be exercised by Council but it is not an exhaustive list. All functions that are not specifically referred to below and which are not capable of being executive functions shall be exercised by Council.

1 Council

1(a) The adoption or approval of a plan or strategy (whether statutory or non-statutory) listed in Article 4.1 of Part 2 of this Constitution.

1(b) The functions set out in Article 4.2 of Part 2 of this Constitution.

1(c) Functions relating to sea fisheries but only to the extent that the functions do not fall to the Cornwall Inshore Fisheries and Conservation Authority.

1(d) Council reserves to itself appointments to the following bodies:

   Institute of Cornish Studies; and
   Local Government Association.

1(e) The appointment of the Electoral Registration Officer and the Returning Officer.

1(f) Declaring a vacancy in office (Section D of Schedule 1 to the Functions Regulations).

1(g) The submission of proposals to the Secretary of State under the Representation of the People Act 2000 (Section D of Schedule 1 to the Functions Regulations).

2 Appeals Committee

2(a) The Committee shall convene either as the whole Committee or as a panel of 3 Members drawn from its membership to consider all appeals against decisions of the Council, to the extent that the mechanism for appeal is not statutorily prescribed as being to another committee or panel of the Council or an external body or the responsibility of another committee or panel of the Council.

2(b) The Committee is responsible for the determination of any appeal
against any decision made by or on behalf of the Council. This includes but shall not be limited to:

(i) appeals against dismissal where the employee making the appeal was appointed by Members;
(ii) appeals against education transport decisions where the matter has first been considered by officers under the Scheme of Delegation; and
(iii) any other appeal where it is necessary for Members to hear an appeal and any question as to whether this need arises shall be determined by the Monitoring Officer.

3 Audit Committee

3.1 Statement of purpose

(a) Our Audit Committee is a key component of Cornwall Council’s corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

(b) The purpose of our Audit Committee is to provide independent assurance to the members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the Council’s governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It also oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

3.2 Governance, risk and control

(a) To review the Council’s corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.

(b) To consider the Council’s arrangements for effective partnership governance and efficient discharge of its accountable body responsibilities.

(c) To approve and recommend for signing by the Leader and Chief Executive Officer the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit’s opinion on the overall adequacy and effectiveness of the Council’s framework of governance, risk management and control.

(d) To consider the Council’s arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
(e) To consider the Council’s framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.

(f) To monitor the effective development and operation of risk management in the Council.

(g) To monitor progress in addressing risk-related issues reported to the Committee.

(h) To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.

(i) To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.

(j) To monitor the counter-fraud strategy, actions and resources.

(k) To seek assurance that the defence function (i.e. Internal Audit, external audit, corporate management and the Scrutiny function) is working effectively.

3.3 Internal audit

(a) To approve the Internal Audit Charter.

(b) To approve the risk-based internal audit plan, including internal audit’s resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.

(c) To approve significant interim changes to the risk-based internal audit plan and resource requirements.

(d) To make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.

(e) To consider reports from the Head of Internal Audit on internal audit’s performance during the year, including the performance of external providers of internal audit services.

(f) To consider the Head of Internal Audit’s annual report.

(g) To consider summaries of specific internal audit reports as requested.

(h) To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
(i) To request the attendance of appropriate senior officers of the Council to respond to specific concerns as and when required.

(j) To contribute to the external quality assessment of internal audit that takes place at least once every five years.

(k) To support the development of effective communication with the Head of Internal Audit.

3.4 External audit

(a) To lead the appointment of the External Auditors.

(b) To consider the external auditor’s annual letter, relevant reports, and the report to those charged with governance. Provide advice and comments on the letter to the Cabinet.

(c) To consider specific reports as agreed with the external auditor.

(d) To comment on the scope and depth of external audit work and to ensure it gives value for money.

(e) To approve the commissioning of work for Internal and External Audit and request more detailed drill down on areas of significant risk.

(f) To advise, and make appropriate recommendations on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

3.5 Financial reporting

(a) To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

(b) To consider the external auditor’s report to those charged with governance on issues arising from the audit of the accounts.

3.6 Accountability arrangements

(a) To report to the Cabinet or Council as appropriate on the committee’s findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.

(b) To report to full Council on a regular basis on the committee’s performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
4 Chief Officers Employment Committee

4(a) Undertake the functions attributed to the Committee in the Officer Employment Procedure Rules but specifically excluding those which the Officer Employment Procedure Rules require to be performed by the Council. The functions attributed to the Committee are:

(i) the recruitment of the Head of Paid Service and the recommendation of a suitable candidate for appointment to full Council;

(ii) the recruitment of Chief Officers (other than Head of Paid Service) and, in relation to the Chief Financial Officer (Section 151 Officer) and the Monitoring Officer, the recommendation of suitable candidates for appointment to full Council;

(iii) disciplinary action against the Head of Paid Service, Chief Officers, the Chief Financial Officer (Section 151 Officer) or the Monitoring Officer unless the full Council determines otherwise; and

(iv) the dismissal of the Head of Paid Service, Chief Officers, the Chief Financial Officer (Section 151 Officer) or the Monitoring Officer unless the full Council determines otherwise.

4(b) Receive a report from the Leader regarding the annual performance and development objectives for the Chief Executive.

4(c) Comment upon the annual performance and development objectives for the Chief Executive.

4(d) Receive reports from the Leader regarding the assessment of the contribution of the Chief Executive at mid-year and year-end.

4(e) Comment upon the assessment of the Chief Executive at mid-year and year-end.

4(f) Determine any individual matters related to the remuneration of the Chief Executive and Chief Officers with the exception of any pay outcomes arising from the implementation of the Council’s Contribution Related Pay Scheme.

5 Constitution and Governance Committee

5(a) To keep under review the effectiveness of the governance arrangements of the Council including monitoring the impact of any changes.

5(b) To consider specific issues referred to the Committee by officers and Members in relation to the Council’s Governance and to make recommendations to Council.

5(c) To ensure that the Constitution sets out the required legal and governance provisions to ensure that the Council has, in conjunction with measures for which other committees and the statutory officers are responsible, a clear framework for the lawful and effective transaction of the Council’s business.

5(d) To ensure that the aims, principles and content of the Constitution
5(e) To ensure that the strategic and operational requirements of the Council are facilitated by the Constitution.

5(f) All the functions of the Council in relation to elections in Section D of Schedule 1 to the Functions Regulations save that the appointment of the Electoral Registration Officer and the Returning Officer shall be subject to the approval of the Council and the function of declaring a vacancy in office and the submission of proposals to the Secretary of State under the Representation of the People Act 2000 are reserved to the Council.

5(g) To consider, review and agree the Council’s planning procedures including the operation of delegated powers and the need for protocols between, amongst others, Members, officers and local councils.

5(h) To monitor, evaluate, consider and agree the delivery of a Member learning and development strategy and to agree an annual programme of learning, training and development activities which fulfil the requirements of a modern council; ensure Member development is owned and supported by all Members; ensure that Member needs are analysed and prioritised; enable Members to deliver the Council’s statutory and corporate responsibilities through appropriate training opportunities which are based on national good practice; and ensure Members feel confident in fulfilling their roles.

5(i) To make recommendations to the Cabinet on a cost effective and fair allocation of resources in the area of Member development.

5(j) To monitor the effectiveness of Member support.

5(k) To advise the appropriate Cabinet Member in relation to such Member support, financial and operational issues as may be raised from time to time.

5(l) To consider and agree guidance and information that supports the effective implementation of the Constitution.

6 Cornwall Council Farms Panel

6(a) To receive regular performance reports and monitor performance in relation to the Farms Strategy, making recommendations to the relevant Cabinet Member via the Overview and Scrutiny Committee where necessary.

6(b) To review future draft revisions to the Farms Strategy and make recommendations to the Cabinet Member who holds responsibility for the farms estate, via the Overview and Scrutiny Committee where appropriate.

6(c) To interview prospective tenants in order to make recommendations
to the relevant Strategic Director regarding the selection of tenants and granting of all new tenancies, renewals and non-renewals within the Farms Estate.

6(d) Woodland management, commercial (not farming) tenancies and residential tenancies are excluded from the responsibilities of the Farms Panel as being day to day operational matters.

7 Cornwall Inshore Fisheries and Conservation Authority (CIFCA)

The Cornwall Inshore Fisheries and Conservation Authority is responsible for marine fisheries and environmental management in Cornwall’s inshore waters and estuaries and has a range of duties including ensuring the sustainable exploitation of sea fisheries resources and the sustainable management of the inshore marine environment. The Constitution of the Cornwall Inshore Fisheries and Conservation Authority is available on their web site.

8. Electoral Review Panel

8(a) To provide support in the provision of information required by the LGBCE.

8(b) To review representations made in relation to the Electoral Review to inform recommendations to be made to the Council.

8(c) To formulate draft recommendations to the Local Government Boundary Commission for consideration by the Council relating to:
(i) the total number of Members of the Council
(ii) the number and boundaries of electoral divisions for the purposes of the election of Councillors;
(iii) the number of Councillors to be returned by any electoral division; and
(iv) the name of any electoral area.

8(d) To provide such further advice and support as may be requested by the Council related to or impacted upon by the Electoral Review.

8(e) To be responsible for all aspects of community governance reviews, on the proviso that proposed changes will be referred to Full Council for determination if they are not supported by all affected parish, town or city councils or parish meetings, or in other cases where the Panel considers it appropriate to refer the decision to Full Council.
9 **Harbours Board**

9(a) In relation to the Ports of Newquay, Penryn, Penzance, Truro and St Ives and such other ports or harbours as may be added to the remit of the Board, the exercise of all the functions of the Harbour Authority (within the definition of a Harbour Authority in Section 57(1) of the Harbours Act 1964) under the Harbours Act 1964 and such other legislation as relates to any of the ports or harbours for which the Harbours Board is responsible. This is in part delegated as a local choice function.

9(b) Functions arising out of any bylaws made by the Council relating to matters within the remit of the Harbours Board including the determination of any fees and charges, save to the extent that the approval of those fees and charges is reserved to Council.

9(c) The discharge of these functions within any policy and budget approved by Council shall be delegated as set out in the governance arrangements between the Harbours Board and the Council.

10 **Health and Wellbeing Board**

The core purpose of the Health and Wellbeing Board is to integrate commissioning across the NHS, public health and social care services in order to improve efficiency, secure better care and, ultimately, improve health and wellbeing outcomes for the local community. In Cornwall, the Council is required to lead on the strategic planning and coordination of related NHS services, social care and public health improvement and this shall be discharged through the statutory Health and Wellbeing Board.

The Health and Wellbeing Board is expected to facilitate effective democratic, patient and carer input into the commissioning of these services and is intended to become the forum through which those responsible for associated commissioning decisions are held to account.

The full terms of reference of the Health and Wellbeing Board are available on their web site.

11 **Licensing Act Committee**

The exercise of all the functions of the licensing authority set out in Part B of Schedule 1 to the Functions Regulations to the extent that those functions are under and relate to the Licensing Act 2003, the Gambling Act 2005 and the power to license market and street trading, except for the approval of the Statement of Licensing Policy and Gambling Statement of Principles which are reserved to full Council.

12 **Miscellaneous Licensing Committee**
Other than those matters under or relating to the Licensing Act 2003, Gambling Act 2005 and the power to license market and street trading, all functions of the Council relating to licensing and registration as set out in Part B of Schedule 1 to the Functions Regulations and including the making of associated plans, save to the extent that adoption of such plans is reserved to Council. This shall include the power to appoint sub-committees.

13 Overview and Scrutiny Committees

Each of the Overview and Scrutiny Committees to which this paragraph relates shall, in relation to those matters that are within their respective remits, discharge the following functions.

In relation to the scrutiny role:

(i) Develop and agree an annual scrutiny work programme including the informed prioritisation of work and monitoring progress and outcomes of work, to ensure that there is efficient use of committee and sub-committee time and that the potential for duplication of effort is minimised. The work programme will also be developed having regard to issues arising from the Cabinet Integrated Performance Management reports.

(ii) Consider executive decisions that have been called-in but not yet implemented in accordance with the Overview and Scrutiny Committee Procedure Rules and determine the appropriate action.

(iii) Ensure that submissions from scrutiny to the Cabinet, Cabinet Member, Council or other decision-maker either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution.

(iv) Review and control the finances made available to the scrutiny function but the Customer and Support Services Overview and Scrutiny Committee shall have principal responsibility for oversight of the budget.

(v) Contribute to the management, coordination and development the scrutiny function through which the decisions taken by the Cabinet and by committees and officers of the Council are scrutinised and the use of resources/provision of services are reviewed.

(vi) Receive requests from members of the public, Members, officers, co-optees or other organisations for particular topics to be scrutinised and determine the appropriate action.

(vii) Consider and respond to petitions in accordance with the petitions scheme to the extent that they are within the remit of the Committee.
(viii) To co-operate with the other Overview and Scrutiny Committees in promoting the establishment and development of effective working relationships between the Overview and Scrutiny Committees, the Public Sector Group, partners, local councils, Community Networks, the Cabinet, committees and sub-committees of the Council, the Council’s controlled entities, the wider membership of the Council and officers.

(ix) Determine the training and development arrangements for the Members of the Committee and co-opted members having regard to the Members’ Development Plan.

(x) Identify good practice in relation to the scrutiny role and promote and contribute to the development of common good practice.

(xi) Monitor and review the effect and consequences of the call-in of decisions of the Cabinet or under delegated authority.

(xii) Upon receipt of a report from the Council’s Scrutiny Officer to participate in an annual review of the effectiveness of the scrutiny role, including in relation to the effectiveness of recommendations and outcomes from the work conducted by select committees.

(xiii) Produce an annual report to Council at the end of each municipal year on the activity of the scrutiny function.

(xiv) Develop and co-ordinate the scrutiny of partnerships and external bodies.

(xvi) Participate in the annual budget scrutiny process, with the principal overview and scrutiny responsibility being vested in the Customer and Support Services Overview and Scrutiny Committee.

(xvii) Contribute to the development and monitoring of the performance management framework, budget formulation and the Council’s governance arrangements as required, with the principal overview and scrutiny responsibility being vested in the Customer and Support Services Overview and Scrutiny Committee.

(xviii) Contribute to the preservation of the Council’s reputation and the review of matters relating to the Council’s reputation, with the principal overview and scrutiny responsibility for reputation being vested in the Customer and Support Services Overview and Scrutiny Committee.

(xix) Ensure ongoing engagement with the public and taking a lead in identifying and initiating inquiries into issues of community concern not otherwise being addressed.

(xx) The appropriate Overview and Scrutiny Committees shall undertake
the statutory scrutiny functions relating to:
(a) crime and disorder reduction (ordinarily with the Neighbourhoods Overview and Scrutiny Committee);
(b) flood risk management (ordinarily with the Neighbourhoods Overview and Scrutiny Committee); and
(c) such other statutory scrutiny requirements as do not fall within the remit of the Health and Adult Social Care Overview and Scrutiny Committee and in cases of doubt, responsibility shall be determined on the basis of the advice of the Monitoring Officer.

In relation to the overview and policy development role:-

(xxi) To consider matters within the functions that are the responsibility of a Cabinet Member, together with related matters affecting Cornwall or its residents, and to make recommendations on those matters as appropriate.

(xxii) To assist, advise and make recommendations as appropriate to either the Council, Leader, Cabinet Members, Cabinet or officers in the development of the Budget and Policy Framework and to conduct such research and investigations as are necessary to facilitate this responsibility. To support the development of policy, including providing constructive challenge to the responsible Cabinet Member and exploring options for future policy development.

(xxiii) To consider and make recommendations on key decisions, as defined in the Access to Information Procedure Rules, and other significant decisions to be taken by the Leader, a Cabinet Member, the Cabinet or officers.

(xxiv) To review the performance of the functions of the Council that fall within the remit of the Committee in relation to, inter alia, policy objectives and performance targets, particularly at a strategic level, subject to the principal overview and scrutiny responsibility sitting with the Customer and Support Services Overview and Scrutiny Committee.

(xxv) To require relevant Cabinet Members and officers to attend before them and answer questions relevant to their remit.

(xxvi) To receive reports within the remit of the Committee on:
(i) community issues;
(ii) partnership working;
(iii) the Council’s alternative service delivery arrangements through owned and controlled entities; and
(iv) progress against the Budget and Medium Term Financial Strategy.

(xxvii) To make reports and recommendations to the Leader, the Council, Cabinet Members, the Cabinet or officers arising from the exercise of
the preceding functions or which affect Cornwall or its residents within their allocated areas of responsibility.

In addition to the above responsibilities the Health and Adult Social Care Overview and Scrutiny Committee shall have the following responsibilities in relation to the scrutiny role:

(xxviii) All aspects of the scrutiny function insofar as it relates to health and social care including such scrutiny powers as the Council is statutorily empowered to exercise in relation to other public bodies.

(xxix) In developing the work programme the Committee shall also have regard to any related protocol as may be approved by the Council from time to time, including the Health-related Committees – Joint Working Protocol in this Constitution.

(XXX) To consider and take account of the Joint Strategic Needs Assessment and Health and Wellbeing Strategy developed by the Health and Wellbeing Board.

(xxxi) To discharge all responsibilities of the Council for both adult and children’s health overview and scrutiny, whether as a statutory duty or through the exercise of a power, including by:

(a) holding to account the operation of local NHS services which impact upon the health of people in Cornwall and looking at ways to improve the health and wellbeing of the people of Cornwall;

(b) reviewing and scrutinising strategic issues relating to the planning, provision and operation of health services provided to the residents of Cornwall;

(c) making reports and recommendations to local NHS bodies and the Cabinet, where appropriate, on any matter reviewed or scrutinised;

(d) calling upon senior officers of NHS organisations or their representatives, to provide evidence to inform the Committee’s work;

(e) being consulted by NHS bodies on any proposal for a substantial development or variation in health services;

(f) in the event that the Committee considers that a substantial development or variation in health services has not been consulted upon adequately or where the resulting proposals are not considered to be in the interests of the local population, making recommendations to Council on the referral of the issue to the Secretary of State. The power to make such referrals to the Secretary of State is reserved to Council;

(g) reviewing legislative changes affecting health and social care and the implications for Cornwall and its communities;

(h) providing the membership of any joint committee established to respond to formal consultations by an NHS body on an issue which impacts the residents of more than one scrutiny committee area in accordance with the procedure set out in the
Council’s Constitution; and

(i) liaising with other local government, NHS and voluntary organisations with a view to tackling local health concerns and health inequalities to ensure that the interests of local people are enhanced by collaborative working.

14 Pensions Committee

The Pensions Committee shall exercise the functions of the Council as administering authority for the Local Government Pension Scheme in Cornwall as set out in Part H of Schedule 1 to the Functions Regulations.

15 Standards Committee

15(a) To promote and maintain high standards of conduct by Members and co-opted members.

15(b) To assist Members and co-opted members to observe the Members’ Code of Conduct.

15(c) To advise the Council on the adoption, revision and promotion of the Members’ Code of Conduct.

15(d) To monitor the operation of the Members’ Code of Conduct.

15(e) To advise, provide training to or arrange training for Members and co-opted members on matters relating to the Members’ Code of Conduct.

15(f) To deal with matters referred to it by the Monitoring Officer in relation to breaches or perceived breaches of the Code of Conduct.

15(g) To deal with any reports from the Monitoring Officer including an annual report on the functioning of the ethical standards regime with a view to the report being forwarded to Council with recommendations from the Committee relating to the regime.

15(h) To exercise the functions set out in sub-paragraphs (a) to (g) above in relation to the Town, Parish and City Councils wholly or mainly in Cornwall and the members of those Councils

15(i) To consider and determine requests for dispensations to Members and co-opted members from requirements relating to interests set out in the Members’ Code of Conduct.

15(j) To have an overview of the whistle blowing policy.

15(k) To conduct periodic reviews of complaints considered by the Local Government Ombudsman including the outcome of any
investigations and, where appropriate, to make recommendations regarding the handling of such complaints by the Council.

15(l) To receive and review the annual report of the Local Government Ombudsman before forwarding the report to Council with the Committee’s recommendations.

15(m) To determine whether complainants should be declared as persistent or vexatious complainants in line with Council policy and to periodically review such declarations in conjunction with the Monitoring Officer exercising the power to determine periodic reviews of such declarations.

15(n) To exercise the power to make payments or otherwise make settlements where maladministration has been found by the Local Government Ombudsman which power is further delegated to the Monitoring Officer.

15(o) With the Monitoring Officer, to contribute to the review of the Constitution with any recommendations for change being reported to the Constitution and Governance Committee.

16 Strategic Planning Committee

16(a) Functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Functions Regulations including in relation to strategic applications meeting the thresholds set out in (i), (ii) and (iii) below and also in relation to the determination of matters of Cornwall-wide significance:

(i) large scale major developments of about 200 dwellings (or 4 hectares) on unallocated sites;

(ii) commercial developments of 10,000 square metres (or 2 hectares) including those relating to the production of energy; or

(iii) strategically important developments (as identified by the Service Director – Planning and Sustainable Development or his nominated representative, following consultation with the Chairman and Vice-Chairman of the Sub-Area Planning Committee for the area in which the development is proposed) but in all cases applications may be determined by officers under delegated authority unless called to the Committee for determination by the Member for the electoral division within which application site is located.

16(b) The obtaining of information under section 330 of the Town and Country Planning Act 1990 and which function shall be undertaken by such officer or officers as are giving effect to matters within the remit of the Committee. This is delegated as a local choice function albeit it is also exercisable by the Cabinet.

17 Sub-Area Planning Committees (West, Central and East)
17(a) Functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Functions Regulations including in relation to applications referred to in paragraphs (i), (ii), (iii) and (iv) below but only to the extent that the application does not fall within the responsibilities of the Strategic Planning Committee:

(i) that a written request has been made by a local Member for a particular ‘Major’ or ‘Minor’ application (as defined in PI 157 and PS1 and PS2 statistical returns) to be considered by the relevant Sub-Area Planning Committee and sound planning, policy and other area reasons have been provided setting out why committee consideration is necessary;

(ii) a request for a determination is made by an elected Member, a senior officer of the Council or a close relation of either of such persons and representations objecting to the application have been received (delegation is still permitted if the application is refused). For these purposes a close relation is defined as a spouse, partner, sibling, parent or offspring and a senior officer is deemed to be Head of Service and above in all services except the Planning and Sustainable Development Service where it includes all officers of team leader status and above in development management. Any request for determination by any other officer of the Planning and Sustainable Development Service can only be agreed by the Service Director – Planning and Sustainable Development;

(iii) if approved, the matter would represent a significant departure from the approved policies of the Council (applications within this category may be determined by officers under delegated authority whether by approval or refusal). For these purposes significant departures will be determined having regard to the relevant, legislation or guidance; or

(iv) any ‘Major’ or ‘Minor’ application (as defined in PI 157 and PS1 and PS2 statistical returns) relating to the Council’s own land or development where representations have been received against the proposal.

17(b) The obtaining of information under section 330 of the Town and Country Planning Act 1990 and which function shall be undertaken by such officer or officers as are giving effect to matters within the remit of the Sub-Area Planning Committees. This is delegated as a local choice function albeit also exercisable by the Cabinet.
Scheme of Delegation
Scheme of Delegation

1. **Delegations to Strategic Directors**

1.1 Each Strategic Director has delegated to them power to act on behalf of the Council in relation to any matters within the service areas for which they are responsible, including spending decisions, subject to the following overriding provision:

Any action by a Strategic Director under delegated powers shall be in accordance with:

- a) the overall policies approved by the Council, the Cabinet or a committee;
- b) Council Procedure Rules;
- c) Financial Regulations and Procedure Rules;
- d) Contract Procedure Rules;
- e) personnel policies and procedures;
- f) approved capital and revenue budget estimates where expenditure or a reduction in income is involved; and
- g) the requirements of the relevant legislation.

1.2 Without prejudice to these delegations, a Strategic Director is expected to have regard to any resolution of the Council, the Cabinet, relevant Portfolio Holder or Overview and Scrutiny Committee on any matter of principle or policy relating to the power being exercised and shall, as appropriate:

- a) maintain a close liaison with the appropriate Cabinet Member (or in their absence the Leader); and/or
- b) ensure that the local Member(s) is/are consulted prior to the exercise of delegated powers and advised of the exercise of delegated powers, in accordance with the provisions of the Protocol for Member/Officer Relations relating to the involvement of local Members; and/or
- c) ensure that the Monitoring Officer and Chief Financial Officer are consulted and advised of any decisions as necessary;
- d) ensure where due diligence should be undertaken in relation to a proposal or initiative that that is done at an appropriately early stage; and
- e) ensure the Council Directors Team is consulted and advised where appropriate in relation to cross service issues.

1.3 Planning development control matters, including matters relating to local plans, are delegated directly to the Service Director – Planning and Sustainable Development and not to any Strategic Director, save as specifically set out below.

1.4 Before exercising any delegated power, a Strategic Director or the Service Director – Planning and Sustainable Development, as
appropriate, must consider whether the decision to be made is of such a nature that it ought to be referred for decision to the Cabinet or a committee. Where the local Member consulted under sub-paragraph 1.2 (b) above requests, the matter shall be referred to the Cabinet, the Council or appropriate committee, for decision.

1.5 Any power conferred upon a Strategic Director or the Chief Executive may be exercised by an officer authorised, generally or specifically for that purpose, either orally or in writing. Any power conferred upon the Service Director – Planning and Sustainable Development may be exercised by an officer authorised, generally or specifically for that purpose, either orally or in writing. Strategic Directors are expected to delegate their powers to the appropriate level and in doing so shall:
(a) record those delegations, including retrospectively recording those that are given orally and specifying whether they permit or restrict further delegation;
(b) provide details of delegations to the Monitoring Officer or their nominee for inclusion in a central register, including what has been delegated to whom and when, any changes to delegations and when delegations have been revoked; and
(c) periodically review the delegations for the service areas for which they are responsible, ideally not less than every two years
but any failure to comply with sub-paragraphs (a) to (c) shall not invalidate any delegation or any action taken in pursuance of it.

1.6 Any officer, or other member of staff, to whom the powers of a Strategic Director are directly or indirectly delegated shall be deemed to be authorised to exercise those powers as if they were directly delegated by this Scheme.

1.7 The Cabinet or a committee, in relation to decision-making within their statutory or delegated authority, may at any time require a particular issue or any aspect of delegated powers within their terms of reference to be referred to it for decision unless the terms of this Constitution provide otherwise.

1.8 All references to enactments, orders, regulations or similar provisions in this Scheme of Delegation shall be deemed to include references to amendments, substitutions or re-enactments thereof.

1.9 Any reference to the Chairman of a committee includes a reference to the Vice-Chairman in that Chairman’s absence.

1.10 Any reference to the appropriate Cabinet Member, means the Member whose Portfolio responsibility wholly or mainly covers the issue to be decided. In the absence of the appropriate Cabinet Member, the Leader is authorised to act. Any cases of doubt as to the appropriate Cabinet Member shall be determined by the Leader.
1.11 For matters which require consultation with the public and outside bodies, e.g. highway matters, to the extent required to comply with statutory or other requirements or as otherwise required to ensure the lawfulness of the consultation and subsequent decisions, the relevant Strategic Director shall ensure that an appropriate consultation process is followed. Where the consultation requirement relates to a planning matter within the delegations to the Service Director – Planning and Sustainable Development, that officer shall ensure that an appropriate consultation process is followed. Where either the responsible Strategic Director or the Service Director – Planning and Sustainable Development determine that it is necessary for a bespoke process to be developed for a particular consultation that will be done in accordance with the Council’s established consultation procedures.

1.12 To facilitate the scrutiny of decisions made under delegated powers, any officer dealing with a matter under delegated powers shall keep and maintain an adequate record of the exercise of that power and shall provide to the Democratic Services Officer copies of such documents as they or the Monitoring Officer shall determine.

2. **Powers of the Chief Executive**

2.1 In relation to all functional service areas for which the Chief Executive is directly responsible they shall have all of the powers exercisable under this Scheme.

2.2 The Chief Executive is able to exercise all of the powers exercisable by other officers under this Scheme with the exception of those reserved to the Chief Financial Officer, the Monitoring Officer, the Service Director – Planning and Sustainable Development, the Service Director – Assurance, the manager of the Council’s Intermediate Body Team or where there is a statutory requirement for a function to be discharged by a particular designated officer.

2.3 The ability to exercise powers under paragraph 2.2 is irrespective of whether or not the officer with principal responsibility for the exercise of a particular power is absent or unable to act but regard shall be had to whether the officer with principal responsibility for the exercise of a power should exercise that power rather than Chief Executive.

3. **General Indemnity**

The Council has given a general indemnity to any officer in the purported discharge of any authority delegated to them for any action, costs, claim or liability incurred by them.
4. **Specific Delegations**

For all Strategic Directors and the Chief Executive

Each Strategic Director has delegated power:

4.1 Following consultation with the Service Director – Assurance, to authorise the institution or defence or involvement in criminal or civil proceedings in relation to any enactment, statutory instrument or other regulatory provision for which they are responsible to the Council for monitoring, enforcing or otherwise implementing.

4.2 To write-off debts in accordance with the Financial Regulations and Procedure Rules and the Credit Management Code of Practice in consultation with the Section 151 Officer or Service Director – Resources.

4.3 To make bids for contracts in relation to services under their control, both internally and externally, provided that any significant impact on a business plan is drawn to the attention of the appropriate Cabinet Member.

4.4 Subject to paragraphs 1.2 and 1.5, each Strategic Director and the Service Director – Planning and Sustainable Development, as appropriate, may authorise staff to exercise such powers as may be required from time to time and as may be appropriate to the execution of their duties, including powers of entry, inspection and survey of land, buildings or other premises and to serve statutory notices to ascertain interests in land and may issue any necessary evidence or authority, as may be appropriate, in relation to the delegation of such powers.

**NB:** For the avoidance of doubt, the day-to-day management of services and related staff and resources are vested in the Chief Executive and Strategic Directors in relation to their directorates, supported by their Service Directors.

**Relating to education transport appeals**

4.5 The Strategic Director with responsibility for schools has delegated authority to determine applications relating to education transport and to determine appeals against education transport decisions. Any further appeal against a decision relating to education transport made under this delegated authority shall be determined by the Appeals Committee.

**Relating to footpaths, highways, common land and village greens**

4.6 In relation to the definitive map, all applications for modification orders and priority considerations are delegated to the Strategic Director with responsibility for the Environment function, following
consultation with the Divisional Member(s).

4.7 The registration of common land or town and village greens and the registration of the variation of rights of common as set out in Schedule 1 to the Functions Regulations and the determination of applications for registration of village greens is delegated to the Strategic Director with responsibility for the Environment function, following consultation with the Divisional Member(s).

4.8 The exercise of powers relating to the regulation of highways, public rights of way and public access as set out in Part I of Section I to Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 including the determination of applications relating to those functions is delegated to the Strategic Director with responsibility for the Environment function. The exercise of such functions shall be subject to consultation with the Divisional Member(s) except where they relate to:
(a) the preparation or keeping of registers, information, maps or statements; and
(b) the making good of damage and the removal of obstructions.

4.9 The determination of applications for public path orders is delegated to the Strategic Director with responsibility for the Environment function, following consultation with the Divisional Member(s).

Relating to Intermediate Body Status

4.10 The manager of the Council’s Intermediate Body Team, in relation to the Council’s responsibilities as an Intermediate Body for the EU funding programme, has delegated power to:
(a) determine the local strategic fit content for project calls and present this to the Managing Authorities and/or Cornwall and Isles of Scilly Integrated Territorial Investment Board as appropriate;
(b) respond to consultations about the timing of the issuing of calls;
(c) at outline application stage, assess each outline application for local strategic fit based on the relevant European Structural and Investment (ESI) Funds Strategy and decide which to approve in relation to the relevant project selection criteria. The advice of the Cornwall and Isles of Scilly Integrated Territorial Investment Board shall be taken into account in making such decisions;
(d) at full application stage, appraise each full application for local strategic fit based on the relevant ESI Funds Strategy and decide which to approve in relation to the relevant project selection criteria. The advice of the Cornwall and Isles of Scilly
Integrated Territorial Investment Board shall be taken into account in making such decisions;

(e) provide advice to the Managing Authorities on value for money and deliverability of projects;

(f) receive information about the performance of 2014-20 ERDF / ESF locally in relation to the Cornwall and Isles of Scilly Integrated Territorial Investment Strategy and specific projects, particularly those which are a high priority, high risk or which are significantly under-performing and to respond appropriately.

4.11 The powers delegated to the manager of the Council’s Intermediate Body Team shall be exercised having regard to the views of the nominated Cabinet Portfolio Holder.

Relating to the Investment Programme

4.12 Decisions relating to the Council’s Investment Programme may be made by the appropriate Strategic Director but shall only be made:
(a) following consultation with the relevant Portfolio Holder(s), the Section 151 Officer and the Monitoring Officer;
(b) having regard to any relevant advice, comments or recommendations provided by or on behalf of the Investment Programme Panel; and
(c) subject to the general provisions in Section 1 of this Scheme, so far may be relevant.

5. **Staff**

5.1 Each Strategic Director is delegated the power to act in relation to the appointment of staff within approved budgets, using grades approved by the Strategic Director or Service Director with responsibility for human resources and organisational development and in accordance with the personnel policies and procedures of the Council.

5.2 Each Strategic Director is delegated the power to act in relation to the dismissal of staff in accordance with the personnel policies and procedures of the Council and subject to consultation with the Strategic Director or Service Director with responsibility for human resources and organisational development.

5.3 Each Strategic Director is delegated the power to make variations in establishment using grades approved by the Strategic Director or Service Director with responsibility for human resources and organisational development and to determine all other matters relating to the employment of staff, within approved budgets and in accordance with the personnel policies and procedures of the Council.
5.4 Each Strategic Director is delegated the power to take all necessary action to ensure the health and safety of their staff.

6. **Property**

6.1 The exercise of powers in relation to land and property (including County Farms), shall be exercised by the Strategic Director with responsibility for property matters in accordance with protocols agreed between the Cabinet and the Strategic Director and shall be in accordance with the Code of Practice for Land and Property Transactions.

6.2 For the avoidance of doubt, the power to make delegated decisions relating to land and property matters (including County Farms) is only exercisable by the Strategic Director with responsibility for property matters although they are able to delegate such power to others in accordance with this Scheme, including to other Strategic Directors.

6.3 Where either the capital payment proposed to be made or anticipated to be received does not exceed £1,000,000 or the annual rental (proposed or anticipated) does not exceed £250,000, and appropriate funding has already been provided for within the approved capital programme and (in the case of any sale) the Strategic Director with responsibility for property matters is satisfied that the proposed transaction is at full market value:

6.3.1 the said Strategic Director has delegated powers, following consultation with any other appropriate Strategic Director, the Service Director – Assurance and the Service Director – Resources, to authorise and approve the acquisition by agreement of land, the taking of leases, licences, dedications and easements of or over any land (including buildings) whether by way of valuable consideration or exchange, the review of rents paid by the Council and the payment by the Council of dilapidations funds upon the termination of its occupations;

6.3.2 the said Strategic Director has delegated powers to declare land surplus to requirements subject to the provisions of the Council’s policy relating to the disposal and acquisition of land;

6.3.3 the said Strategic Director has delegated powers, following consultation with the Service Director – Assurance, to authorise and approve the disposal of land and granting, or variation in granting, of leases, licences, dedications of or over any land, the review of rents payable to the Council and the receipt of dilapidations funds due to the Council on the termination by occupiers of their use of the Council’s property;

6.3.4 in the case of the grant of tenancies of smallholdings, the said Strategic Director is to exercise the powers referred to in sub clause
6.3.1, following consultation with the Cornwall Council Farms Panel appointed by the Council to interview prospective tenants;

6.3.5 for the avoidance of doubt the power to approve the sale of any property on less than the best terms reasonably obtainable is not delegated to any officer of the Council but shall be exercised by the Cabinet in accordance with the Council’s policy relating to the disposal and acquisition of land; and

6.3.6 the said Strategic Director or their nominee has delegated powers to sign contracts to give effect to decisions made relating to the acquisition or disposal of estates or interests in land.

6.4 The power to authorise the use of compulsory purchase powers is not delegated to any officer of the Council and shall only be exercised by the Cabinet in accordance with the Council’s policy relating to the disposal and acquisition of land.

6.5 Transfers of assets to local councils for devolution purposes shall be in accordance with the Council’s policy or procedure relating to such transfers and this Scheme of Delegation shall be interpreted so as to give effect to the requirements of such policy or procedure.

7. **Legal and Procedural**

The Service Director – Assurance has delegated powers to:

7.1 serve statutory notices to ascertain interests in land;

7.2 settle disputes that might lead to legal proceedings with a report provided to the relevant Overview and Scrutiny Committee and copied to the Cabinet on a six monthly basis summarising such actions taken pursuant to this delegation;

7.3 institute, defend or settle legal proceedings (either in the name of the Council or an individual officer of the Council) at common law or under any enactment, statutory instrument, order or bylaw conferring functions upon the Council or in respect of functions undertaken by them and to lodge an appeal against any such decision. For the avoidance of doubt, this authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter notices, notices to quit and dispute resolutions;

7.4 authorise officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972 and Section 60 of the County Courts Act 1984 and such other Proper Officer functions as fall to the Service Director – Assurance in accordance with Article 23.1;

7.5 except as set out in paragraph 8 below, exercise the Proper Officer functions of the Council under the Local Government Act 1972, the

7.6 affix the Common Seal to contracts as set out in the Contract Procedure Rules and to all other documents required to be sealed and to sign or seal all contracts and legal documents as set out in the Contract Procedure Rules; and

7.7 sign such orders and directions as the Council shall make.

8. **Planning and Regeneration**

The Service Director – Planning and Sustainable Development has delegated powers to determine planning development control matters including certificates of lawful development and matters relating to local plans and, for the avoidance of doubt, such determinations may be made by an officer authorised generally or specifically for that purpose, either orally or in writing.

**NB:** The function of obtaining of information under section 330 of the Town and Country Planning Act 1990 is a function of the Cabinet shared also by the Strategic Planning Committee and the Sub-Area Planning Committees and, by virtue of the Responsibility for Functions part of this Constitution, is a function which shall be undertaken by such officer or officers as are giving effect to matters within the remit of the four Planning Committees.

9. **Financial**

Authority in respect of financial matters is set out in the Council’s Budget and Policy Framework Procedure Rules and the Financial Regulations and Procedure Rules. The Service Director – Resources has delegated powers to decide matters relating to investment policy and investment decisions based on a Scheme of Delegation agreed by the Pensions Committee. The Section 151 Officer has delegated powers to exercise the Proper Officer functions of the Council relating to financial matters in the Local Government Acts.

10. **Contracts**

Strategic Directors’ authority in respect of letting contacts is set out in the Council’s Contract Procedure Rules.

11. **Applications for Planning Permission**

Each Strategic Director has delegated powers to make applications for planning permission in connection with schemes that have already been approved by the Cabinet, following consultation with the appropriate Cabinet Member.

12. **Action in Case of Emergency or Disaster**

12.1 Where an emergency or disaster involving destruction of or danger to
life or property occurs or there are reasonable grounds for believing such an emergency or disaster to be imminent and the Chief Executive is of the opinion that it is likely to affect all or part of the inhabitants of Cornwall, they have delegated to them all the Council’s powers under Section 138 of the Local Government Act 1972 to incur expenditure. Before exercising this delegated power, the Chief Executive shall use their best endeavours if, in their opinion, time or circumstances permit, to consult the Chairman of the Council and the Leader, or, in their absence, the appropriate Cabinet Member, unless they are not available. The Chief Executive shall, in any case, inform them of their actions as soon as practicable. They shall also endeavour to inform the appropriate Members as soon as practicable on what, in their opinion, needs to be done immediately and what has already been done.

12.2 Where the delegated powers in paragraph 12.1 above are exercised, Contract Procedure Rules and Financial Regulations and Procedure Rules are deemed to be waived for that purpose.

12.3 The Chief Executive shall report to the Council any action taken under the powers delegated above as soon as practicable, including the extent to which it has been necessary to operate outside the Contract Procedure Rules and Financial Regulations and Procedure Rules. Such report will include details of actions taken by others under the following provisions.

12.4 The officer operating as the Duty Senior Officer under the Council’s emergency management procedures may exercise the delegated authority of the Chief Executive in paragraph 12.1 above, whether the Chief Executive is absent or not. This officer shall report back to the Chief Executive as soon as possible and shall consult, or endeavour to do so, according to the circumstances, as set out in paragraph 12.1 above.

12.5 In the absence of the Chief Executive, their delegated authority above may be exercised by the Chief Fire Officer, the Assistant Chief Fire Officer or any of the Strategic Directors. These officers shall report back to the Chief Executive as soon as possible and shall consult, or endeavour to do so, according to the circumstances, as set out in paragraph 12.1 above.
Council Procedure Rules
Council Procedure Rules

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1. **Annual Meeting of the Council**

1.1 **Timing and Business**

In a year when there is an Ordinary Election of Members, the Annual Meeting shall take place within 21 days from the retirement of the outgoing Members. In any other year, the Annual Meeting shall take place on such a day in the month of May as the Council may fix.

The Annual Meeting shall:

(i) elect a person to preside if the outgoing Chairman of Council is not present;

(ii) elect the Chairman of Council who shall then preside;

(iii) elect the Vice-Chairman of Council;

(iv) approve the minutes of the last meeting;

(v) receive any declarations of interest from Members;

(vi) receive any apologies for absence from Members;

(vii) receive any announcements from the Chairman;

(viii) at the first Annual Meeting of each Council term elect the Leader for a one year term (which shall, subject to earlier removal, end on the day of the Annual Meeting following their election as Leader);

(ix) receive details of the Leader’s appointments to the Cabinet including the allocation of portfolios;

(x) receive any announcements from the Leader;

(xi) appoint at least one Scrutiny Committee, a Standards Committee, an Audit Committee and such other Committees as the Council considers appropriate and as are required by law;

(xii) to agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree;

(xiii) approve a programme of ordinary meetings of the Council for the year;

(xiv) in each year, other than a year of ordinary elections, receive and consider a report from Overview and Scrutiny and the Standards Committee detailing their activities during the past year and proposed work programmes for the following year for approval by the Council;
(xv) consider any business set out in the notice convening the meeting;

(xvi) approve the allocation of seats to Political Groups in accordance with the political balance rules;

(xvii) receive nominations of Members to serve on outside bodies where the making of appointments to those bodies is a Council function;

(xviii) to delegate to the Monitoring Officer the power to appoint Members to committees and sub committees in accordance with the wishes of the Group Leaders except where appointments to those bodies has been delegated to the Community Networks or is exercisable only by the Cabinet;

(xix) receive from the Head of Paid Service a report upon their stewardship of the Council and upon which Members may ask questions of the Head of Paid Service; and

(xx) receive from the Leader a report on the state of Cornwall in the national context but where a new Leader is appointed at the meeting this report may be presented by the Head of Paid Service if requested by the newly appointed Leader.

2. **Ordinary Meetings**

2.1 Ordinary meetings of the Council shall take place in accordance with a programme decided at the Council’s Annual Meeting. Ordinary meetings shall:

(i) elect a person to preside if both the Chairman and the Vice-Chairman of the Council are not present;

(ii) approve the minutes of the last meeting;

(iii) receive any declarations of interest from Members;

(iv) receive any announcements from the Chairman, Leader or Members of the Cabinet;

(v) respond to any questions from Members or members of the public who are residents of, or working in, Cornwall relating to Cornwall Council business;

(vi) deal with any business adjourned from the last Council meeting;

(vii) provide for 60 minutes in total for questions from Members to Cabinet Members, including the provision of responses;

(viii) provide for 30 minutes in total for questions from Members to Committee Chairmen, including the provision of responses;
(ix) receive an annual report from the Audit Committee, ordinarily in June and other than in a year of ordinary elections, detailing their activities during the past year and proposed work programme for the following year for approval by the Council;

(x) consider motions; and

(xi) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council’s Budget and Policy Framework.

2.2 **Variation of Order of Business**

The order of business in paragraph 2.1 may be varied at the discretion of the Chairman or by resolution of the Council.

3. **Extraordinary Meetings**

3.1 **Calling Extraordinary Meetings**

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

(i) the Council by resolution;

(ii) the Chairman of the Council; or

(iii) any twenty Members of the Council if they have presented a signed requisition to the Chairman of the Council and they have refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 **Motion to Remove the Cabinet Leader**

3.2.1 A motion to remove the Cabinet Leader from office may only be

(i) made at an extraordinary meeting convened specifically for that purpose not less than 21 days from the submission of the motion;

(ii) submitted in the form of a requisition signed by not less than forty-one Members of the Council; and

(iii) considered on one occasion by the Council in any six month period.

3.2.2 Where the Council passes a resolution to remove the Cabinet Leader, a new Cabinet Leader is to be elected at the meeting at which the Leader is removed from office.
3.3 **Items of Business at Extraordinary Meetings**

Only business specified in the summons may be transacted at an extraordinary meeting of the Council.

4. **Appointment of Substitute Members of Committees and Sub-Committees**

4.1 **Limitations**

(i) For any committee which has a mandatory training requirement (such as a committee exercising a planning function) a substitute may only be used where they have undertaken and completed the current approved course of training.

(ii) In accordance with paragraph 2 of the Overview and Scrutiny Procedure Rules, Members of the Cabinet may not act as substitutes on Overview and Scrutiny Committees.

(iii) Subject to the provisions of paragraph 4.2.1, substitutes shall not be appointed for meetings of the Standards Committee, the Pensions Committee, the Licensing Act Committee or any sub-committee established under any of those committees.

4.2 **Allocation of Substitutes**

4.2.1 Substitutes may be appointed to any sub-committee when drawn exclusively from the parent committee.

4.2.2 Where a Member of a committee is unable to attend a meeting, they should arrange for a substitute to attend from their Group, save where this is expressly excluded in this Constitution.

4.2.3 The list of substitute Members for the committee shall not exceed the number of seats on the committee allocated to that Group and in any event comprise a maximum of twelve Members. Where a Group has less than four seats allocated to it on the committee that Group may submit a list of not more than four Members. The substitute list shall take effect when received and signed by the Monitoring Officer. Written notification of amendments to any list shall be given from time to time to the Monitoring Officer.

4.2.4 Substitutes for sub-committees shall be appointed upon the same basis as set out in Rule 4.2.3.

4.2.5 The Democratic Services Officer nominated by the responsible Democratic Services Team Leader to service a committee must be notified, by the member of the committee to be substituted or the proposed substitute, either orally or in writing of the substitution before the commencement of the meeting to which the substitution
relates. If this requirement is not met, the substitute shall not be permitted to participate in the meeting.

4.2.6 Any substitution shall last for the duration of the meeting, including an adjourned meeting.

4.2.7 It shall be the responsibility of the substitute member to satisfy themselves that they have a sufficient understanding of each item being determined at the meeting at which they are present by reference to the agenda papers, participation in the debate and such other information as may be relevant to the decisions to be made before exercising their vote in relation to each of those items.

4.3 **Powers and Duties**

Substitute members shall have all the powers and duties of any ordinary member of the committee but shall not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.4 **Applicability**

Properly notified substitute members may attend meetings in that capacity only:

(i) to take the place of the ordinary member for whom they are the designated substitute; and

(ii) where the ordinary member shall be absent for the whole of the meeting.

5. **Time and Place of Meetings**

All meetings of the Council shall take place at County Hall, Truro or such other place as shall be specified in the summons and shall commence at 10.30am or such other time as the Chairman or the Monitoring Officer shall direct.

6. **Notice of and Summons to Meetings**

The Monitoring Officer shall give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. Ordinarily, at least five clear days before a meeting, the Monitoring Officer shall send a summons signed by them by post to every Member of the Council or leave it at their usual place of residence. The summons shall give the date, time and place of the meeting, specify the business to be transacted and shall be accompanied by such reports as are available.

7. **Chairman of Meeting**

If present, the Chairman or Vice-Chairman shall preside at a Council
meeting. The person presiding at any meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also includes the Chairman of a committee or sub-committee.

8. **Quorum**

The quorum of a Council meeting shall be 31 Members of the Council. If within fifteen minutes after the time and date set for a meeting there is not a quorum, the meeting shall stand adjourned to a time and date to be fixed by the Chairman. If during any meeting it becomes inquorate the Chairman shall so declare and the meeting shall immediately stand adjourned. Remaining business shall be considered at a time and date fixed by the Chairman. If the Chairman does not fix a time and date, the remaining business shall be considered at the next ordinary meeting.

9. **Questions**

A period of up to 30 minutes shall be allocated for questions and supplementary questions from the public at each Council meeting. This period may be extended at the discretion of the Chairman.

10. **Questions from the Public**

10.1 **General**

Subject to Rule 10.2, members of the public may ask questions of Members of the Cabinet, the Leader of the Council and any Chairman of a committee of the Council:

10.1.1 at ordinary meetings of the Council; and

10.1.2 extraordinary meetings of the Council, provided that the questions relate to the item(s) of business specified in the summons.

10.2 **Scope of Questions**

The Monitoring Officer is authorised to reject a question in accordance with the following criteria:

- it is not about a matter for which the Council has a responsibility or which affects Cornwall;
- it is defamatory, frivolous or offensive;
- it is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- it requires the disclosure of Confidential or Exempt information.

10.3 **Order of Questions**
Questions shall be asked in the order in which they were received, except that the Chairman may group together similar questions.

10.4 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 Monitoring Officer no later than midday 2 clear working days before the day of the meeting. Each question must give the name and address of the questioner. Rejected questions shall include reasons for rejection. Copies of all questions shall be circulated to all Members and shall be made available to the public attending the meeting.

10.5 Number of Questions

No person or organisation shall submit more than one question to any one meeting and no more than two questions in any one financial year.

10.6 Asking the Question at the Meeting

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

10.7 Supplementary Question

A questioner who has put a question in person may, at the discretion of the Chairman, also put one supplementary question without notice to the Member who has replied to the original question. A supplementary question must arise directly out of the original question or the reply. The Chairman may reject a supplementary question on any of the grounds in Rule 10.2 above or if it shall prejudice the answering of questions of which notice has been given.

10.8 Written Answers

Any question or supplementary question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, shall be dealt with by a written answer.

10.9 Reference of Question to the Cabinet or a Committee

Unless the Chairman decides otherwise, no discussion shall take place on any question but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion shall be voted on without discussion.
11. **Questions from Members**

11.1 **On Reports of the Cabinet or Committees**

A Member of the Council may ask the Leader, a Member of the Cabinet or the Chairman of a committee any question without notice upon a report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

11.2 **Questions to Cabinet Members and Committee Chairmen**

Subject to Council Procedure Rules 2.1(vii) and 2.1(viii) a Member of the Council may ask, without notice:

- a Member of the Cabinet; or
- the Chairman of any Committee

a question on any matter in relation to which the Council has powers or duties or which affects the area. This includes, for Members of the Cabinet as to their respective Portfolios, questions upon items in the Cabinet Work Programme.

11.3 **Response**

An answer may take the form of:

(a) a direct oral answer;

(b) where the desired information is in a publication of the Council or other published work, a reference to that publication;

(c) where the reply cannot conveniently be given orally, a written answer circulated later (but within seven working days) to the questioner; or

(d) an interim answer where (c) above applies.

11.4 **Supplementary Question**

A Member asking a question under Rule 11.2 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.

11.5 **Chairman’s Ruling**

In respect of Council Procedure Rule 11.2, it is the Chairman’s responsibility to manage the time allocated to individual questioners to ensure the parameters set out in Council Procedure Rules 2.1(vii) and 2.1(viii) are met and the Chairman’s ruling shall be final.
12. **Motions on Notice**

12.1 **Notice**

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least five Members, must be delivered to the Monitoring Officer not later than noon on the day nine working days before the date of the meeting. These shall be available for public inspection on the Council’s website or upon request at the Council’s offices at reasonable times. The Chief Executive may submit a report to the Council addressing the issues raised in the motion.

12.2 **Motion Set Out in Agenda**

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

Motions are not permitted at the Council meeting where the budget and council tax is being determined.

12.3 **Scope**

Motions must be about matters for which the Council has duties or powers, subject to the following reasons where the Chairman, following consultation with the Monitoring Officer, is authorised to reject it:

- Where it is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
- Where it relates to any non-determined planning or licensing application;
- Where it names or identifies individual service users, members of staff or members of staff of partner agencies;
- Where it is considered by the Chairman to be inappropriate for the particular meeting or undermines the purpose of the Constitution;
- Where it contains a recommendation which would be illegal;
- Where it is substantially the same as a motion which has been received and or answered in the past year, and there has been no significant and/or relevant change of circumstances since it was last answered.

In the circumstance where similar motions have been submitted, the Chairman is authorised to ask the proposers to work together to agree wording for a mutually acceptable form of words. Where that does not prove possible the Chairman shall decide which motion shall be accepted.

If the motion, notice of which is entered on the agenda, be not moved either by the Member who has given the notice or by some other Member, it shall be deemed to have lapsed and shall not be moved without further notice. The Member intending to give notice of the motion must consult the Strategic Director with responsibility for the matter, or their nominee, and
the relevant Portfolio Holder(s) and determine the context and possible consequences for what is proposed prior to submitting the motion.

Motions for which notice has been duly given (other than motions under Rule 13), shall upon being moved and seconded and following the proposer being permitted up to three minutes to explain the reason for the motion being submitted, stand referred by the Chairman, having consulted the proposer and seconder of the motion, without discussion to the Cabinet, or the appropriate committee, where it is considered, having taken advice from the Monitoring Officer who may in turn consult with the Chief Financial Officer, that any of the following criteria in respect of the Council may apply:

(i) where the matter has significant financial implications;
(ii) where the matter has significant legal or constitutional implications;
(iii) where further background information and/or detailed consideration is required; or
(iv) where a change to, or departure from, the Council's Budget and Policy Framework may be required.

The Chairman may, however, if they consider it convenient and conducive to the despatch of business or sufficiently urgent, allow such a motion to be dealt with at the meeting of the Council at which it is brought forward.

Where necessary, the Chairman may, in consultation with the Monitoring Officer, use their discretion to manage the length of the Council agenda, including the number of motions listed and how they are dealt with.

If the motion is referred to either the Cabinet or another committee of the Council, the mover and seconder of the motion shall be invited to attend the meeting of the Cabinet or the relevant committee where the motion shall be considered and shall be given the opportunity to speak to the motion. The Cabinet or committee must report back to the Council within six months of the date of referral. Where the motion relates to an executive function, the Cabinet shall consider and make a decision on the motion and the Leader will report that decision back to Council through their Leader’s announcements.

No Member shall be permitted to submit more than one motion to any one meeting of the Council.

13. **Motions Without Notice**

The following motions may be moved without notice:

(a) to appoint a Chairman of the meeting at which the motion is moved;

(b) in relation to the accuracy of the minutes;
(c) to change the order of business in the agenda;

(d) to refer something to an appropriate body or individual;

(e) to appoint a committee arising from an item on the summons for the meeting;

(f) to receive reports or adoption of recommendations of the Cabinet, committees or officers and any resolutions following from them;

(g) to withdraw a motion;

(h) to amend a motion;

(i) to proceed to the next business;

(j) that the question be now put;

(k) to adjourn a debate;

(l) to adjourn a meeting;

(m) to suspend a particular Council, financial, contract or officer employment or procedure rule;

(n) to exclude the public and press in accordance with the Access to Information Procedure Rules in this Constitution;

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

(p) to give the consent of the Council where its consent is required by this Constitution or the law.

14. **Rules of Debate**

14.1 **No Speeches Until Motion Seconded**

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

b) No Member shall speak unless called upon by the Chairman.

14.2 **Right to Require Motion in Writing**

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

14.3 **Seconder’s Speech**
When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

14.4 **Content and Length of Speeches**

Speeches must be directed to the motion under discussion or to a personal explanation or point of order. No speech may exceed three minutes without the consent of the Chairman.

14.5 **When a Member May Speak Again**

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

(a) to speak once on an amendment moved by another Member;

(b) to move a further amendment if the motion has been amended since he last spoke;

(c) 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 spoke was carried);

(d) in exercise of a right of reply;

(e) on a point of order;

(f) by way of personal explanation; or

(g) where a Member wishes to put forward a factual correction.

14.6 **Amendments to Motions**

(a) An amendment to a motion must be relevant to the motion and shall either be:

(i) to refer the matter to an appropriate body (which shall include site meetings or visits) or individual for consideration or reconsideration;

(ii) to leave out words;

(iii) to leave out words and insert or add others; or

(iv) to insert or add words

as long as the effect of paragraphs (ii) to (iv) is not to negate the motion. Exceptions may be made in relation to regulatory decisions, such as in relation to planning control and licensing issues where approval, whether with or without conditions, or refusal are the principal options available.
(b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of although notice of further amendment and the contents of it may be given.

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

(d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

(e) After an amendment has been carried, the Chairman shall read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

14.7 Alteration of Motion

(a) A Member may alter a motion of which he has given notice with the consent of the meeting. The consent of the meeting shall be signified without discussion.

(b) A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The consent of the meeting shall be signified without discussion.

(c) Only alterations which could be made as an amendment may be made.

14.8 Withdrawal of Motion

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

14.9 Right of Reply

(a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.

(b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment but may not otherwise speak on it.

(c) The mover of the amendment has no right of reply to the debate on his or her amendment.

14.10 Motions Which May Be Moved During Debate
When a motion is under debate, no other motion may be moved except the following procedural motions:

(a) to withdraw a motion;

(b) to amend a motion;

(c) to proceed to the next business;

(d) that the question be now put;

(e) to adjourn a debate;

(f) to adjourn a meeting;

(g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and

(h) not to hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4.

14.11 Closure Motions

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

(i) to proceed to the next business;

(ii) that the question be now put;

(iii) to adjourn the debate; or

(iv) to adjourn the meeting.

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

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

(d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, they shall put the procedural motion to the vote without giving the mover of the original motion the right of reply.
14.12 **Point of Order**

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

14.13 **Personal Explanation**

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

15. **Previous Decisions and Motions**

15.1 **Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of Council, a committee or sub-committee within the past six months cannot be moved unless the notice of motion to the Council is signed by at least 41 Members and sets out evidence of a change in circumstances or position or other information that materially affects the decision taken.

15.2 **Motion Similar to One Previously Rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 41 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for a further six months.

This rule shall not apply to motions that are moved in pursuance of a recommendation of a report of the Cabinet or of a committee of the Council.

16. **Voting**

16.1 **Majority**

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

16.2 **Chairman’s Casting Vote**

If there are equal numbers of votes for and against, the Chairman of the meeting shall have a second or casting vote. There shall be no restriction on how the Chairman chooses to exercise a casting vote.
16.3 **Show of Hands**

Unless a ballot or recorded vote is demanded under Rules 16.4 and 16.5, the Chairman shall take the vote by show of hands or, if there is no dissent, by the affirmation of the meeting.

16.4 **Ballots and Recorded Votes**

Requests for votes by ballot or recorded vote shall take place in accordance with the following provisions:

(a) subject to sub-paragraph 16.4(c), a vote shall take place by ballot if at least one third of the Members present and eligible to vote at the meeting demand it. The Chairman shall announce the result of the ballot immediately the result is known;

(b) subject to sub-paragraph 16.4(c), there shall be a recorded vote if at least one third of the Members demand it. The names for and against the motion or amendment or abstaining from voting shall be entered into the minutes; and

(c) where valid requests are made for both of the preceding methods of voting, there shall be no debate and Members present and eligible to vote at the meeting shall be asked on a show of hands which option they prefer and that option with the most support shall be used to take the vote on the substantive item of business.

16.5 **Right to Require Individual Vote to be Recorded**

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

16.6 **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 shall be taken off the list and a new vote taken. The process shall continue until there is a clear majority of votes for one person. A clear majority exists when the difference between the highest and next highest number of votes is greater than the sum of the votes below the next highest number of votes.

16.7 **Recorded Votes for Budget Meetings**

16.7.1 That immediately after any vote is taken at a budget decision meeting of the Council 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.
16.7.2 In procedure rule 16.7.1:

(a) A ‘budget decision meeting’ means a meeting of the Council at which it makes a calculation (whether originally or by way of substitute) in accordance with any of sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992 and includes a meeting where making the calculation 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 related to the making of the calculation.

17. Minutes

17.1 Signing the Minutes

The Chairman shall sign the minutes of the proceedings at the next suitable meeting, not being an extraordinary meeting. The Chairman shall move that the minutes of the previous meeting be signed as a correct record. The only discussion on the minutes can be as to their accuracy.

17.2 Cabinet or Committee Minutes Requiring Decisions from Council

(a) Decisions required to be taken by the Council on recommendations of the Cabinet or committees shall be made following consideration of the recommendations of the Cabinet or committees submitted in the form of the minutes or, for the Cabinet, the Cabinet decision sheet; and

(b) Notwithstanding paragraph (a) above, the Chief Executive and the Monitoring Officer are authorised to submit a detailed report where either of them considers it appropriate or where a matter is referred to the Council by the Cabinet or a committee without a recommendation.

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 this Constitution or Rule 20 (Disturbance by Public). No recording devices of any description may be left in the chamber or room when members of the public and press are excluded in accordance with the Access to Information Procedure Rules relating to exempt and confidential information.

19. Members Conduct

19.1 Standing to Speak

When a Member speaks at a Council meeting they must stand (where able or they have the permission of the Chairman to remain seated) and address
the meeting through the Chairman. If more than one Member stands, the Chairman shall ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

19.2 Chairman Standing

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

19.3 Member Not to be Heard Further

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

19.4 Member to Leave the Meeting

If a Member continues to behave improperly after a motion under Rule 19.3 is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion shall be voted on without discussion.

19.5 General Disturbance

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

20. Disturbance by Public

20.1 Removal of Member of the Public

If a member of the public interrupts proceedings, the Chairman shall warn the person concerned. If they continue to interrupt, the Chairman shall 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 Chairman may call for that part to be cleared.

21. Suspension and Amendment of Council Procedure Rules

21.1 Suspension

All of these Council Procedure Rules (except Rules 16 and 17) may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension shall be limited to the duration of the meeting or the determination of a particular
item of business if appropriate and as specified in the motion.

21.2 Amendment

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

22. Attendance at Meetings

22.1 Members of the Council and the co-opted members of the Council’s committees may attend a meeting of the Council, the Cabinet or any committee but unless they are Members of the Council shall not be allowed to take part in discussion or debate except with the consent of the person presiding at the meeting. They may not attend a meeting discharging quasi-judicial functions when in confidential or exempt session without the consent of the meeting.

23. Interests Under the Members Code of Conduct

23.1 Members must abide by the Code of Conduct adopted by the Council and declare all disclosable pecuniary interests and non-registerable interests in accordance with the Code.

23.2 If a Member at a meeting has a disclosable pecuniary interest or a non-registerable interest relating to a matter being considered they must declare that interest and comply with the obligations as to participation and voting as required by the Members’ Code of Conduct.

24. Confidentiality

All reports and other documents marked "confidential" or "exempt from publication" shall be so treated unless they become public in the ordinary course of the Council's business. Such determination shall ordinarily be made by the Monitoring Officer. Further, all Members must comply with the obligations as to confidentiality set out in the Members’ Code of Conduct adopted by the Council. Any alleged breaches shall be referred by the Chairman of the Council to the Monitoring Officer on behalf of the Standards Committee for consideration and report if not previously referred by some other person.

25. Application to Committees and Sub-Committees

All of the Council Rules of Procedure apply to meetings of Council. None of the rules apply to meetings of the Cabinet. Only Rules 4, 7, 8, 13 (not (e), (m) or (p)), 14, 16, 17 (not 17.2), 18, 19 (not 19.1), 20, 22, 23 and 24 as far as practicable apply to meetings of committees and sub-committees (unless expressly specified otherwise in their terms of reference).
Cabinet Procedure Rules
Cabinet Procedure Rules

The Cabinet shall consist of the Cabinet Leader appointed in accordance with the Council Procedure Rules together with not less than two nor more than nine Cabinet Members who shall be appointed by the Leader, one of whom shall be nominated by the Leader as Deputy Leader.

Application

These procedure rules apply to the exercise of all Cabinet decisions whether taken collectively or individually.

1. The Operation of the Cabinet

1.1 Cabinet Decisions

The arrangements for the discharge of executive functions are determined by the Leader. The Leader may provide for executive functions to be discharged by:

i) the Leader;
ii) the Cabinet as a whole;
iii) a Committee of the Cabinet;
iv) an individual Member of the Cabinet;
v) an officer;
vi) an Area Committee;
vii) Joint Arrangements including the Community Networks; or
viii) another Local Authority.

1.2 Delegation by the Leader

At the Annual Meeting of the Council, the Leader shall present to the Council their proposals for Cabinet delegations, to the extent that they have been formulated at that time. The Leader shall provide to the Monitoring Officer within ten working days of the Annual Meeting a written record of Cabinet delegations made by them for publication, together with notice of the Portfolios to be established. In discharging these responsibilities, the Leader shall have regard to the recommendations of the Monitoring Officer and Chief Executive as to the scope and formation of the Portfolios.

Any subsequent ‘in year’ amendments shall, as they occur, be notified by the Leader in writing within one working day to the Monitoring Officer who shall notify all Members in writing of the amendment and maintain a record of them.

The document presented by the Leader shall contain the following information about executive functions in relation to the coming year:
i) the names, addresses and electoral divisions of the Councillors appointed to the Cabinet by the Leader;
ii) the nature of the responsibilities attached to the Portfolios allocated to those appointed to the Cabinet;
iii) the extent of any authority delegated to Cabinet Members individually, including details of the limitation(s) on their authority;
iv) the terms of reference and Constitution of such Cabinet sub-committees as the Leader appoints and the names of Cabinet Members appointed to them;
v) the nature and extent of any delegation of executive functions to Area Committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any Joint Committee for the coming year; and
vi) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made. This may simply be the endorsement of the Scheme of Delegation approved by Council.

1.3 **Sub-Delegation of Executive Functions**

(a) Where the Cabinet, a sub-committee of the Cabinet or an individual Member of the Cabinet is responsible for an executive function, they may delegate further to an Area Committee, Joint Arrangements or an officer.

(b) Unless the Leader directs otherwise, functions delegated to the Cabinet may be delegated further to a sub-committee of the Cabinet or to an officer.

(c) Unless the Leader directs otherwise, functions delegated to a sub-committee of the Cabinet may be delegated further to an officer.

(d) The delegation of Cabinet functions does not prevent the discharge of those functions by the person or body who made the delegation or a person or body with a higher right of delegation.

1.4 **The Council’s Scheme of Delegation and Executive Functions**

(a) Subject to paragraph (b) below, the Council’s Scheme of Delegation shall be subject to adoption by the Council and may only be amended by the Council, save for delegations relating to executive functions which may be varied by the Leader or in accordance with the authority delegated to the Monitoring Officer. It shall comprise the details required in Article 7.7, the Responsibility for Functions and Scheme of Delegation to officers in this Constitution and such further delegations as are made in accordance with this Constitution or other powers available to the Council.

(b) If the Leader decides to delegate executive functions they may amend the Scheme of Delegation relating to executive functions accordingly at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The
notice must set out the extent of the amendment to the Scheme of Delegation and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Leader shall confirm, through their announcements any changes at the next ordinary meeting of the Council.

(c) Where the Leader seeks to withdraw delegation from a sub-committee, notice shall be deemed to be served on that committee when served on its Chairman.

1.5 **Conflicts of Interest**

(a) Where the Leader and/or every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council’s Code of Conduct for Members in the Constitution.

(b) If a conflict of interest arises in connection with the exercise of an executive function, whether the function has been delegated to a sub-committee of the Cabinet, an individual Member or an officer, the function shall be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council’s Code of Conduct for Members in the Constitution.

1.6 **Frequency and Venues of Cabinet Meetings**

The Cabinet shall meet at least 6 times per year at times and locations which shall be determined by the Leader following consultation with the Monitoring Officer.

The Monitoring Officer shall maintain a diary of future meetings of the Cabinet and shall ensure that the dates of meetings of the Cabinet for the forthcoming municipal year and any subsequent changes are notified to all Members of the Council and are made available to the public.

1.7 **Public and Private Meetings of the Cabinet**

The Access to Information Procedure Rules in the Constitution set out the requirements covering public and private meetings. The public may attend any formal meeting of the Cabinet other than those where designated categories of exempt or confidential information require the exclusion of the press and public or where powers of exclusion are lawfully exercised in order to maintain orderly conduct or prevent misbehaviour. No recording devices of any description may be left in the chamber or room when members of the public and press are excluded in accordance with the Access to Information Procedure Rules relating to exempt and confidential information.

1.8 **Quorum**

The quorum for a meeting of the Cabinet, or a sub-committee of the
Cabinet, shall be 3.

1.9 **Cabinet and Individual Cabinet Member Decision Making Process**

(a) Executive decisions which have been delegated to the Cabinet as a whole shall be taken at a meeting convened in accordance with the Access to Information Procedure Rules in the Constitution. Individual Cabinet Member decisions shall be in accordance with the delegations given to the individual Cabinet Member by the Leader, these Procedure Rules, the Access to Information Procedure Rules and such other procedural requirements as are determined by the Monitoring Officer.

(b) Where executive matters span two or more Portfolios the Leader will determine which Cabinet Member will be the lead Member informed, as appropriate, by the Coordination of Council Business Group.

(c) Where executive decisions are delegated to a sub-committee of the Cabinet, the rules applying to those executive decisions shall be the same as those applying to those taken by the Cabinet as a whole.

(d) All reports to the Cabinet from any Cabinet Member or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature, extent and outcome of consultation with the relevant Overview and Scrutiny Committee, local Member(s) and, where appropriate, the wider membership. Reports should clearly set out details of consultation responses where a consultation has been undertaken. The level of consultation required shall be appropriate to the nature of the matter under consideration. Cabinet Members shall have regard to the consultation responses in preparing for and reviewing decisions.

(e) Cabinet Members may seek to engage relevant Overview and Scrutiny Committees and have regard to any recommendations made in making their decision. This engagement shall serve as pre-decision engagement by the Cabinet Members with the wider membership of the Council. Where appropriate, reports shall be referred to the relevant Overview and Scrutiny Committee for consideration before a decision is taken by the Cabinet Member. The relevant Overview and Scrutiny Committee shall decide whether or not it will consider the matter, dependent on its work programme priorities at the time the matter is raised. If an Overview and Scrutiny Committee declines to consider or fails to consider a report, there shall be no further obligation on the Cabinet Member to engage with the Overview and Scrutiny Committee on the matter detailed in that report before making a decision;

(f) Subject to the consent of the relevant Overview and Scrutiny Chairman, Cabinet Members shall be expected to attend any Overview and Scrutiny Committee which is considering a matter for which the Cabinet Member has Portfolio responsibility. Failure of a Cabinet Member to attend an Overview and Scrutiny Committee meeting shall not prevent the Committee from
considering any matter within their Portfolio;

(g) Cabinet Members shall provide the relevant Overview and Scrutiny Committee with details of progress of the Cabinet Work Programme and, save in exceptional circumstances, attend every formal meeting relevant to their Portfolio to answer questions from Members and the public on progress of the Work Programme.

2. **The Conduct of Cabinet Meetings**

2.1 **Chairing**

If the Leader is present they shall preside. In their absence, the Deputy Leader shall preside. If both the Leader and Deputy Leader are absent a person from amongst those Cabinet Members present shall be elected to preside.

2.2 **Attendance**

These details are set out in the Access to Information Procedure Rules in the Constitution. It is a matter for the Cabinet to determine if these Rules should be widened subject to compliance with legal requirements.

Cornwall Councillors may attend meetings of the Cabinet and, with the consent of the person presiding, may speak and ask questions.

Cornwall Councillors may also be invited to attend meetings of the Cabinet in relation to the consideration of specific business (for example consideration of reports or recommendations from an Overview and Scrutiny Committee).

2.3 **Questions**

At the commencement of each meeting of the Cabinet there shall be a period of 15 minutes during which members of the public may ask questions of Cabinet Members, subject to the same requirements as for questions at full Council.

2.4 **Business**

At each meeting of the Cabinet the following business shall be conducted:

i) consideration of the minutes of the last meeting;
ii) declarations of interest, if any;
iii) any matters referred to the Cabinet, whether by an Overview and Scrutiny Committee or by the Council for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules, the Budget and Policy Framework Procedure Rules or as otherwise set out in this Constitution; and
iv) any matters otherwise referred to the Cabinet as deemed appropriate by
the Monitoring Officer.

2.6 **Agenda Items**

a) The Leader, having consulted with the Monitoring Officer, shall decide upon the schedule for the meetings of the Cabinet.

b) The Leader may put on the agenda of any Cabinet meeting any matter they wish that is within the responsibilities of the Leader and Cabinet, whether or not authority has been delegated to the Cabinet, a sub-committee of it or any Member or officer in respect of that matter. The Monitoring Officer shall comply with the Leader’s requests in this respect. Where a matter is put on the agenda by the Leader requiring a decision to be made, the Cabinet shall be deemed to have been granted authority by the Leader to make that decision if such authority has not previously been granted.

c) The Monitoring Officer shall ensure that an item is placed on the agenda of the next appropriate meeting of the Cabinet where the Council has resolved that an item be considered by the Cabinet. Where the matter is to be addressed by Cabinet or an individual Cabinet Member, the Leader shall announce the process and subsequent outcome as part of their announcements. Where that item is a motion, the matter shall be dealt with in accordance with Council Procedure Rules.

d) The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require a meeting to be called in pursuance of their statutory duties. In other circumstances, where any or all of the Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a matter needs to be considered that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the officer(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter shall be considered.

e) Reports to the Cabinet shall normally appear in the name of the Cabinet Member incorporating advice from appropriate officers. Exceptions shall include a report from a Statutory Officer.

f) All reports to the Cabinet and the associated record of decisions made (whether on a collective or an individual basis) shall accord with the Council’s corporate reporting style and associated systems so as to maintain transparency and probity in decision making.

**Urgent Cabinet Decisions**
3.1 Where, in the opinion of the Chief Executive (or in their absence their nominated deputy) a decision of the Cabinet is required and cannot be delayed until a meeting is convened the matter shall be referred to the Leader (or in their absence the Deputy Leader) who shall consider whether to determine the matter.

However, before any decision is made:-

a) If the decision has significant legal or financial implications the views of the Monitoring Officer or Chief Financial Officer as appropriate shall be sought and reported to the Leader when the matter is referred to them; and

b) In accordance with Access to Information Procedure Rules and Special Urgency the Leader (or in their absence the Deputy Leader) shall:

   (i) seek and consider the views of the Chairman of Council and the Chairman of the relevant Overview and Scrutiny Committee prior to determination;
   
   (ii) communicate to them, in writing, the nature of any decision immediately upon its being made; and
   
   (iii) advise the local Member(s) of urgent decisions related to their electoral division(s).

3.2 Both the Cabinet and the Council shall be advised, through Leader’s announcements, of the decision at their next meetings.

3.3 The Access to Information Procedure Rules shall be complied with in relation to the making of urgent Cabinet decisions.
Protocol for executive decision-making by individual Portfolio-Holders

1. Portfolio-Holders may make individual decisions on executive matters that are within their Portfolios, subject as below.

2. Where the nature of the issue is controversial, the Portfolio-Holder will consider referring the matter to the Cabinet.

3. Decisions taken by individual Portfolio-Holders will comply with the principles of decision-making set out in the Constitution at Article 24.

4. The procedural requirements of the Cabinet Procedure Rules and the Access to Information Procedure Rules shall be complied with to the extent necessary. The Monitoring Officer will, as required, provide advice on compliance with these Rules.

5. Irrespective of the requirements of the immediately preceding paragraph, individual Portfolio-Holder decisions may only be made following consideration of a formal report, save in relation to nominations to outside bodies as referred to below.

6. In accordance with the Constitution an individual Portfolio-Holder may exercise powers to determine any issue within their Portfolio provided that the decision:
   
   (i) is less than £500,000 in value;
   (ii) will not in their opinion have a significant effect on resources for other services within the Portfolio; and
   (iii) is taken in accordance with the advice of the appropriate Chief Officer(s), the Chief Financial Officer and the Monitoring Officer, or their respective nominees.

7. In addition to paragraph 6 above, no individual Portfolio-Holder will determine any matter which constitutes a Key Decision, as defined in the Council’s Access to Information Procedure Rules with the exception of such Key Decisions as are required to be made in relation to the making of neighbourhood plans and all related procedural or other issues.

8. The Portfolio-Holder shall take their decision on the report and provide a written record of the decision and the reasons for it to the relevant member of the Democratic Services Strategic Team who will then ensure that the necessary post-decision procedures are undertaken.

9. The decision record shall be open to public inspection to the extent that it does not disclose exempt or confidential information.
**Appointments to outside bodies**

10. Notwithstanding the Council’s approved Outside Body Framework, only the Leader (or Deputy Leader in his absence) may make nominations to outside bodies which are not reserved to the Council.

11. Nominations to outside bodies may only be from amongst the elected Members of Cornwall Council.

12. So far as possible, nominations shall be made so as to avoid conflicts of interest arising.

13. Consideration will always be given by the Leader to whether it is appropriate to nominate from amongst the membership of the Cabinet or relevant Overview and Scrutiny Committee.

14. All nominations to outside bodies will be confirmed in writing to the Democratic Team Leader – Strategic.
Overview and Scrutiny Committee Procedure Rules
Overview and Scrutiny Committee Procedure Rules

These rules shall apply to all of the Overview and Scrutiny Committees unless otherwise stated.

1. Overview and Scrutiny Committee Arrangements

The Council shall establish Overview and Scrutiny Committees as set out in Article 6 and shall appoint to those Committees as it considers appropriate from time to time.

The terms of reference for the Overview and Scrutiny Committees are set out at in the Responsibility for Functions section.

2. Membership of the Overview and Scrutiny Committees

All Members, except those on the Cabinet, may sit on the Overview and Scrutiny Committees.

3. Co-optees

With the exception of the Children and Families Overview and Scrutiny Committee, the Overview and Scrutiny Committees may appoint a maximum of 2 non-voting co-optees. The appointment of such co-optees must be confirmed by Council.

4. Education Representatives

The Children and Families Overview and Scrutiny Committee shall include in its membership the following co-opted representatives in addition to the number of elected Members specified in Article 6 and these Procedure Rules:

(a) 1 Church of England Diocese representative;
(b) 1 Roman Catholic Diocese representative;
(c) 3 parent governor representatives; and
(d) 1 representative of other faiths or denominations.

The Children and Families Overview and Scrutiny Committee is a committee of the Council as Local Education Authority, where the committee’s functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. The co-opted representatives referred to above may only exercise their right to vote when the Children and Families Overview and Scrutiny Committee is dealing with such education functions. When the Children and Families Overview and Scrutiny Committee deals with other matters, these representatives shall not be entitled to vote, though they may stay in the meeting and speak. For the purposes of voting
by those referred to in (a)-(d) above, the provisions in this paragraph constitute the applicable voting scheme.

5. **Participating Observers**

The Overview and Scrutiny Committees may appoint such participating observers as may be appropriate to support the delivery of Committee priorities. Such individuals should be agreed by the relevant Strategic Director, following consultation with the Chairman of the Committee and the Monitoring Officer. Participating observers will not have voting rights and the length of their appointment will be agreed at the time of appointment. Such arrangements will be reviewed on a regular basis.

6. **Meetings of the Committee**

There shall be at 6 ordinary meetings of each Overview and Scrutiny Committee in each year.

7. **Extraordinary Meetings**

From time to time extraordinary meetings may be called when there is a call-in of a Cabinet decision.

Extraordinary meetings for other purposes may only be called with the prior agreement of the Monitoring Officer who will have regard to the resource implications of convening a meeting and the financial, legal or other implications relevant to the business proposed to be transacted, consulting with the Chief Financial Officer as appropriate. In determining whether to accede to a request for an extraordinary meeting the Monitoring Officer will also have regard to the views of the Chairman of the Overview and Scrutiny Committee, the responsible Cabinet Member and the Leader, as appropriate. A request for an extraordinary meeting shall be in writing, detailing the business to be transacted and the reason(s) why the business cannot be held over to the next ordinary meeting. Such requests may only be made by the Chairman of the Committee.

Additional meetings called under the above provisions shall be arranged by the Statutory Scrutiny Officer, following consultation with the relevant Committee Chairman.

8. **Quorum**

The quorum shall be 4 Cornwall Council Members.

9. **Chairing Committee Meetings**

The Chairman of each Overview and Scrutiny Committee shall be elected from the elected Members sitting on the Committee.

10. **Work Programme**
The Overview and Scrutiny Committees shall be responsible for setting their work programmes, which shall include the work programmes of their sub-committees, if any. In setting their work programmes the Overview and Scrutiny Committees shall have regard to the Cabinet Work Programme.

The quarterly meeting of the Council’s Coordination of Council Business Group comprising the Cabinet, Overview and Scrutiny Chairmen, the Council Directors Team, Monitoring Officer and Chairman of the Council (as set out in Annex 1 to these Procedure Rules) is expected to support the Overview and Scrutiny Committees with the prioritisation of their work programmes.

11. **Agenda Items**

An Overview and Scrutiny Committee shall respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet or a Cabinet Member, to review particular areas of Council activity and the Overview and Scrutiny Committee shall determine how this is done in accordance with these procedure rules. The findings of the work shall be reported back to the Cabinet, Cabinet Member and/or Council as appropriate.

The Council shall consider a report at the next meeting after it has been received and/or the Cabinet or Cabinet Member shall consider the report and its findings within 6 weeks of it being received.

12. **Ensuring that Overview and Scrutiny Reports are Considered by the Cabinet**

Any reports of the Overview and Scrutiny Committees referred to the Cabinet or a Cabinet Member shall be copied to the Monitoring Officer.

If the Cabinet Member with delegated decision-making power does not accept the recommendations of the Overview and Scrutiny Committee, whether in whole or in part, they must consult the Monitoring Officer for advice on whether the decision should be referred to the Cabinet rather than made under delegated authority. The determination of who should make the substantive decision shall be for the Cabinet Member to make, subject to the decision-maker having the necessary authority, but no decision may be made on the substantive matter until they have received and considered the advice of the Monitoring Officer required under this paragraph.

The Cabinet Member to whom the decision-making power has been delegated shall respond to the Overview and Scrutiny Committee report within one week of it being received from the Committee. A copy of their written response to it shall be sent to the Monitoring Officer. The Cabinet Member shall, if required to do so, attend a future meeting of the Overview and Scrutiny Committee to present their response and to answer questions relating to it.
The Overview and Scrutiny Committees shall have access to the Cabinet’s work programme, timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Overview and Scrutiny Committee shall be able to respond in the course of the Cabinet’s consultation process in relation to any key decision.

The provisions in this Rule do not apply to the call-in process which is dealt with at Rule 16 below.

13. **Rights of Overview and Scrutiny Committee Members to Documents**

(a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Committees have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in this Constitution.

(b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Overview and Scrutiny Committees.

14. **Members and Officers Giving Account**

(a) The Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, they may require any Member of the Cabinet, the Chief Executive, Strategic Director and/or any officer to attend before it to explain in relation to matters within their remit:

(i) any particular decision or series of decisions;

(ii) the extent to which the actions taken implement Council policy; and/or

(iii) the performance of the services for which they are responsible

and, it is the duty of those persons to attend if so required.

(b) The Overview and Scrutiny Committees may require any other Member of the Council to attend before them to answer questions relating to any function which is exercisable by the Member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007.

(c) Where any Member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman shall inform the Monitoring Officer. The Monitoring Officer shall inform the Member or officer in writing giving notice of the meeting at which they are required to attend. The notice shall state the nature of the item on which they are required to
attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the Committee shall require the production of a report, then the Member or officer concerned shall be given sufficient notice to allow for preparation of that documentation.

(d) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, following consultation with the Member or officer, arrange an alternative date for attendance.

(e) At Overview and Scrutiny Committee meetings in which a Member, officer or other person attends as requisitioned or invited, they shall be treated in a manner which ensures mutual respect between those participating.

(f) Where the response to any question would disclose confidential or exempt information within the meanings in the Access to Information Procedure Rules, the Member or officer shall advise the Committee, and the Chairman shall move that the answer be taken in confidential session and the question shall be put without being seconded or debated. No Cabinet Member or officer giving evidence to an Overview and Scrutiny Committee shall be under any obligation to publicly disclose personal information about an individual employee, child in care or at school, any recipient of Council services or any other person where to make such disclosure would be contrary to the data protection principles.

(g) The Overview and Scrutiny Committees should not requisition Strategic Directors, Service Directors or other staff to attend or undertake work where that would risk serious prejudice to the provision of services.

15. **Attendance by officers and others**

The Overview and Scrutiny Committees may invite people other than those people referred to in paragraph 14 above to address them, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and officers in other parts of the public sector and shall invite such people to attend. Attendance is entirely optional.

It is expected that the Chief Executive and relevant Strategic Directors and Service Directors will attend the Overview and Scrutiny Committees only when it is necessary given the nature of the business being transacted at a meeting or if requested to attend a meeting. At all other times it is expected that less senior officers, but with sufficient seniority and technical expertise, will attend committee meetings to present reports, advise Members and respond to questions. These expectations apply to both agenda setting meetings and formal committee meetings.

16. **Call-In**
Call-in should only be used in exceptional circumstances (quasi-judicial decisions are exempt) and are subject to the exceptions listed in (i) and the restriction set out in (j) below. Call-ins may be utilised where Members have evidence which suggest that the Cabinet did not take the decision in accordance with the principles set out in Article 24 (Decision-Making) to the extent that they are prescribed in paragraph 16(c) below as being permitted grounds for call-in. The details of the ground(s) of call-in being relied on and the supporting evidence shall be set out in the call-in notice.

(a) When a decision is made by the Cabinet, an individual Member of the Cabinet or a key decision is made by an officer with delegated authority from the Cabinet, other authorised decision maker or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council, normally within 2 working days of being made. The Chairman and Vice-Chairman of the relevant Overview and Scrutiny Committee shall be sent copies of the records of all such decisions within the same timescale.

(b) That notice shall bear the date on which it is published and shall specify that the decision shall come into force and may then be implemented on the expiry of 5 working days after the publication of the decision, unless it is called in, in accordance with the call-in procedure below, or that it has been treated as an urgent decision and so is capable of immediate implementation or that it is otherwise not subject to call-in.

(c) During that period, the Monitoring Officer shall call-in a decision for scrutiny by the committee if so requested by the Chairman, any 3 elected Members of the relevant Overview and Scrutiny Committee or, subject to sub-paragraph 16(d) below, 10 elected Members; and the Monitoring Officer shall then notify the decision maker of the call-in which must comply with at least one of the following grounds:

(i) that there has been inadequate consultation with stakeholders prior to the decision being made;
(ii) that there was inadequate evidence on which to base a decision and that not all relevant matters were fully taken into account;
(iii) that the decision materially departs from the Budget and Policy Framework;
(iv) that the decision is disproportionate to the desired outcome;
(v) that the decision has failed to take into account the provisions of the Human Rights Act 1998 and the public sector equality duty;
(vi) that the decision-maker has failed to consult with and take professional advice from all relevant officers including the Monitoring Officer and the Chief Financial Officer, as appropriate, or has failed to have sufficient regard to that advice; and
(vii) that the decision exceeds the powers or terms of reference of the decision-maker responsible for the decision.

Those principles of decision-making set out in Article 24 and which are not reflected above are not available as grounds for call in.
The Monitoring Officer may, if appropriate, reject a request for call-in if, in their opinion, it fails to meet any of the grounds listed above, or if they consider it is in any way vexatious, frivolous or otherwise inappropriate. Examples include but are not limited to:

(i) the cited grounds bear no relevance to the decision that is identified for call-in;
(ii) the requisition cites grounds for which no relevant evidence is produced in support;
(iii) those requisitioning the call-in signed the requisition before it was complete (e.g. signed a blank form in advance);
(iv) the call-in includes material which could be defamatory;
(v) the requisition is being used for improper purposes (e.g. to admonish an officer); or
(vi) the terms of the call-in are substantially the same as for one previously considered within the preceding 6 months.

If the call-in request is upheld, the Monitoring Officer shall call a meeting of the Committee on such date as he may determine, where possible after consultation with the Chairman of the Committee and within 11 working days of the receipt by the Monitoring Officer of the notice of call-in.

If, during the period after the Monitoring Officer has decided to allow a call-in and before the meeting of the Overview and Scrutiny Committee takes place, circumstances arise which call into question the appropriateness of proceeding with the meeting, the Monitoring Officer is authorised, following consultation with the Chairman and any Members who submitted the call-in request, to determine whether or not the meeting should proceed. Also, if any of the Members requesting the call-in withdraw their support for the call-in, such that the applicable threshold in paragraph 16(c) above is no longer met, the call-in shall fall, the Overview and Scrutiny Committee meeting shall be cancelled and the Cabinet’s decision implemented, provided the period for call-in has passed.

(d) In relation to a call-in notice by 10 elected Members under sub-paragraph 16(c) above the following requirements must be met in addition to the determination of validity by the Monitoring Officer:

(i) the lead Member must discuss the proposed call-in with the Chairman of the relevant Overview and Scrutiny Committee, or in their absence the Vice-Chairman of that committee, before the written call-in request is submitted to the Monitoring Officer; and
(ii) the written call-in request must accurately set out the comments of the Chairman or Vice-Chairman, as appropriate, of the relevant Overview and Scrutiny Committee.

(e) If, having considered the decision, the Overview and Scrutiny Committee is concerned about it, the committee may:

(i) refer it back to the decision-making person or body for
reconsideration, setting out in writing the nature of its concerns;
(ii) if appropriate and provided it is not an executive matter, refer the matter to Council for a decision; or
(iii) if appropriate, refer the matter to Council for it to consider the scrutiny report and to make a recommendation on the matter

and if referred to the decision-maker they shall reconsider the decision within a further 10 working days, having regard to the comments of the Overview and Scrutiny Committee and / or Council as appropriate, before making a final decision.

(f) If the Overview and Scrutiny Committee does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision shall become effective on the date of the Committee’s meeting or expiry of the period in which the Committee meeting should have been held, whichever is the earlier.

(g) If the matter is referred to Council and the Council does not require any further action to be taken in relation to the decision, the decision shall be effective in accordance with sub-paragraph 16(h) below. Where the Council refers a decision back to the decision-making person or body with the Council’s views on the decision, that decision-making person or body shall consider the comments of the Council and any made by the Overview and Scrutiny Committee before reaching a final decision and implementing it. The decision-maker, whether the Cabinet or an individual, shall reconsider the decision within 15 working days of the Council request.

(h) If the Council does not meet, or if it does but does not refer the decision back to the decision-making body or person, the decision shall become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

**Chairing of the call-in meeting**

The Chairman of the Committee shall chair the meeting where the call-in is considered unless the Chairman has exercised their right as an individual Member of the Committee to call-in a decision. In such circumstances the Vice-Chairman or, in the absence of the Vice-Chairman another Member of the Committee appointed by the Committee for the purpose shall take the chair.

**Exceptions**

(i) In order to ensure that call-in is not abused nor causes unreasonable delay, certain limitations are placed on its use. These are:

   i) in relation to decisions involving expenditure or reductions in service only those over a value of £50,000 may be called in;

   ii) requests for call-in must be strictly in accordance with sub-
paragraphs 16(c) and (d) above;

iii) decisions taken under urgency provisions cannot be called in for consideration prior to taking effect but may be reviewed after implementation;

iv) where decisions become time critical and have to be implemented prior to the completion of any review, the decision-maker shall give reasons to the relevant Overview and Scrutiny Committee; and

v) day to day management and operational decisions taken by officers, whether any related expenditure is capital or revenue, shall not be called in and the Monitoring Officer, following consultation with the Chairman of the relevant Overview and Scrutiny Committee, shall determine whether a decision is within this exception.

Call-in and urgency

(j) The call-in procedure set out above shall not apply where an executive decision being taken by the Cabinet or under delegated authority is urgent. A decision shall be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of the Council or the public. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision-making person or body, the decision is an urgent one and therefore should not be subject to call-in. The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman’s consent shall be required. In the absence of both, the Chief Executive’s or their nominee’s consent shall be required. Decisions taken as a matter of urgency must be reported to the next meeting of the Council, together with the reasons for urgency.

(k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council from the Constitution and Governance Committee, with proposals for review if necessary.

(l) Urgent key decisions shall only be made in accordance with the corresponding urgency provisions in the Access to Information Procedure Rules.

17. Procedure at Overview and Scrutiny Committee Meetings

The meetings of the Overview and Scrutiny Committees shall be conducted in accordance with the Council Procedure Rules to the extent that they are applicable and do not conflict with these Rules.

The Overview and Scrutiny Committees and any sub-committee established thereunder shall consider the following business:
i) minutes of the last meeting;

ii) declarations of interest;

iii) consideration of any matter referred to the committee by way of a call-in of a decision;

iv) responses of decision-makers to reports of the Overview and Scrutiny Committee;

v) Cabinet Member(s) updates

vi) questions to the Committee Chairman from members of the public

vii) questions to the Cabinet Member from Members

viii) consideration of requests from the Cabinet and/or full Council for reports from the Committees e.g. consideration of motions to Council

ix) reports relating to policy development and scrutiny where it has been agreed that the Committee shall consider, monitor or review and which are relevant to its functions; and

x) the business otherwise set out on the agenda for the meeting.

18. Other Ways of Working

(a) Outside of the ordinary cycle of meetings, the relevant Strategic Director, following consultation with the Overview and Scrutiny Chairman and the Monitoring Officer, should agree the appropriate approach to any piece of work. This may include the establishment of a working group, single issue panel, one-off inquiry, select committee process or series of visits. Decisions on the appropriate approach should take account of urgency, priority, available resources and openness and transparency.

(b) Working groups and single issue panels are task orientated, time-limited bodies appointed to examine a specific issue in depth prior to reporting to the decision-making body. A select committee process will be conducted with an emphasis on eliciting the positive through the identification of lessons for the future and learning from the negative rather than focussing on the attribution of blame. Inquiry days may be held when it is appropriate to gather the views of a wide range of Members or other stakeholders in a participative forum to facilitate the informed consideration of issues by Members.

(c) Work carried out under any of these methods:

(i) shall enable the appointment of external advisors and/or the commissioning specific pieces of research if this is deemed necessary;
(ii) shall enable the questioning of the Cabinet Member(s), relevant Council officers and representatives and/or officers of partner organisations where appropriate;

(iii) Requires Members to make every effort to work by consensus; and

(iv) shall culminate in the submission of a report to the relevant decision-making body, including key findings, conclusions, recommendations and, where appropriate, financial implications. Where working methods do not comprise the whole of the Overview and Scrutiny Committee, the final report shall be referred to the full Committee for consideration prior to being referred to the relevant decision-making body or person.

(d) Where progress has been delayed for exceptional reasons or where further debate would be helpful, an interim report may be submitted, with the consent of the Chairman of the Overview and Scrutiny Committee. The outcomes of work outside of the ordinary cycle of meetings shall be expected to report within a timescale set by the Committee when the approach is agreed.

(e) After an appropriate period post-implementation, the Overview and Scrutiny Committee may carry out a follow up review to determine if the recommendations had the intended outcomes and to measure any improvements.

(f) Where arrangements are made outside of the ordinary cycle of meetings to consider education matters, provision must be made for the statutory co-optees appointed to the Committee to be involved in proceedings.
Annex 1

**Council’s Coordination of Council Business Group**

**Membership**

The Council’s Coordination of Council Business Group (the Group) shall comprise the Cabinet, Overview and Scrutiny Chairmen, the Council Directors Team (comprising the Chief Executive and Strategic Directors), the Monitoring Officer and the Chairman of the Council.

In the absence of any of the Overview and Scrutiny Chairmen or the Chairman of the Council, their Vice-Chairmen may attend. The Chief Executive and Strategic Directors and Monitoring Officer may also appoint an appropriate deputy to attend in their absence.

The Group shall be chaired by the Leader.

**Meetings**

Meetings shall take place on a quarterly basis and be subject to the Access Information Procedure Rules.

Where voting is required, this shall be by the elected Members (or their substitutes).

**Business of the Group**

The business of the Group shall include:

(i) prioritisation of work programmes to reflect the Council’s strategy, budget and business plan;

(ii) informing decisions on which Cabinet Member shall lead on work where there are cross-cutting issues;

(iii) determining which Overview and Scrutiny Committee shall lead on work where there are cross-cutting issues;

(iv) agreeing the schedule for All Member Briefings such that it reflects the need to provide strategic briefings on matters of Cornwall-wide importance; and

(v) the business otherwise set out on the agenda for the meeting.
Cornwall Council
Farms Panel
Procedure Rules
Cornwall Council Farms Panel Procedure Rules

1. **Membership and Chairman**

   The Panel shall be comprised of 8 Members.

   The Panel shall elect a Chairman and Vice-Chairman from their number.

2. **Function**

   The Panel shall operate in an advisory capacity and does not have any substantive decision-making powers delegated to it. The Panel supports the executive decision-making process relating to the management of the Farms Estate.

3. **Quorum**

   The quorum for meetings of each of the Panel and tenant interview meetings shall be 3 Members.

4. **Procedure**

   In discharging its responsibilities the Panel will operate in accordance with the following procedures and any tenant interview panel process (as may be amended from time to time by the Strategic Director with responsibility for the farms estate):

   4.1 Members of the Panel will receive quarterly performance reports by email but will meet every six months for a strategic overview and review of the farms estate performance. In relation to performance reports received, recommendations may be made to the relevant Cabinet Member via the appropriate Overview and Scrutiny Committee where necessary. Where issues arise, a full Panel meeting shall be arranged to coincide with an ad-hoc tenant interview meeting in order to consider performance reports while making best use of time. The Panel must provide clearly auditable recommendations and so all meetings shall be formally administered and minuted by Democratic Services;

   4.2 Any recommendations on the Farm Strategy will be made to the relevant Cabinet Member with responsibility for the farms estate, where appropriate via the appropriate Overview and Scrutiny Committee.

   4.3 3 Members will be selected on a rota basis in order to interview tenants and recommend the granting of new tenancies. Those Members selected should have the right balance between commercial awareness, knowledge of farming practices and neutrality. A reserve
Member shall also be identified in the event that one of the 3 selected Members is unable to attend the interview meeting. The Member appointment process will be administered by Democratic Services in order to ensure compliance with the applicable Council rules and procedures;

4.4 The tenant interview process will be through a formal commercially-led process to be established by the Strategic Director with responsibility for the farms estate and may be amended as necessary from time to time by that Strategic Director;

4.5 Members of the Farms Panel will receive appropriate training to enable them to undertake business case appraisals, carry out interviews and recommend suitable tenants;

4.6 The Strategic Director with responsibility for the farms estate will make the formal decisions on tenant selection in line with normal professional and commercial practice. In instances where the Strategic Director is not minded to agree with the Panel’s recommendation, the matter shall be referred to the relevant Cabinet Member for decision. Where the Cabinet Member’s decision is not in line with the Panel recommendation, the reasons for this will be reported to the Panel at the next scheduled meeting.

4.7 The Minutes of the tenant interview meetings shall be reported to the next full meeting of the Panel for approval.
Access to Information Procedure Rules

1. **Scope**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, Strategic Planning Committee, Sub-Area Planning Committees, Licensing Act Committee, Miscellaneous Licensing Committee, Standards Committee, other committees and sub-committees and public meetings of the Cabinet (together called “meetings”).

2. **Additional Rights to Information**

These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or otherwise provided by law.

3. **Rights to Attend and report upon Meetings**

Members of the public may attend all meetings and report upon them subject only to the exceptions in these rules.

4. **Notices of Meeting**

The Council shall ordinarily give at least five clear days’ notice of any meeting by posting details of the meeting at County Hall in Truro and on the Council’s web site. In relation to meetings of the Cabinet or committees of the Cabinet the Council shall publish such additional notices as may be required by and in accordance with the timescales prescribed by law.

With the exception of confidential or exempt information the Council shall also publish the agenda for the meeting, the reports to be considered at the meeting and, where required to do so, the background papers referred to in the reports.

5. **Access to Agenda and Reports before the Meeting**

The Council shall ordinarily make copies of the agenda and reports for non-confidential business open to the public available for inspection at County Hall, Truro at the time that notice of the meeting is published in accordance with paragraph 4 above. If a non-confidential item is added to the agenda later, the revised agenda shall be open to inspection from the time the item was added to the agenda. Where non-confidential reports that are noted on the agenda are published after the summons has been sent out, the Service Director – Assurance shall make each such report available to the public as soon as the report is made available to Councillors.

6. **Supply of Copies**

The Council shall supply copies of the documentation set out below to any person on payment of a charge for postage and any other costs:
(a) any agenda and reports which are open to public inspection;

(b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

(c) if the Service Director – Assurance thinks fit, copies of any other documents supplied to Councillors in connection with an item.

7. **Access to Minutes etc after the Meeting**

The Council shall make available copies of the following for six years after a meeting:

(a) the minutes of the meeting or records of decisions taken, together with reasons where applicable, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;

(b) 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;

(c) the agenda for the meeting; and

(d) reports relating to items considered when the meeting was open to the public.

8. **Background Papers**

8.1 **List of Background Papers**

Background papers are those documents (called background papers) which relate to the subject matter of the report which:

(a) disclose any facts or matters on which the report or any part of the report is based; and

(b) which in the opinion of the Monitoring Officer disclose any facts or matters on which the report or an important part of the report is based and which were relied on to a material extent in preparing the report

but this does not include published works or those documents which disclose exempt or confidential information and, in respect of Cabinet reports, the advice of a political advisor, if appropriate.

The report author shall set out in every report a list of background papers or, where there are none, confirm that there are none.

8.2 **Public Inspection of Background Papers**
The Council shall make available for public inspection at all reasonable hours one copy of each of the documents on the list of background papers for four years after the date of the meeting or the date of the decision where made by an individual Member or officer. The Council will also make such papers available on its website.

9. **Summary of Public's Rights**

A written summary of the public’s rights to attend meetings and to inspect and copy documents must be kept at and available to the public at County Hall, Truro and on the Council's website. For the rules on reporting upon meetings, including filming them, see Rule 25 below.

10. **Exclusion of Access by the Public to Meetings**

10.1 **Confidential Information - Requirement to Exclude Public**

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

10.2 **Exempt Information - Requirement to Exclude Public**

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

Where the meeting shall 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 shall be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 **Meaning of Confidential Information**

Confidential information has a narrow statutory definition for the purposes of these procedure rules. In this narrow sense it means information given to the Council by a Government department on terms (however expressed) which forbid the disclosure of the information to the public or information the disclosure of which to the public is prohibited by or under any enactment or by the order of a Court.

Information which is not within this narrow definition but which might properly be considered to be confidential in the wider sense will need to be considered under the exempt information rules which follow.

10.4 **Meaning of Exempt Information**

Exempt information means information falling within the following 7
categories (subject to the conditions set out):

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<thead>
<tr>
<th>Category</th>
<th>Condition</th>
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<tbody>
<tr>
<td>1. Information relating to any individual</td>
<td>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</td>
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<tr>
<td>2. Information which is likely to reveal the identity of an individual</td>
<td>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</td>
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<tr>
<td>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)</td>
<td>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</td>
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<td>Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under:</td>
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<td>a. the Companies Acts (as defined in section 2 of the Companies Act 2006)</td>
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<td>b. the Friendly Societies Act 1974</td>
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<td>c. the Friendly Societies Act 1992</td>
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<td></td>
<td>d. the Co-operative and Community Benefit Societies and Credit Unions Act 1965 to 1978</td>
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<td>e. the Building Societies Act 1986</td>
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<td>f. the Charities Act 2011</td>
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<td></td>
<td>“Financial or business affairs” includes contemplated, as well as past or current, activities</td>
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<tr>
<td>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority</td>
<td>Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information</td>
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</tbody>
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5. Information in respect of which any claim to legal professional privilege could be maintained in legal proceedings

Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

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

Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

Exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information

11. **Exclusion of Access by the Public to Reports**

If the Service Director – Assurance thinks fit, the Council may exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports shall be marked "Not for publication" together with the reason why they are not for publication and, if exempt information, the applicable exemption categories.

12. **Application of Rules to the Cabinet**

Rules 12 to 24 apply only to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision, they must also comply with Rules 1 to 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision, notice of which must be published and which shall be included in the Cabinet Work Programme, is an executive decision which is likely:

(i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates; or

(ii) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in Cornwall.
A financial threshold of £500,000 has been set for key decisions but on the basis that this does not include operational or capital expenditure by Chief Officers, which is within the Budget and Policy Framework.

13. **Procedure before Taking Key Decisions**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision must not be made unless at least 28 days before the decision is to be made a notice is published by the Council at its offices and on its website which states:

(a) that a key decision is to be made on behalf of the Council;

(b) the matter in respect of which the decision is to be made;

(c) where the decision-maker is an individual, that individual’s name, and title if any and, where the decision-maker is a decision-making body, its name and a list of its members;

(d) the date on which, or the period within which, the decision is to be made;

(e) a list of the documents submitted to the decision-maker for consideration in relation to the matter in respect of which the key decision is to be made;

(f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

(g) that other documents relevant to those matters may be submitted to the decision-maker; and

(h) the procedure for requesting details of those documents (if any) as they become available.

Where in relation to any matter the public may be excluded from a meeting or documents relating to the decision need not be disclosed to the public, whether in accordance with these rules or otherwise, the notice referred to above must contain particulars of the matter but may not contain any confidential information, exempt information or particulars of the advice of a political advisor or assistant.

14. **The Cabinet Work Programme**

The Leader shall maintain, with the assistance of the Monitoring Officer and his staff, a Cabinet Work Programme to cover such period as the Leader determines which shall contain details of executive decisions which the Leader has reason to believe shall be taken by the Cabinet, a committee of the Cabinet, individual Members of the Cabinet, officers, area committees or under joint arrangements during the period covered by the Programme. It
shall ordinarily be updated on a monthly basis and it shall include particulars of the matters to be determined insofar as the information is available or might reasonably be obtained and is neither confidential nor exempt.

15. **General Exception**

15.1 Subject to Rule 16 (Special Urgency), where the publication of the intention to make a key decision in accordance with Rule 13 is impracticable the decision may only be made if:

(a) the Monitoring Officer has informed the Chairman of the relevant Overview and Scrutiny Committee or, if there is no such person, each member of the relevant Overview and Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;

(b) the Monitoring Officer has made available at the offices of the Council for inspection by the public and published on the Council’s website a copy of the notice given pursuant to sub-paragraph (a); and

(c) five clear days have elapsed following the day on which the Monitoring Officer made available the notice referred to in sub-paragraph (b).

15.2 Where Rule 15.1 applies to any matter, Rule 13 need not be complied with in relation to that matter.

15.3 As soon as reasonably practicable after the Monitoring Officer has complied with Rule 15.1 he must:

(a) make available at the offices of the Council a notice setting out the reasons why compliance with Rule 13 is impracticable; and

(b) publish that notice on the Council’s website.

16. **Cases of Special Urgency**

16.1 Where the date by which a key decision must be made, makes compliance with Rule 15.1 impracticable, the decision may only be made where the decision maker has obtained agreement from:

(a) the Chairman of the relevant Overview and Scrutiny Committee; or

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

(c) where there is no Chairman of either the relevant Overview and Scrutiny Committee or of the Council or those persons are unable to act, the Vice-Chairman of the Council
that the making of the decision is urgent and cannot reasonably be deferred. The agreement required as above shall be deemed to have been properly secured if obtained by the Monitoring Officer or one of his staff on behalf of the decision-maker.

16.2 As soon as reasonably practicable after the decision-maker has obtained agreement under Rule 16.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision-maker must:

(a) make available at the offices of the Council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
(b) publish that notice on the Council’s website.

17. **Reports to Council**

17.1 **When an Overview and Scrutiny Committee Can Require a Report**

Where an executive decision has been taken and:

(a) was not treated as a key decision; and
(b) an Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a key decision

that Overview and Scrutiny Committee may require the Cabinet to submit a report to the Council within such reasonable period as the Overview and Scrutiny Committee may specify.

The power to require a report rests with the Overview and Scrutiny Committees but is also delegated to the Service Director – Assurance who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 Members.

17.2 **Cabinet Report to Council**

A report under Rule 17.1 must include details of:

(a) the decision and the reasons for the decision;
(b) the decision-maker by whom the decision was made; and
(c) if the Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

The report by the Cabinet shall be prepared for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.
17.3 **Quarterly Reports on Special Urgency Decisions**

In any event, the Leader shall submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (Special Urgency) in the preceding three months. The report shall include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. **Record of Decisions**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Service Director – Assurance or, where no officer was present, the person presiding at the meeting, shall produce a record of every decision taken at that meeting as soon as practicable and in accordance with any applicable statutory timescales. The record shall include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting. Further rules below relate to records of decisions made by the Cabinet, individual Cabinet Members and officers.

19. **Private Meetings of the Cabinet**

The Cabinet shall decide whether meetings shall be held in public or private having regard to these Rules, whether the meeting is a formal or informal meeting and the statutory requirement that meetings must be in public save in the limited circumstances set out in these Rules.

20. **Notice of Private Meeting of the Cabinet**

20.1 The intention to hold a meeting in private is only triggered if it is likely that confidential or exempt information (as defined in these rules) shall be disclosed. Where the intention to hold a meeting in private is triggered the following steps shall be followed to determine whether the meeting shall actually be held in private:

(a) at least 28 clear days before the meeting the Council shall publish at its offices and on its website a notice of the intention to hold the meeting in private which shall include the reasons for the intention to hold the meeting in private and indicate the business to be transacted but not such as to disclose confidential or exempt information;

(b) representations may be made to the Council as to why the meeting should be held in public;

(c) the Monitoring Officer or his nominee shall on behalf of the Council consider any representations received and at least 5 clear days before the meeting either:
   (i) if the meeting is to be held in public, follow the procedure in
Rule 4 above; or

(ii) if the intention remains to hold the meeting in private, publish notice of the intention to hold the meeting in private at the offices of the Council and on its website including the reasons for holding the meeting in private, details of representations received and a statement of the response to those representations.

20.2 Where the date by which a meeting must be held makes compliance with Rule 20.1 impracticable the meeting may only be held in private where the decision making body has obtained agreement from:

(a) the chairman of the relevant Overview and Scrutiny Committee; or

(b) if there is no such person, or if the chairman of the relevant Overview and Scrutiny committee is unable to act, the Chairman of Council; or

(c) where there is no Chairman of either the relevant Overview and Scrutiny Committee or of the Council or those persons are unable to act, the Vice-Chairman of the Council

that the meeting is urgent and cannot reasonably be deferred. The agreement required as above shall be deemed to have been properly secured if obtained by the Monitoring Officer or one of his staff on behalf of the decision-maker.

21. **Attendance at private meetings of the Cabinet**

**Members**

21.1 Notice of private meetings of the Cabinet and its committees shall be served on the Chairmen of the Overview and Scrutiny Committees at the same time as notice is served on members of the Cabinet. Where an Overview and Scrutiny Committee does not have a Chairman, the notice shall be served on all the members of that Committee.

21.2 Where a matter under consideration at a private meeting of the Cabinet, or a committee of it, is within the remit of an Overview and Scrutiny Committee, the Chairman of the relevant Overview and Scrutiny Committee or in his/her absence the Vice-Chairman may attend and speak at that private meeting with the consent of the person presiding.

**Officers**

21.3 The Head of Paid Service, Section 151 Officer, and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet formally unless the proper officer has been given reasonable notice that a meeting is to take place in accordance with these Rules.
21.4 A private Cabinet meeting may only take place in the presence of the Monitoring Officer or his nominee.

22. **Decisions by individual members of the Cabinet**

22.1 **Reports intended to be taken into account**

Where an individual member of the Cabinet receives a report upon which they are required to make a key decision that decision cannot be made until Rule 13, 15 or 16, whichever is appropriate, has been complied with.

22.2 **Provision of copies of reports to Overview and Scrutiny Committees**

On giving such a report to an individual decision-maker, the person who prepared the report shall give a copy of it to the Chairman of the relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time. The obligation to make the report publicly available shall not apply where to do so would result in the public disclosure of exempt or confidential information.

22.3 **Records of and access to executive decisions**

(a) **Decisions made at meetings**

As soon as reasonably practicable after any meeting of a Cabinet or a committee of the Cabinet at which an executive decision was made, the Monitoring Officer, or if the Monitoring Officer was not present at the meeting, the person presiding, must ensure that a written statement is produced for every executive decision made which includes the following information:

(i) a record of the decision including the date it was made;
(ii) a record of the reasons for the decision;
(iii) details of any alternative options considered and rejected by the Cabinet or its committee, as appropriate, at the meeting at which the decision was made;
(iv) a record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet or Cabinet committee which made the decision; and
(v) in respect of any declared conflict of interest, a note of any dispensation granted.

(b) **Decisions made by individual members**

As soon as reasonably practicable after an individual Cabinet member has made an executive decision, that member must produce or instruct the Monitoring Officer to produce a written statement of that executive decision which includes the following information:

(i) a record of the decision including the date it was made;
(ii) a record of the reasons for the decision;
(iii) details of any alternative options considered and rejected by the member when making the decision;
(iv) a record of any conflict of interest declared by any Cabinet member who is consulted by the member which relates to the decision; and
(v) in respect of any declared conflict of interest, a note of any dispensation granted.

(c) **Decisions made by officers**

As soon as reasonably practicable after an officer has made a decision which is an executive decision, the officer must produce a written statement which must include the following information:

(i) a record of the decision including the date it was made;
(ii) a record of the reasons for the decision;
(iii) details of any alternative options considered and rejected by the officer when making the decision;
(iv) a record of any conflict of interest declared by any Cabinet member who is consulted by the officer which relates to the decision; and
(v) in respect of any declared conflict of interest, a note of any dispensation granted.

The provisions of Rules 7 and 8 (inspection of documents after meetings) shall also apply to the making of decisions by individuals.

There are additional requirements relating to the recording and availability of decisions made by officers set out in Rule 26 below.

23. **Overview and Scrutiny Committee access to documents**

23.1 **Rights to copies**

Subject to Rule 23.2 below, a member of an Overview and Scrutiny Committee is entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

(a) any business transacted at a public or private meeting of the Cabinet; or

(b) any decision taken by an individual member of the Cabinet in accordance with the Council’s executive arrangements; or

(c) any decision that has been made by an officer of the Council in accordance with the Council’s executive arrangements.

Subject to Rule 23.2 below, where a member of an Overview and Scrutiny Committee requests a document in accordance with this Rule the Cabinet must provide it as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.
23.2 **Limit on rights**

A member of an Overview and Scrutiny Committee shall not be entitled to a copy of:

(a) any such document or part of a document as contains exempt information unless that information is relevant to:
   (i) an action or decision that that member is reviewing or scrutinising; or
   (ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or

(b) a document or part of a document containing advice provided by a political adviser or assistant; or

(c) any document that is in draft form (although the Cabinet may accede to such a request).

Where under this Rule the Cabinet determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in Rule 23.1 or this Rule the Cabinet must provide the relevant Overview and Scrutiny Committee with a written statement setting out the reasons for that decision.

24. **Additional rights of access for Members**

(a) Subject to Rules 24(d) and (e) below, any document which is in the possession of the Cabinet and which contains material relating to any business to be transacted at a public meeting must be available for inspection by any Member of the Council.

(b) Any document which is required by the preceding paragraph to be available for inspection by any Member of the Council must be available for inspection for at least 5 clear days before the meeting except that:
   (i) where the meeting is convened at shorter notice such a document must be available for inspection when the meeting is convened; and
   (ii) where an item is added to the agenda at shorter notice a document that would be required to be available under Rule 24(a) in relation to that item must be available for inspection when the item is added to the agenda;

(c) Subject to Rules 24(d) and (e) below, any document which is in the possession of the Cabinet and which contains material relating to:
   (i) any business to be transacted at a private meeting;
   (ii) any decision made by an individual member in accordance with the Council’s executive arrangements; or
   (iii) any decision made by an officer in accordance with the
Council’s executive arrangements must be made available for inspection by any Member of the Council within 24 hours of the conclusion of the meeting or an executive decision having been made by an individual Cabinet Member or an officer;

(d) Rules 24(a), (b) and (c) do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information unless the exempt information contained in the document is information of a description falling within:

(i) paragraph 3 of Schedule 12A to the Local Government Act 1972 (financial or business affairs)(except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or

(ii) paragraph 6 of Schedule 12A to the Local Government Act 1972 (notices being given or directions to be made);

(e) Rules 24(a) and (c) shall not apply to a document or part of a document where it appears to the Monitoring Officer that compliance with those Rules in relation to that document or part of a document would involve the disclosure of advice provided by a political adviser or assistant;

(f) the rights of a Member to access information as set out in Rules 24(a) and (c) are additional to any other rights they may have.

25. Additional rights of the press and public to report upon meetings

25.1 Subject only to the exceptions in these Rules the press and public may report upon formal meetings or such parts of formal meetings of the Council, the Cabinet, their respective committees and any sub-committees as are open to the public. The Council may in its absolute discretion extend these rights and facilities to other meetings of the Council.

25.2 Reporting means:

(a) filming, photographing or making an audio recording of proceedings at a meeting;

(b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or

(c) reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available to persons not present as the meeting takes place or later.

The use of intrusive lighting, flash photography and asking for people to repeat statements for the purposes of recording are not permitted.

25.3 Any person who attends a meeting to report the proceedings may use any communication methods, including the internet, to publish, post or
otherwise share the results of their reporting activities.

25.4 Subject to rule 25.5, publication and dissemination may take place at the time of the meeting or occur after the meeting.

25.5 Oral reporting and the provision of oral commentary on a meeting are not permitted by any person present at a meeting.

25.6 Save where any individual is excluded solely for the purposes of maintaining order rather than because confidential or exempt information is likely to be discussed, where the press and public are excluded from a meeting the right to report shall not apply. This also means that no person may report on the meeting using methods or devices, such as video cameras or audio devices, which can be used without that person’s presence at the meeting and which enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later. Any such devices must be removed from the meeting room during such periods.

25.7 The Council will, so far as reasonably practicable, make available reasonable facilities for those wishing to attend at and report upon meetings. Those wishing to attend at and report upon meetings are asked to notify the Council’s Democratic Services in advance. Depending on the number of people wishing to attend and report it may not be possible to make the same facilities available for each attendee.

25.8 All persons exercising the right to report on meetings are required to comply with these rules and such other reasonable requirements the Council may impose from time to time, whether generally or for any particular meeting, and any person being disruptive by failing to comply with such requirements may be excluded from the meeting.

25.9 The filming or recording of members of the public is prohibited in circumstances where they are not making representations to the meeting and the Council will take such action as it considers appropriate against any person found to be contravening this restriction.

25.10 The Council will take such steps and impose such restrictions as appropriate to comply with its safeguarding duties insofar as they impact upon the exercise of the rights set out in these Rules.

25.11 Any person or organisation choosing to film, record, broadcast or otherwise report upon any meeting of the Council, its Cabinet or committees is responsible for any claims or other liability resulting from them so doing and by choosing to report proceedings they are deemed to accept that they are required to indemnify the Council, its members and officers in relation to any such claims or liabilities.

26. Additional requirements relating to the recording and availability of decisions made by officers
26.1 This procedure rule is in addition to and without prejudice to any other requirement for officers to record and make available decisions they make and applies to decisions made by officers of the Council which are made under either:
(a) a specific express authorisation; or
(b) a general authorisation to officers to take such decisions and the effect of the decision is to:
   (i) grant a permission or licence;
   (ii) affect the rights of an individual; or
   (iii) award a contract or incur expenditure which, in either case, materially affects the Council’s financial position.

26.2 For the purposes of these rules:
(a) specific express authorisations are those made by the Council, the Cabinet, their committees or sub-committees or individual Cabinet members;
(b) general authorisations to officers are those set out in the Council’s Scheme of Delegation; and
(c) expenditure will be considered to materially affect the Council’s financial position if the value of an individual decision is or exceeds £500,000 or is significant having regard to the budget for the service or function to which the decision relates, irrespective of whether the decision is a key decision.

26.3 Officers will reasonably determine whether the decisions they make affect the rights of an individual having regard to all relevant factors including the guidance provided by the Government which suggests that this would involve a change to an individual’s legal rights and that these decisions do not include decisions taken pursuant to an existing framework of rights.

26.4 A record of decision to which this rule applies will, as a minimum, contain the following information:
(a) the date the decision was taken;
(b) a record of the decision taken along with reasons for the decision;
(c) details of alternative options, if any, considered and rejected; and
(d) where the decision is made pursuant to a specific express authorisation, the name of any Member who has declared a conflict of interest in relation to the decision.

26.5 As soon as reasonably practicable following the record of decision being made it will be available for inspection, along with any background papers, by members of the public:
(a) at all reasonable hours at the Council’s principal offices;
(b) on the Council’s web site; and
(c) by such other means as the Council considers appropriate, if any and this extends to any record of decision that falls within rule 26.6.
26.6 Rule 26 does not apply to any decision made by an officer where, other than under The Openness of Local Government Bodies Regulations 2014, there is a statutory obligation to produce a written record of the decision that includes the date of the decision, a record of the decision and the reasons for the decision.

26.7 Nothing in this rule requires or authorises the making available of confidential or exempt information.
Budget and Policy Framework Procedure Rules
Budget and Policy Framework Procedure Rules

1. **The Framework for Cabinet Decisions**

The Council shall be responsible for the adoption of the Budget and Policy Framework as set out in Article 4 of this Constitution. Once a Budget or a Policy Framework is in place, it shall be the responsibility of the Cabinet to implement it.

2. **Process for Developing the Framework**

The process by which the Budget and Policy Framework shall be developed is as follows:

2.1 The Cabinet shall publicise through its Work Programme, and such other methods as may be required from time to time, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework (“proposals”) and its arrangements for consultation after publication of those initial proposals. The Chairmen of the Overview and Scrutiny Committees shall also be notified. Where consultation is required, the consultation period shall, in each instance, be not less than 6 weeks unless the requirements of any statutory timetable or other Council deadline make this impracticable. At the end of the consultation period, the Cabinet shall draw up draft proposals having regard to the responses to that consultation.

2.2 The Overview and Scrutiny Committees are able to inform and support the process for making Cabinet proposals to the Council in terms of the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, including providing constructive challenge to the responsible Cabinet Member on policy proposals and exploring options for future policy development. The Customer and Support Services Overview and Scrutiny Committee is the lead Overview and Scrutiny Committee in relation to the overall budget following review by the other Overview and Scrutiny Committees.

2.3 The Cabinet shall have regard to such recommendations and other appropriate comments as are made to it in drawing up or amending draft proposals for submission to the Council, and its report to Council shall reflect those recommendations and comments and the Cabinet’s response to them.

2.4 Once the Cabinet has finalised the draft proposals, having regard to the comments of the Overview and Scrutiny Committees and other consultees as appropriate, the Monitoring Officer shall refer them at the earliest opportunity to the Council for decision.

3. **Procedure for Conflict Resolution – Plans and Strategies**
3.1 This procedure applies in relation to those plans and strategies forming the Policy Framework of the Council as set out in Article 4.1 of this Constitution and to any plan or strategy for the control of the Council’s borrowing and capital expenditure. Paragraphs 3.2 to 3.5 below have been incorporated into these Rules as required by regulations.

3.2 Where the Cabinet has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in paragraph 3.3.

3.3 Subject to 3.6 below, before the Council:

(a) amends the draft plan or strategy;
(b) approves, for the purpose of its submission to the Secretary of State or any Member of the Crown for their approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
(c) adopts (with or without modification) the plan or strategy

it must inform the Leader of any objections which it has to the draft plan or strategy and must give to them instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it. If appropriate, the Cabinet shall involve the relevant Overview and Scrutiny Committee in such reconsideration.

3.4 Where the Council gives instructions in accordance with paragraph 3.3, it must specify a period of at least 5 working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

(a) submit a revision of the draft plan or strategy as amended by the Cabinet (the “revised draft plan or strategy”) with the Cabinet’s reasons for any amendments made to the draft plan or strategy, to the Council for the Council’s consideration; or
(b) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.

Where appropriate and practicable, the relevant Overview and Scrutiny Committee shall be involved in this process.

3.5 When the period specified by the Council, referred to in paragraph 3.4, has expired, the Council must, when:

(a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
(b) approving, for the purpose of its submission to the Secretary of
State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
(c) adopting (with or without modification) the plan or strategy
take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet’s reasons for those amendments, any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for that disagreement, which the Leader submitted to the Council, or informed the Council of, within the period specified.

3.6 Where an amendment to a draft plan or strategy has been submitted, the Leader may under Council Procedure Rule 14.7 indicate, on behalf of the Cabinet, that they accept the amendment; in these circumstances, the amendment shall be regarded as incorporated in the draft plan or strategy before Council and not (for the purposes of Rules 3.2 to 3.5 above) as an objection to the draft plan or strategy.

4. **Procedure for Conflict Resolution – Revenue Budget**

4.1 This procedure applies to estimates and calculations relating to the revenue budget and Council Tax. Paragraphs 4.2 to 4.6 below have been incorporated into these Rules as required by regulations.

4.2 Subject to paragraph 4.6, where, before 8 February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:

(a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 of the Local Government Finance Act 1992;
(b) estimates of other amounts to be used for the purposes of such a calculation; or
(c) estimates of such a calculation

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph 4.3.

4.3 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 4.2(a), it must inform the Leader of any objections which it has to the Cabinet’s estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council’s requirements. If appropriate, the Cabinet shall involve the relevant Overview and Scrutiny Committee in such reconsideration.

4.4 Where the Council gives instructions in accordance with paragraph
4.3, it must specify a period of at least 5 working days beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet within which the Leader may:

(a) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts") which have been reconsidered in accordance with the Council’s requirements, with the Cabinet’s reasons for any amendments made to the estimates or amounts, to the Council for the Council’s consideration; or

(b) inform the Council of any disagreement that the Cabinet has with any of the Council’s objections and the Cabinet’s reasons for any such disagreement.

Where appropriate and practicable, the relevant Overview and Scrutiny Committee shall be involved in this process.

4.5 When the period specified by the Council, referred to in paragraph 4.4, has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 4.2(a) take into account:

(a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
(b) the Cabinet’s reasons for those amendments;
(c) any disagreement that the Cabinet has with any of the Council’s objections; and
(d) the Cabinet’s reasons for that disagreement

which the Leader submitted to the Council, or informed the Council of, within the period specified.

4.6 Paragraphs 4.2 to 4.5 shall not apply in relation to calculations or substitute calculations which the Council is required to make in accordance with sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992 (provisions relating to Council Tax capping).

5. **Process for Developing the Revenue and Capital Budget**

The Council shall be responsible for the adoption of its Budget Framework as set out in Article 4.

5.1 The Council shall approve annually, a rolling 3-year Forward Revenue Budget and a Capital Programme with control totals for each Portfolio. If there are proposals for an alternative budget to that being proposed by the Cabinet, they must be received by the Chief Financial Officer five working days before the meeting of the Council. This is to allow the Chief Financial Officer to fulfil their statutory duty to comment on the robustness of the estimates and the adequacy of reserves contained within the alternative proposal as required by
section 25 of the Local Government Act 2003. The proposer shall, at the same time, provide copies to the Group Leaders.

5.2 Portfolio Holders, with Overview and Scrutiny Committees, Strategic Directors and the Chief Financial Officer, shall develop a detailed annual budget for all services, activities, projects and business units based upon the Forward Revenue Budget.

5.3 Portfolio Holders, with Overview and Scrutiny Committees, Strategic Directors and the Chief Financial Officer, shall develop detailed annual capital programmes for their respective Portfolios for approval by the Cabinet. These shall combine to be the Council’s draft Capital Programme to be submitted to the Council for approval.

5.4 A revenue budget monitor shall be reported to each meeting of the Cabinet and regularly to the Overview and Scrutiny Committees. The report shall identify:

(a) the latest projected outturn position compared with the original budget; and

(b) significant variations against the original budget together with proposals for dealing with the variations;

and, on a quarterly basis, approval shall be sought for:

(a) budget virements as required by the Council’s approved virement procedures; and

(b) proposed contributions to or from reserves across Portfolios where not already budgeted.

5.5 The Portfolio Holder with responsibility for finance shall present a quarterly capital monitoring report to the Cabinet.

5.6 Portfolio Holders, with Overview and Scrutiny Committees, Strategic Directors and the Chief Financial Officer, shall identify service pressures, savings and developments which need to be built into the next Forward Revenue Budget Process.

5.7 The Cabinet shall approve any variations to the detailed Capital Programme where such proposals are within authorised spending plans, are fully funded and do not prejudice the Policy Framework.

6. Decisions Outside the Budget and Policy Framework

6.1 The Cabinet, individual Portfolio Holders and any officers or joint arrangements discharging executive functions shall only take decisions which do not materially depart from the Budget and Policy Framework. If any of these bodies or persons wish to make a decision which materially departs from the Policy Framework or the Budget approved by full Council, then, subject to paragraph 7 below, that decision shall only be taken following consideration by the
6.2 If the Cabinet, individual Members of the Cabinet and any officers, or joint arrangements discharging executive functions wish to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they wish to make would materially depart from the Budget and/or the Policy Framework. If the advice of either of those officers is that the decision would be a material departure, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 7 below shall apply.

7. Urgent Decisions Outside the Budget or Policy Framework

7.1 The Cabinet, an individual Member of the Cabinet, officers, or joint arrangements discharging executive functions may take a decision which materially departs from the Council’s Budget and/or Policy Framework if the decision is a matter of urgency. However, the decision may only be taken:

(a) Where, in the opinion of the Chief Executive (or in their absence their nominated deputy for this purpose), a decision is required and cannot be delayed until a Council meeting is convened, the Chief Executive (or in their absence their nominated deputy for this purpose) shall first seek the approval of the Chairman of the Council, following consultation with the Chairman of the relevant Overview and Scrutiny Committee, that an urgent decision is required. In their absence their Vice-Chairman shall be consulted.

(b) Subject to determination as above that the matter is urgent, the approval of the Leader and the appropriate Portfolio Holder(s) shall be sought for the decision to be made. Where such decisions have significant legal or financial implications the Service Director – Assurance and Chief Financial Officer shall be consulted. Any relevant local Member shall be notified of an urgent decision related to their electoral division. The Cabinet and the Council shall be advised of the decision at their next meetings.

8. Budget Virement

8.1 The scheme of virement shall enable the Cabinet, Strategic Directors and their officers to manage budgets with a degree of flexibility within the overall Policy Framework determined by Council and, therefore, shall optimise the use of available resources.

8.2 Steps taken by the Cabinet, an individual Portfolio Holder, officers, or joint arrangements discharging executive functions to implement Council policy shall not exceed the budgets allocated to each budget
head. However, such bodies or individuals shall be entitled to vire across budget heads in accordance with the detailed process and limits as set out in the Financial Regulations and Procedure Rules section of this Constitution.

9. **In-Year Changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet, an individual Portfolio Holder, officers or joint arrangements discharging executive functions must be in accordance with that Framework. No material departure from any policy or strategy which makes up the Policy Framework or Budget may be made by those bodies or individuals except as set out in paragraphs 6, 7 and 8 above.

10. **Call-In of Decisions Outside the Budget or Policy Framework**

10.1 Where an Overview and Scrutiny Committee is of the opinion that a proposed or actual Cabinet decision would materially depart from the Budget and/or Policy Framework, it shall seek advice from the Monitoring Officer who shall, where appropriate, prepare a report setting out their advice on the matter.

10.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer’s report shall be to the Cabinet, with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Monitoring Officer concludes that the decision would be or was a material departure, or to the relevant Overview and Scrutiny Committee if the Monitoring Officer concludes that the decision would not be or was not a material departure.

10.3 If the decision has yet to be made or has been made but not yet implemented and the advice from the Monitoring Officer is that the decision is or would be a material departure from the Policy Framework or the Budget, the relevant Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action shall be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 days of the request by the relevant Overview and Scrutiny Committee. At the meeting it shall receive a report of the decision or proposals and the advice of the Monitoring Officer. The Council may either:

10.3.1 endorse the decision or proposed decision of the Cabinet or other decision-maker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council shall be minuted and circulated to all Members in the normal way; or
10.3.2 amend the Council’s Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council shall be minuted and circulated to all Members in the normal way; or

10.3.3 where the Council accepts that the decision or proposed decision materially departs from the Budget and/or Policy Framework and does not amend the existing Framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer.
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INTRODUCTION

1. A Local Authority is required by law to conduct its business efficiently and to ensure that it has sound financial management policies in place, which are strictly adhered to. Part of this process is the establishment of Financial Regulations, which set out the financial policies of the Council.

Financial Regulations provide clarity about the accountabilities of individuals, Members of the Cabinet, the Head of Paid Service (Chief Executive), the Monitoring Officer (Service Director – Assurance), the Section 151 Officer, Strategic Directors and Service Directors.

Officers should link the Financial Regulations with other documents which form part of the Council’s Constitution, e.g. Contract Procedure Rules, Scheme of Delegation, the roles of the Cabinet and the Council’s various Committees, Employee/Members’ Codes of Conduct and the Protocol on Member/Officer Relations.

Consideration should also be given to the Council’s policies relating to Anti-Fraud and Corruption, Anti-Money Laundering, Confidential Reporting (Whistle-blowing), Procurement and Employment.

Purpose and status of financial regulations

2. Financial Regulations provide the framework for managing the Council’s financial affairs. They also form an important element in the Council’s overall Corporate Governance framework.

3. Financial Regulations apply to every Member and officer of the Council and anyone acting on its behalf.

4. Arrangements for controlling financial activity within the Council are hierarchical. At the highest level Financial Regulations set out the financial responsibilities of the full Council, Cabinet, Audit Committee and other Members, Chief Executive, Directors, Monitoring Officer, Section 151 Officer and all other staff.

5. The Financial Procedures that follow set out detailed guidance which set out the responsibilities and expectations of:
   - Members
   - Section 151 Officer
   - Head of Paid Service/Chief Executive
   - Monitoring Officer
   - Strategic Directors
   - Service Directors and all other staff
   - Organisations and others acting on behalf of the Council

6. These are routinely issued and updated under the authority of the approved Financial Regulations. Financial Regulations and Procedures are approved by the Council, where appropriate, on the recommendation of the Audit Committee.
7. All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

8. The Section 151 Officer is responsible for:
   - maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Council for approval on the recommendation of the Audit Committee where appropriate;
   - reporting, where appropriate, breaches of the Financial Regulations to the Council and/or to the Cabinet or Audit Committee;
   - issuing advice and guidance to underpin the Financial Regulations that Members, officers and others acting on behalf of the Council are required to follow.

9. The Council’s Financial Regulations are contained in Section A which follows and detailed Financial Procedures, setting out how the Regulations will be implemented, are contained in Section B.

10. The Section 151 Officer and Strategic Directors are responsible for ensuring that all appropriate staff in their Directorates or service areas are aware of the existence and content of the Council’s Financial Regulations and Procedure Rules and other internal regulatory documents and that they comply with them. The Local Code of Corporate Governance is a useful reference in this regard.

11. They must also ensure that an adequate number of copies are available for reference within their departments.

12. It may be considered a disciplinary offence if any officer fails to comply with these Financial Regulations and Procedures. Employees have a duty to report apparent breaches of Financial Regulations to an appropriate senior manager and the Chief Audit Executive. The senior manager or Chief Audit Executive should report breaches of the Regulations to the Section 151 Officer and the Monitoring Officer.

13. If any officer is in any doubt about the appropriate action required, they should consult their senior manager in the first instance. If necessary or otherwise appropriate, advice should also be sought from the Section 151 Officer or the Service Director – Resources before proceeding.
SECTION A - FINANCIAL REGULATIONS

A1 FINANCIAL MANAGEMENT

Introduction

A1.1 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

The Full Council

A1.2 The full Council is responsible for, inter alia:
- adopting the Council’s Constitution, including the Members’ Code of Conduct
- approving the Budget and Policy Framework within which the Cabinet operates.
- approving the setting and revision of the prudential indicators as defined under the Prudential Code.
- approving and monitoring compliance with the Council’s overall framework of accountability and control. The framework is set out in the various documents making up the Constitution and such other documents as may be prescribed by the Chief Operating Officer (whether in that role or as the Section 151 Officer).
- monitoring compliance with the agreed policy and related Cabinet decisions.
- approving procedures for recording and reporting decisions taken. This includes those decisions delegated by and decisions taken by the Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

The Cabinet

A1.3 The Cabinet is responsible for:
- proposing the policy framework and budget to the full Council
- proposing the setting and revision of the prudential indicators, as defined under the Prudential Code, to the full Council
- reviewing the budget at least quarterly during the year and taking any such action as is deemed necessary.
- discharging the functions required by law or as determined locally as being the responsibility of the Cabinet in accordance with the policy framework and budget.
- establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within their delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

A1.4 Cabinet functions can be delegated to a committee of the Cabinet (a committee comprising only Cabinet Members), an individual Cabinet
Member, an officer or a joint committee. Cabinet decisions cannot be delegated to committees established to support the Cabinet where those committees include or are comprised of non-executive Members.

A1.5 Legislation requires prior notice to be given of the making of certain decisions and primarily key decisions which are decisions within the remit of the Cabinet but which meet certain criteria as set out in the Access to Information Procedure Rules set out in the Constitution. A financial threshold of £500,000 has been set for key decisions on the basis that this does not include operational expenditure by Corporate Directors that is within Budget and Policy Framework.

Committees

Overview and Scrutiny Committee(s) and Sub-Committees

A1.6 The Council will have at least one Overview and Scrutiny Committee with responsibility for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet and other decision-makers to account. The responsibility also extends to reviewing the general policy and service delivery of the Council. The responsibility includes scrutinising the functioning of the Health Authority in addition to the Council’s own social care activities. Further detail is set out in the Overview and Scrutiny Procedure Rules.

Standards Committee

A1.7 The Standards Committee is established by the full Council and is responsible for promoting and maintaining high standards of conduct amongst Councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members’ Code of Conduct and for monitoring the effect of the Code of Conduct as well as the application of the procedures for the assessment, determination and investigation of suspected breaches of the Code.

Planning, Regulatory and other Committees (e.g. Licensing Committee and Chief Officers Employment Committee)

A1.8 Planning (development control), licensing and other regulatory functions as set out in the Responsibility for Functions section of the Constitution are not Cabinet functions but are exercised through committees under powers delegated by the full Council.

Joint Committees

A1.9 The Council may establish joint arrangements with one or more local authorities and/or Cabinets to exercise functions. Such arrangements may involve the appointment of a joint committee with these other local authorities.

A1.10 The current formally constituted joint committees are:
- Tamar Bridge and Torpoint Ferry Joint Committee; and
Mount Edgcumbe Joint Committee
both of which are joint arrangements with Plymouth City Council.

Audit Committee

A1.11 The Audit Committee is a monitoring and advisory body and reports to the full Council. It has right of access to all the information it considers necessary and can consult directly with internal and external auditors.

The Audit Committee has the following specific responsibilities which also extend, as appropriate, to the Council’s wholly owned subsidiaries and other entities subject to such arrangements as may be put in place or agreed with those entities to enable the Audit Committee to exercise such functions in relation to those entities:

- To consider the effectiveness of the Council’s risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
- To review and approve the Council’s Annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- To consider the Council’s arrangements for corporate governance and, subject to the role and responsibilities of the Standards Committee, to advise on any action necessary to ensure compliance with best practice.
- To approve the Council’s Annual Governance Statement having ensured that it reflects the risk environment and any actions needed to improve it.
- To receive the Final Accounts Memorandum and the external auditor’s report to those charged with governance on issues arising from the audit of the accounts.
- To consider the Annual Audit and Inspection Letter/Report from the external auditors and to provide advice and comments on the Letter/Report to the Cabinet.
- To receive and comment upon the external audit plans, including the extent to which they provide value for money.
- To approve, but not direct, Internal Audit’s strategy and plan, and to monitor performance against them.
- To receive summary reports from the Council’s Internal Audit section on the outcome of audit reviews and investigations and to seek assurance that the recommendations have been implemented.
- To receive the Annual Internal Audit Report from the Chief Audit Executive.
- To receive the Annual Risk Management Report from the Head of Business Planning and Development
- To receive any reports from the external auditor about the effectiveness of the Council’s financial arrangements.
- To liaise appropriately over the appointment of the Council’s external auditor.
- To monitor the effectiveness of the Council’s Financial Regulations,
contract procedure rules and strategies for, inter alia, anti-fraud and corruption and whistleblowing.

- To commission work from Internal Audit and the external auditors.
- To ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- To receive the Annual Report on the work and effectiveness of the Audit Committee and the audit function.
- To provide not less than annually a report from the Chairman of the Audit Committee to Council.

**Portfolio Holders**

A1.12 Portfolio Holders are responsible for ensuring that spending is within revenue and capital budgets allocated to their Portfolio.

**The Statutory Officers and Strategic Directors**

**Chief Executive (including the Head of Paid Service)**

A1.13 The Chief Executive is responsible for the corporate and overall strategic management of the Council as a whole. He or she must report to and provide information for the Cabinet, the full Council, the scrutiny committees and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council’s decisions (see below).

**Monitoring Officer**

A1.14 The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting decisions are operating effectively.

A1.15 The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. He or she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by Portfolio Holders and officers who have delegated authority to make decisions within the responsibility of the Cabinet.

A1.16 The Monitoring Officer is responsible for advising all Councillors and officers about who has authority to take a particular decision.

A1.17 The Monitoring Officer is responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework.
A1.18 The Monitoring Officer together with the Section 151 Officer is responsible for advising the Cabinet and full Council about whether a decision is likely to be considered contrary to the policy framework, or contrary to or not wholly in accordance with the budget. Actions that may be contrary to the budget include:
- initiating a new policy
- committing expenditure in future years to above the budget level
- incurring interdepartmental transfers above virement limits
- causing the total expenditure financed from council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount.

A1.19 The Monitoring Officer is responsible for maintaining an up-to-date Constitution.

A1.20 The Monitoring Officer is also responsible for maintaining registers of Member and officer’s interests, albeit the latter is a shared responsibility with Service Directors and other senior officers in accordance with the Employee Code of Conduct.

Section 151 Officer

A1.21 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden.

A1.22 The statutory duties arise from:
- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 1996
- The Accounts and Audit Regulations 2003
- The Local Government Act 2003

A1.23 The Section 151 Officer is responsible for:
- the proper administration of the Council’s financial affairs
- setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- securing an effective internal audit function (albeit this is within the managerial remit of the Service Director – Assurance)
- treasury management
- insurance arrangements for the Council
- maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Audit Committee for recommendation to the Council for approval
- reporting, where appropriate, breaches of the Financial Regulations to the Council, Cabinet or Audit Committee
• issuing advice and guidance to underpin the Financial Regulations that Members, officers and others acting on behalf of the Council are required to follow
• the maintenance of reserves, accounting policies, records and returns and the annual statement of accounts.

A1.24 **Section 113** of the Local Government Finance Act 1988 requires that the officer responsible for ensuring proper administration of an authority’s financial affairs under section 151 of the Local Government Act 1972 should be a member of one or more of the six CCAB bodies, or another body of accountants established in the UK and approved by the Secretary of State.

A1.25 **Section 114** of the Local Government Finance Act 1988 requires the Section 151 Officer to report to the full Council, Cabinet and external auditor if the Council or one of its officers:
- has made, or is about to make, a decision which involves incurring unlawful expenditure
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council
- is about to make an unlawful entry in the Council’s accounts.

A1.26 **Section 114** of the 1988 Act also requires:
- the Section 151 Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- the Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

**Strategic Directors**

A1.27 Strategic Directors are responsible for:
- ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Section 151 Officer
- signing contracts on behalf of the Council in accordance with the Constitution save where it requires the Council’s seal to be affixed by the Service Director – Assurance, his nominee or those authorised by him
- consulting with the Section 151 Officer and seeking approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

**Responsibility for Functions: Delegation by Strategic Directors**

A1.28 In accordance with the Constitution, any power conferred upon a Strategic Director may be exercised by an officer in his/her absence, authorised generally or specifically for the purpose, either orally or in writing. Authorisations and delegations should whenever possible be given or otherwise recorded in writing so that there is a credible audit trail.
**Other Financial Accountabilities**

**Virement**

A1.29 Steps taken by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, area committees or joint arrangements discharging executive functions to implement Council policy shall not exceed those budgets allocated to each division of service. However, such bodies or individual shall be entitled to vire across services or divisions of service in accordance with Financial Rules B1.15 to B1.23 of the attached procedures.

**Treatment of year-end balances**

A1.30 The full Council is responsible for agreeing procedures for carrying forward underspends and overspends on budget headings.

**Maintenance of reserves**

A1.31 It is the responsibility of the Section 151 Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council. Accordingly, the Cabinet and/or the full Council must heed the advice of the Section 151 Officer concerning minimum reserve balances as prescribed in section 26 of the Local Government Act 2003.

**Accounting policies**

A1.32 The Section 151 Officer responsible for selecting accounting policies and ensuring that they are applied consistently.

**Accounting records and returns**

A1.33 The Section 151 Officer is responsible for determining the accounting procedures and records for the Council including compliance with the statutory requirements for the retention of documents and records.

**The annual statement of accounts**

A1.34 The Section 151 Officer is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The Audit Committee is responsible for approving the annual statement of accounts.
A2 FINANCIAL PLANNING

A2.1 The full Council is responsible for agreeing the Council’s Budget and Policy Framework, which will be proposed by the Cabinet.

Policy Framework

A2.2 The full Council is responsible for approving the policy framework and budget. The policy framework comprises a number of statutory plans and strategies; these are detailed in the Constitution.

A2.3 The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Such decisions should be referred to the full Council by the Section 151 Officer or the Monitoring Officer.

A2.4 The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the Budget and Policy Framework within the financial limits set by the Council.

Preparation of the corporate plan

A2.5 The Chief Executive is responsible for proposing the Council/Corporate Plan to the Cabinet for consideration before its submission to the full Council for approval.

Budgeting

Budget format

A2.6 The general format of the budget will be approved by the full Council and proposed by the Cabinet on the advice of the Section 151 Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

Budget preparation

A2.7 The Section 151 Officer, supported by the Service Director – Resources, is responsible for ensuring that a four-yearly capital and revenue budget is prepared on an annual basis. The overall 4 year budget, including total allocations for each portfolio, will be recommended for approval by the full Council. The full Council may amend the overall budget or ask the Cabinet to reconsider it before approving it.

A2.8 The Cabinet is responsible for issuing guidance on the general content of the budget, following consultation with the Section 151, Officer as soon as possible following approval by the full Council.
A2.9 It is the responsibility of Strategic Directors to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet and the Section 151 Officer.

**Budget calculations – report on robustness of estimates and adequacy of reserves**

A2.10 When calculating the net budget requirement the Section 151 Officer must report to the Cabinet and the full Council on:
- the robustness of the estimates used for the precept calculations
- the adequacy of the proposed financial reserves.

**Budget monitoring and control**

A2.11 The Service Director – Resources is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular (at least quarterly) basis.

A2.12 It is the responsibility of Strategic Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Service Director – Resources. They should report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer and the Service Director – Resources to any problems.

**Resource allocation**

A2.13 The Section 151 Officer, supported by the Service Director – Resources, is responsible for developing and maintaining a resource allocation process that ensures due consideration of the full Council’s policy framework.

**Preparation of the capital programme**

A2.14 The Section 151 Officer, supported by the Service Director – Resources, is responsible for ensuring that a three-yearly capital programme is prepared on an annual basis for consideration by the Cabinet prior to submission to the full Council for approval.

**Guidelines**

A2.15 Guidelines on budget preparation are issued to Members and Directors by the Cabinet following agreement with the Section 151 Officer. The guidelines will take account of:
- legal requirements
- medium-term planning prospects
- overall Council priorities
- the Council/Corporate Plan
• available resources
• spending pressures
• changes to service demand and demographic factors
• best value and other relevant government guidelines
• other internal policy documents
• cross-cutting issues (where relevant).

Maintenance of Reserves

A2.16 It is the responsibility of the Section 151 officer to advise the Cabinet and the full Council on prudent level of reserves for the authority.
A3 RISK MANAGEMENT AND CONTROL OF RESOURCES

Introduction

A3.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

Risk Management

A3.2 The Cabinet is responsible for approving the authority’s risk management policy statement and strategy and for reviewing the effectiveness of risk management, complementing the risk responsibilities of the Audit Committee. The Cabinet is responsible for ensuring that proper insurance exists where appropriate.

A3.3 The Chief Audit Executive is responsible for preparing the authority’s risk management policy statement, following consultation with the Service Director – Resources, and for promoting it throughout the authority.

A3.4 The Section 151 Officer is responsible for advising the Cabinet on proper insurance cover where appropriate.

Internal Control

A3.5 Internal control refers to the systems of control devised by management to help ensure the authority’s objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority’s assets and interests are safeguarded.

A3.6 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

A3.7 It is the responsibility of Strategic Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

Audit Requirements

A3.8 The Council is required to maintain an adequate and effective internal audit.

A3.9 The Council is required to have external auditors. They are appointed
in accordance with the prevailing legislative requirements.

A3.10 The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

Preventing Fraud and Corruption

A3.11 The Service Director – Assurance, through the Head of Internal Audit and Risk, is responsible for the development and maintenance of an anti-fraud and corruption policy.

Assets

A3.12 Strategic Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

Treasury Management

A3.13 The Council has adopted the requirements of CIPFA’s Code of Practice for Treasury Management in the Public Services 2011 (a revision of the original 2002 code). These requirements are as follows:

A3.14 The Council has adopted the key principles of CIPFA’s Treasury Management in the Public Services: Code of Practice (the Code) 2011, as described in section 4 of that Code.

A3.15 Accordingly, the Council will put in place and maintain, as the cornerstones for effective treasury management:

- a treasury management policy statement, stating the policies and objectives of its treasury management activities
- suitable treasury management practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

A3.16 The Council will receive regular (not less than quarterly) reports on its treasury management policies, practices and activities. Reports will include an annual strategy and plan in advance of the financial year, and an annual report after its close, in the form prescribed in the Council’s TMPs.

A3.17 The Council delegates responsibility for the implementation and monitoring of its TMPs to the Cabinet, and for the execution and administration of treasury management decisions to the Section 151 Officer in accordance with his or her responsibilities under section 151 of the Local Government Act 1972. The Section 151 Officer will act in accordance with the Council’s policy statement and TMPs and CIPFA’s Standard of Professional Practice on Treasury Management.
A3.18 The Section 151 Officer is responsible for submitting a report to the Cabinet, for approval, which proposes a treasury management strategy for the coming financial year.

A3.19 All decisions on borrowing, investment or financing (to the extent that they are not reserved to full Council or the Cabinet) shall be delegated to the Section 151 Officer, who is required to act in accordance with the CIPFA Code of Practice for Treasury Management in Local Authorities.

A3.20 The Section 151 Officer is responsible for reporting to the Cabinet at least quarterly on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

Prudential Code

A3.21 Interlinked with the CIPFA Code of Practice for Treasury Management is the Prudential Code for Capital Finance in Local Authorities; furthermore, the Council is required by regulation to have regard to the said code when carrying out its duties under part 1 of the Local Government Act 2003.

A3.22 The Prudential Code sets out a clear governance procedure for the setting and revising of prudential indicators. This will be done by the full Council.

A3.23 The Section 151 Officer will be responsible for ensuring that all matters required to be taken into account are reported to the full Council for consideration, and for establishing procedures to monitor performance.

A3.24 In setting or revising their prudential indicators, the Council is required to have regard to the following matters:
- affordability, e.g. implications for Council Tax
- prudence and sustainability, e.g. implications for external borrowing
- value for money e.g. option appraisal
- stewardship of assets, e.g. asset management planning
- service objectives, e.g. strategic planning for the authority
- practicality, e.g. achievability of the forward plan.

Pension Fund

A3.25 The Council is the Administering Authority of the Local Government Pension Scheme for Cornwall. The Council exercises this responsibility through the Pensions Committee. The Section 151 Officer is authorised to decide matters relating to Pensions Fund Investments based on delegations agreed by the Pensions Committee. The Pensions Committee is supported by the Pensions Board.

Staffing
A3.26 The full Council, in conjunction with the Head of Paid Service, is responsible for determining how officer support for Cabinet and non-Cabinet roles within the Council will be organised. The Chief Executive is responsible for providing overall management to staff. The Chief Executive is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job. Staffing represents a significant proportion of the Council’s budget. Exercising control over staffing is an overall contributor to financial control.

A3.27 In conjunction with the Head of Paid Service (the Chief Executive) the Strategic Directors are responsible for controlling total staff numbers by:

- advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels and the rationale for those staffing levels
- managing staffing levels within the approved budget
- where necessary, adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs

A3.28 Strategic Directors are also responsible for:

- the proper use of recruitment and selection procedures
- abiding by the Council’s employee related policies including the Equalities Strategy and Equal Opportunities Policy
A4 FINANCIAL SYSTEMS AND PROCEDURES

Introduction

A4.1 Sound systems and procedures are essential to an effective framework of accountability and control.

General

A4.2 The Section 151 Officer is responsible for the operation of the Council’s accounting systems, the form of accounts and the supporting financial records. Any changes made by Strategic Directors to the existing financial systems or the establishment of new systems must be approved by the Section 151 Officer. However, Strategic Directors are responsible for the proper operation of financial processes in their own departments.

A4.3 Any changes to agreed procedures by Strategic Directors to meet their own specific service needs must be agreed with the Section 151 Officer.

A4.4 Corporate Directors should ensure that their staff receive relevant financial training that has been approved by the Section 151 Officer or Service Director – Resources.

A4.5 Strategic Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Strategic Directors must ensure that staff are aware of their responsibilities under data protection and freedom of information legislation.

Income and Expenditure

A4.6 It is the responsibility of Strategic Directors to ensure that a proper Ordering and Payments Authorisation Scheme has been established within their area and is operating effectively in accordance with corporate guidelines determined by the Section 151 Officer, supported by the Service Director – Resources. It will cover not only payments by the Council but also payments to the Council, so covering both income and expenditure. The Ordering and Payments Authorisation Scheme should identify staff authorised to act on the Strategic Director’s behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

Payments to Employees and Members

A4.7 The Service Director – Resources is responsible for all payments of salaries and wages to staff, including payments for overtime, and for payment of allowances to Members.
**Taxation**

A4.8 The Section 151 Officer, supported by the Service Director – Resources, is responsible for advising Strategic Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.

A4.9 The Service Director – Resources is responsible for maintaining the Council’s tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

**Trading Accounts/Business Units**

A4.10 It is the responsibility of the Section 151 Officer, supported by the Service Director – Resources, to advise on the establishment and operation of trading accounts and business units.
**A5  EXTERNAL ARRANGEMENTS**

**Introduction**

A5.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental wellbeing of Cornwall. It does this in variety of ways including by the establishment of formal external arrangements for the delivery of services on behalf of the Council, retaining control over the delivering entity where appropriate.

**Partnerships**

A5.2 The Cabinet is responsible for approving the contractual and governance arrangements for partnerships that it is participating in. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

A5.3 The Cabinet can delegate functions including those relating to partnerships to officers. These are set out in the Scheme of Delegation that forms part of the Council’s Constitution.

A5.4 The Section 151 Officer is responsible for maintaining a register of partnerships recording full details of the parties involved, the purpose of the partnership and accounting arrangements (including identification of the accountable body).

A5.5 Partnerships are expected to have in place appropriate financial controls and where appropriate they will be asked to adopt these Financial Regulations and Procedure Rules or an equivalent version approved by the Section 151 Officer.

A5.6 Ordinarily the Chief Executive represents the Council on partnerships, as required by statute or decision of the appropriate Member body. That role may be discharged in relation to a particular partnership by another officer or Member nominated for that purpose.

A5.7 The Section 151 Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.

A5.8 The Section 151 Officer, supported by the Service Director – Resources, must ensure that the accounting arrangements to be adopted relating to partnerships and joint arrangements are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues in conjunction with the Service Director – Assurance when arranging contracts with partnerships. He or she must ensure that the risks have been fully appraised before agreements are entered into with partnerships.
A5.9 Strategic Directors are responsible for ensuring that appropriate advice on legal, financial and taxation consequences, together with relevant approvals, are obtained before any negotiations are concluded in relation to work with partnerships.

**External Funding (including grants receivable)**

A5.10 The Section 151 Officer, supported by the Service Director – Resources, is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council’s accounts.

**Work for Third Parties**

A5.11 The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies in excess of £250,000.

**Grants and loans paid by the Council**

A5.12 Within the budget determined by Council the Cabinet is responsible for approving any grants or loans that may be made to others. This responsibility can be discharged by authorised officers and individual Portfolio Holders. In addition, small grants may be made by Divisional Members to voluntary and community groups out of specified funds determined by Council.

**Leasing arrangements**

A5.13 The Council enters into a number of leasing arrangements in the transaction of its business, primarily in relation to plant, machinery and equipment as well as those relating to land and buildings. It is essential that there are robust and effective controls in place relating to the establishment, management and monitoring of such arrangements and those controls comprise the Council’s policy relating to the acquisition and disposal of land, these Regulations and Procedure Rules, the democratic decision-making process and the professional advice of relevant officers including the Service Director – Resources, the Service Director – Assurance and the Service Director – Commercial Services.

A5.14 Proper records of all leasing arrangements must be kept with responsibility being shared between the Directors, according to the arrangements entered into in their areas, the Service Director – Commercial Services in relation to leases of real property forming part of the Council’s real estate portfolio and the Service Director – Resources in relation to those details that must be recorded and maintained for financial and accounting purposes.

A5.15 The requirement to secure value for money extends to all leasing arrangements that are entered into and so an appropriate business case is required for each lease arrangement that demonstrates.

**Council owned and controlled entities**
A5.16 The Cabinet is responsible for determining what external but wholly owned and controlled entities should be established to deliver or trade services, subject to the specific statutory controls applicable to the differing types of entity. It is also for the Cabinet to determine the contractual and governance arrangements that are to be put in place for those entities.

A5.17 The Cabinet can award contracts to or require services to be provided by its wholly owned and controlled entities as well as other external bodies subject to compliance with the Contract Procedure Rules and the other controls approved by the Section 151 Officer, supported by the Service Director – Resources and the Service Director – Assurance.

A5.18 These Regulations and Procedure Rules are to be read in conjunction with the guidance approved by the Cabinet or the Service Director – Assurance relating to the governance arrangements for its owned and controlled service delivery vehicles.

A5.19 In relation to wholly owned companies the Council will appoint a shareholder representative to exercise the Council’s decision-making powers in relation to those matters that are reserved to the Council (reserved matters). This will ordinarily be the Chief Executive.

A5.20 In relation to each reserved matters issue to be determined, the shareholder representative is required to seek and have regard to the advice of the Service Director – Resources and the Service Director – Assurance prior to discharging his or her responsibilities in that capacity.

A5.21 The legal status and regulatory rules of some types of external bodies are such that the Council must limit the extent to which it seeks to exercise control over those bodies including through the contractual arrangements that are put in place. In establishing and operating arrangements put in place with such bodies regard must be had to the advice of the Section 151 Officer, supported by the Service Director – Resources, and the Service Director – Assurance. This does not detract from the responsibilities of the Section 151 Officer to promote and monitor the accounting arrangements of such bodies, particularly as they affect or might affect the Council. The bodies referred to in this paragraph include trusts, such as that previously established to deliver leisure services, and the arms-length management organisation charged with managing the Council’s landlord function.

A5.22 The Section 151 Officer is responsible for promoting the adoption of and compliance with appropriate accounting arrangements in external bodies and for monitoring such compliance albeit subject to the responsibilities of the individual entities to manage their financial affairs through their boards, finance director and others with such responsibility. Where appropriate, the Section 151 Officer, supported by the Service Director – Resources, will recommend to external bodies the adoption of a version of these Financial Regulations and Procedure Rules approved by the Section 151 Officer.
A5.23 To the extent that the Section 151 Officer, supported by the Service Director – Resources, has the power to do so he or she must also consider the overall corporate governance and legal arrangements of external bodies in conjunction with the Service Director – Assurance when arranging contracts or other working arrangements with such bodies. He or she must ensure that the risks have been fully appraised before such arrangements are entered into.

A5.24 Strategic Directors are responsible for ensuring that appropriate advice on legal, financial and taxation consequences together with relevant approvals are obtained before any arrangements are concluded in relation to work with partnerships.

A5.25 The Section 151 Officer, supported by the Service Director – Resources, is responsible for ensuring that, where appropriate, external bodies provide such financial information as is necessary for the Council to discharge its financial and accounting responsibilities, including in relation to compliance with funding conditions and the preparation of consolidated accounts.
SECTION B – FINANCIAL PROCEDURES

B1 FINANCIAL MANAGEMENT

GENERAL

B1.1 These financial procedures apply to all parts of the Council. This includes schools, through the approved Delegation Scheme relating specifically to schools which is consistent with these Regulations and Procedures.

B1.2 There are a number of bodies linked to the Council in a variety of ways; some through funding, some through Council ownership and others through management or other contractual arrangements. Such bodies will be required to adopt appropriate financial procedures and where appropriate the Section 151 Officer, supported by the Service Director – Resources, will recommend these Regulations and Procedures or a variation of them. Such entities will, in any event, be required to adopt or already have in place financial control arrangements that have been approved by or agreed with the Section 151 Officer.

B1.3 Where reference is made to Directors, this includes Strategic Directors, Service Directors, heads of trading and other business units, Head Teachers and their respective representatives.

B1.4 Where an individual is acting as an agent or otherwise as a representative of the Council, but is not an employee of the Council, they will be required to adhere to these Regulations and Procedures as if they were an employee.

FINANCIAL MANAGEMENT STANDARDS

Why is this important?

B1.5 All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and controls that are in place to ensure that these standards are met.

Key controls

B1.6 The key controls and control objectives for financial management standards are:
- their promotion throughout the authority
- monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and full Council.
Responsibilities of Section 151 Officer:

B1.7 To ensure the proper administration of the financial affairs of the Council.

B1.8 To set the financial management standards and to monitor compliance with them.

B1.9 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the Council.

B1.10 To advise on the key strategic controls necessary to secure sound financial management.

B1.11 To collate, validate and present to the Council Directors Team and the Cabinet such financial information as is required to ensure the effective management of the Council’s budget within the limits set by the Authority.

B1.12 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

Responsibilities of Corporate Directors:

B1.13 To promote the financial management standards set by the Section 151 Officer in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Section 151 Officer, supported by the Service Director – Resources.

B1.14 To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

MANAGING EXPENDITURE

Budget Virement

Why is this important?

B1.15 The scheme of virement is intended to enable the Cabinet, Strategic Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.

Key controls

B1.16 Key controls for the scheme of virement are:
- it is administered by the Section 151 Officer, supported by the Service Director – Resources, within guidelines set by
the full Council. Any variation from this scheme requires the approval of full Council.

- the overall budget is agreed by the Cabinet and approved by the full Council. Strategic Directors and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line in the approved estimates report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA’s Service Expenditure Analysis.

- Virement does not create additional overall budget liability. Strategic Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of saving or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Strategic Directors must plan to fund such commitments from within their own budgets.

**Process**

B1.17 The procedures for budget virement are:

- For amounts up to £100,000 Service Directors may authorise the transfer of funds between budget heads within their own service.
- For amounts up to £100,000, funds may be transferred between different services within the same Directorate provided that both Service Directors responsible agree.
- For amounts up to £250,000, the Strategic Director responsible for the service may authorise the transfer of funds between different budget heads providing that the overall budget for the Directorate remains the same.
- For amounts up to £250,000, funds may be transferred between different Services or Directorates provided that both of the Strategic Directors responsible agree.
- For amounts over £250,000 and up to £500,000, any transfer may occur provided that the action is agreed with the Section 151 Officer and a joint report is produced by the Strategic Director(s) concerned and the Section 151 Officer which notifies the Cabinet of the transaction.
- For amounts greater than £500,000, prior approval of the Cabinet must be obtained via a joint report by the Strategic Director(s) concerned and the Section 151 Officer.
- For amounts greater than £500,000 AND where the virement prejudices the Policy Framework and represents a considerable change to one or more services, prior approval of full Council must be obtained via a recommendation by the Cabinet.
**Responsibilities of Section 151 Officer**

B1.18 To monitor all virement, determine requests for virement that require his/her approval and to jointly prepare with the appropriate Strategic Director (or Directors) reports on virement that notify to, or seek approval of, the Cabinet.

**Responsibilities of Strategic Directors**

B1.19 A Strategic Director may exercise virement on budgets under his/her control in accordance with the limits and procedures as set out in B1.17 above.

B1.20 Virement that is likely to impact on the level of service activity of another Strategic Director shall only be implemented after consultation with and, where appropriate, agreement with the relevant Strategic Director or where the Cabinet has determined that the virement should proceed notwithstanding the service level impact.

B1.21 No virement relating to a specific financial year shall be made after 31 March in that year.

B1.22 A schools governing body may only transfer budget provision above £50,000 between heads of expenditure within the delegated school budget following notification to the Strategic Director – Children, Families and Adults.

B1.23 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- the amount is used in accordance with the purposes for which it has been established
- the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.

**Treatment of year-end balances (Over and Under Spendings)**

**Why this is important?**

B1.24 The scheme of virement sets out the Council’s treatment of year-end balances. It is administered by the Section 151 Officer within guidelines set by the full Council. Any variation from the scheme of virement set out above requires the approval of the full Council.

B1.25 The rules below cover arrangements for the transfer of resources between accounting years, i.e. carry-forward. For the purpose of this scheme, a budget heading is a line in the estimates report,
or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service Expenditure Analysis.

**Key Controls**

B1.26 Appropriate accounting procedures are in operation to ensure that carried forward totals are correct.

**Responsibilities of Section 151 Officer:**

B1.27 To administer the scheme of year-end balances within the guidelines approved by the full Council.

B1.28 To ensure that the overall position on overspends and underspends are reported, in an appropriate manner, in accordance with policy or best practice.

**Responsibilities of Strategic Directors:**

B1.29 The Council and the Council Directors Team will monitor budgets overall and Directors will not only be responsible for their own budget but will also be jointly responsible for balancing the corporate budget. They should as far as possible ensure that any overspends can be met from underspends in other areas, before they are carried forward into the next financial year. Overspends which cannot be met from underspends in other areas may be carried forward and will then become the first call on service estimates in the following year.

B1.30 Net underspends remaining at the year-end may only be carried forward subject to:

- reporting to the Cabinet the source of underspending or additional income and the proposed application of these resources
- the approval of the Cabinet where the underspend exceeds 5% of the individual budget heading or £100,000 whichever is less.

The assumption will be that underspends on departmental or service budgets will accrue to corporate balances and their future use will be determined during the annual review of reserves.

B1.31 Schools’ balances shall be available for carry-forward to support the expenditure of the school concerned subject to the School Balances Policy as determined under “A Financial Management Scheme for Schools” as approved by the former Secretary of State for Children, Schools and Families or as may be determined under such scheme, guidance or other requirements as may be issued by the relevant Secretary of State from time to time. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the
Cabinet Member concerned, following evaluation by the Strategic Director – Children, Families and Adults and the Section 151 Officer. Schools will normally be expected to agree a plan to recover the deficit within a defined period; however, any such deficit will be treated as a charge against the following year’s budget.

B1.32 In exceptional circumstances, schools may seek to incur expenditure to be financed by anticipating the following year’s budget share. Such arrangements require the prior approval of the Cabinet. Proposals shall be accompanied by a detailed plan setting out how the arrangement is to be accommodated as the first call on the reduced budget share.

(Regulations B1.31 and B1.32 above should be read in conjunction with the Financial Management Scheme for Schools as approved by the former Secretary of State for Education. In the event of any inconsistency between these financial regulations and the Financial Management Scheme, the provisions of the Scheme will prevail to the extent determined by the Section 151 Officer).

Corporate Entities

B1.33 For wholly owned entities, with the exception of registered charities, any surplus or deficit at the end of the financial year will be dealt with in accordance with the principles approved by the Section 151 Officer and/or the Cabinet. In applying those principles regard will be had to the respective strategic and operational needs of the Council and the entities, State Aid and other regulatory issues and such other matters as may be appropriate.

Maintenance and use of Reserves

B1.34 The Council, subject to sections 25-27 of the Local Government Act 2003, must decide the level of general reserves it wishes to maintain. Reserves are maintained at an appropriate level as a matter of prudence and assessment of risk. They enable the Council to plan and operate efficiently, and provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items. The use of reserves is therefore either planned or unplanned as the need arises.

B1.35 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.

B1.36 The Cabinet must approve the use of any reserve by the relevant budget holder, which has not been previously budgeted for and approved.
Responsibilities of Section 151 Officer

B1.37  To advise the Cabinet and/or the full Council on prudent levels of reserves for the Council, as part of the three-year revenue and capital forward budget process, after carrying out a financial risk management assessment, and to take account of the advice of the external auditor in this matter.

B1.38  To report to the Cabinet and/or the full Council on the adequacy of the proposed financial reserves.

B1.39  To report to the Cabinet and/or the full Council where if in relation to the previous financial year it appears that a controlled reserve is or is likely to be inadequate, stating:
- the reasons for that situation, and
- the action, if any, which he/she considers it would be appropriate to take to prevent such a situation arising in relation to the corresponding reserve for the financial year under consideration.

Responsibilities of Strategic Directors

B1.40  To ensure that reserves are used only for the purposes for which they were intended.

ACCOUNTING POLICIES

Why this is important?

B1.41  The Section 151 Officer is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC), for each financial year ending 31 March.

Key Controls

B1.42  The key controls for accounting policies are:
- systems of internal control are in place that ensure that financial transactions are lawful
- suitable accounting policies are selected and applied consistently
- proper accounting records are maintained
- financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.
Responsibilities of Section 151 Officer

B1.43 To select suitable accounting policies and to ensure that they are applied consistently.

B1.44 The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:
- separate accounts for capital and revenue transactions;
- the basis on which debtors and creditors at year end are included in the accounts;
- details on substantial provisions and reserves;
- fixed assets;
- depreciation;
- capital charges;
- work in progress;
- stocks and stores;
- deferred charges;
- accounting for value added tax;
- government grants;
- leasing;
- pensions.

Responsibilities of Strategic Directors:

B1.45 To adhere to the accounting policies and guidelines approved by the Section 151 Officer.

ACCOUNTING RECORDS AND RETURNS

Why is this important?

B1.46 Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year.

B1.47 These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council’s resources.

Key Controls

B1.48 The key controls for accounting records and returns are:
- all Cabinet Members, finance staff and budget managers operate within the required accounting standards and timetables
- all the authority’s transactions, material commitments and
contracts and other essential accounting information are recorded completely, accurately and on a timely basis

- procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- reconciliation procedures are carried out to ensure transactions are correctly recorded.
- prime documents are retained in accordance with legislative and other requirements.

**Responsibilities of Section 151 Officer**

B1.49 To determine the accounting procedures and records for the Council.

B1.50 To arrange for the compilation of all accounts and accounting records under his or her direction.

B1.51 To comply with the following principles when allocating accounting duties:
- separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

B1.52 To make proper arrangements for the audit of the Council’s accounts in accordance with the prevailing statutory requirements. The managerial responsibility for the audit function falls to the Service Director – Assurance.

B1.53 To ensure that all claims for funds including grants are made by the due date.

B1.54 To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable and with the requirement for the Council to approve the statement of accounts before 30 June.

B1.55 To administer the Council’s arrangements for underspends and overspends to be carried forward to the following financial year.

B1.56 To ensure the proper retention of financial documents in accordance with the requirements set out in the Council’s document retention schedule.

**Responsibilities of Strategic Directors**

B1.57 To consult and obtain the approval of the Section 151 Officer before making any changes to accounting records and procedures.
B1.58 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

B1.59 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Section 151 Officer.

Retention of Documents and Records

B1.60 The Council is required by statute to retain documents and records for varying periods of time. The requirements are those as laid down primarily by the Inland Revenue, Customs and Excise and legislation. The table below summarises the class of documents and the period after which they may be destroyed:

<table>
<thead>
<tr>
<th>Class of Documents</th>
<th>Period after which documents may be destroyed</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Salaries and Wages records.</td>
<td>10 years after the end of the financial year to which they relate.</td>
</tr>
<tr>
<td>2. Principal ledger records including cash books, ledgers and journals.</td>
<td>6 years after the end of the financial year to which they relate.</td>
</tr>
<tr>
<td>3. All documentation (e.g. bills, receipts, cash books, journals, cleared cheques, estimates, cost accounts, salary and wage records etc.) in respect of EC Grant funded projects.</td>
<td>For all documentation in respect of EC Grant Funded projects, including salary and wage records, 3 years after the EC makes payment to Her Majesty’s Government of the final audited claim for the programme - in practice this could mean retention in excess of 15 years. Documents should not be destroyed without prior agreement from your accountant.</td>
</tr>
<tr>
<td>4. Bills, receipts and cleared cheques.</td>
<td>6 years after the end of the financial year to which they relate.</td>
</tr>
<tr>
<td>5. Documents other than those of permanent relevance in relation to trust funds and the terms of any trusts administered by the County Council.</td>
<td>6 years after the financial year in which the trust monies are finally spent or the gift in kind was accepted.</td>
</tr>
<tr>
<td>6. Major establishment records including personal files, letters of appointment, contracts references and related correspondence and records of leave.</td>
<td>6 years after the officer leaves the service of the Council or on the date on which the officer would reach the age of 70, whichever is the later. Provided that if an adequate summary of the personal and health record is kept for this period, the main records may be destroyed after the officer leaves the Council.</td>
</tr>
<tr>
<td>Section 12</td>
<td>Page 38</td>
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</tr>
<tr>
<td>7. Pay sheets and records of unpaid salaries and wages.</td>
<td>6 years after the end of the financial year to which they relate.</td>
</tr>
<tr>
<td>8. Estimates including supporting calculations and statistics.</td>
<td>3 years after the financial year to which they relate.</td>
</tr>
<tr>
<td>9. Cost accounts prepared in accordance with the directions of the Secretary of State.</td>
<td>3 years after the financial year to which they relate.</td>
</tr>
<tr>
<td>10. Audit reports.</td>
<td>2 years after formal clearance by the appointed auditor.</td>
</tr>
<tr>
<td>11. Minor accounting records: pass-books, bank statements, deposit slips, cheque counterfoils and cancelled and discharged cheques; petty cash expenditure accounts, travel and subsistence records, minor vouchers, duplicate receipt books etc.</td>
<td>18 months after the end of the financial year to which they relate.</td>
</tr>
<tr>
<td>12. Debtors records.</td>
<td>18 months after the end of the financial year in which they are paid or are written off, but at least 6 years in respect of any unpaid account which has not yet been written off.</td>
</tr>
</tbody>
</table>

**B1.61** The Money Laundering Regulations 2007 require all businesses, including certain areas of work undertaken by the Council, to carry out a “Customer Due Diligence Procedure”. This means that the Council has a statutory duty to identify the client and verify the client’s identity on the basis of documents, data or information obtained from a reliable and independent source. There is also a statutory requirement of record keeping in respect of this procedure as follows:
- Copies of, or references to, the evidence obtained of a customer’s identity for five years after the end of the customer relationship, or five years from the date when the transaction was completed.
- Supporting records relating to a customer relationship or occasional transactions for five years from the date when the transaction was completed in relations to records relating to the transaction and for all other records for five years after the end of the customer relationship.

**B1.62** In relation to customer identification the Council must keep:
- A copy of or details about the identification document presented and verification evidence obtained, or
- Information about where the evidence can be obtained.

This section on money laundering should also be read in conjunction with the Council’s approved Anti Money Laundering Policy and detailed guidance notes.
THE ANNUAL STATEMENT OF ACCOUNTS

Why is this important?

B1.63 The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The full Council has delegated responsibility for approving the statutory annual statement of accounts to the Audit Committee.

Key controls

B1.64 The key controls for the annual statement of accounts are:
- The authority is required to make arrangements for the proper administration of its financial affairs and to ensure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Section 151 Officer.
- The authority’s statement of accounts must be prepared in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the SORP) (CIPFA/LASAAC)

Responsibilities of Section 151 Officer

B1.65 To draw up the timetable for final accounts preparation and to advise members, staff and external auditors accordingly.
- to select suitable accounting policies and to apply them consistently.
- to make judgements and estimates that are reasonable and prudent.
- to comply with the SORP.

B1.66 To sign and date the Statement of Accounts, and the associated Annual Governance Statement, of the Council at the accounting date and its income and expenditure for the year ended 31 March.

B1.67 To publish the statement of accounts in accordance with the statutory timetable together with the annual audit letter/report.

Responsibilities of Strategic Directors

B1.68 To comply with accounting guidance provided by the Section 151 Officer and to supply the Section 151 Officer and Service Director – Resources with information when required.
B2 FINANCIAL PLANNING

PERFORMANCE AND SERVICE PLANS

B2.1 Each local authority has a statutory responsibility to publish various performance plans, as referred to in, inter alia, Article 4 of the Council’s Constitution. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The Council publishes and annually reviews the Council/Corporate Plan which, with other strategic and operational measures, summarises its performance objectives and targets. The Plan and related measures enable the Council to demonstrate its approach to the achievement of best value. The requirement to achieve and demonstrate best value, or value for money, cascades throughout the organisation and the wider control and performance systems that are in place. External audit is required to report on the Council’s objectives, performance, compliance and control framework.

B2.2 A Service Plan provides a clear guide to the overall strategy and the actions of discrete service areas over the coming year. In developing Service Plans, it is essential that service area objectives, targets and performance indicators, reflect the Council’s core values and aims, and the priorities set out in the Sustainable Community Strategy.

Service Plans should be produced annually by each service in accordance with the integrated corporate budget and planning timetable.

Key controls

B2.3 The key controls for performance and service plans are:
• to ensure that all relevant plans are produced and that they are consistent
• to produce plans in accordance with statutory and corporate requirements
• to meet the timetables set
• to ensure that all performance information is accurate, complete and up to date
• to produce improvement and efficiency targets which are meaningful, realistic and challenging

Responsibilities of Section 151 Officer

B2.4 To advise and supply the financial information that needs to be included in performance and service plans in accordance with statutory requirements and agreed timetables.

B2.5 To contribute to the development of corporate and service targets and objectives and performance information.
B2.6 To review the adequacy of systems in place for the collection of accurate information for use as performance indicators.

**Responsibilities of Strategic Directors**

B2.7 To contribute to the development of performance and service plans in line with corporate and statutory requirements.

B2.8 To contribute to the development of corporate and service targets and objectives and performance information.

**BUDGETING**

**Why is this important?**

B2.9 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operation, the operation of cash limits and sets the level at which funds may be reallocated within budget.

**Key controls**

B2.10 The key controls for the budget format are:
- the format complies with all legal requirements
- the format complies with CIPFA’s *Best Value Accounting – Code of Practice*
- the format reflects the accountabilities of service delivery.

**Responsibilities of Section 151 Officer**

B2.11 To advise the Cabinet on the format of the budget that is approved by the full Council.

**Responsibilities of Strategic Directors**

B2.12 To comply with accounting guidance provided by the Section 151 Officer supported by the Service Director – Resources.

**Revenue budget preparation, monitoring and control**

**Why is this important?**

B2.13 The revenues budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (Spending Plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for the Council to budget for a deficit.

B2.14 Budget management ensures that once the budget has been
approved by the full Council, resources are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers for defined elements of the budget.

B2.15 By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

B2.16 For the purposes of budgetary control by managers, a budget will normally be planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Corporate Director’s Ordering and Payments Authorisation Scheme.

Unfunded Budget Pressures Protocol

B2.17 Where unfunded budget pressures have been identified during the year, this Unfunded Budget Pressures Protocol, including the specified actions required, will be used for managing the process, in conjunction with the remainder of these Regulations and Procedures and in particular the provisions as to virements:

(i) unavoidable unfunded budget pressures must be identified by the responsible Service Director or other responsible budget holder at the earliest opportunity. It is expected that this will ordinarily be predicted before the unfunded budget pressure actually results in expenditure not budgeted for;

(ii) the responsible Service Director or other responsible budget holder will identify alternative sources of funding to counter the identified unfunded budget pressure, such as through savings or acceptable service reductions. The appropriate accounting entries will be made in accordance with the requirements of the Section 151 Officer;

(iii) where the Service Director remains unable to balance the budget in relation to the unfunded budget pressure, support will be sought from the other Services within their Directorate. The Service Director will be required to prepare a business case that includes justification as to why other Services should meet the additional budget commitment from their budgets, the proposed means of achieving that, such as through the use of projected under spends, service reductions or other savings in their budgets, and the anticipated impact on service delivery for those Services being asked to contribute;

(iv) where the Directorate is unable to resolve the matter through the realignment of budgets within the Directorate’s
Services, the cost will be met from the Directorate’s Budget Equalisation Reserve (BER);

(v) where it appears or it is suggested that the unfunded budget pressure cannot be met from the BER or otherwise within the Directorate, the Strategic Director will bring the matter to the attention of the Section 151 Officer and Service Director – Resources who will conduct a review of the Directorate’s financial position to confirm that the cost cannot be met within the Directorate or countered by savings that might be made in the Directorate;

(vi) if the outcome of such review is that the Section 151 Officer or Service Director – Resources confirms that the unfunded budget pressure can be met from one or more of the budgets available within the Directorate the Service Director will detail for the Director and the affected Service Directors the proposals for how the unfunded budget pressure can be met and the Director will be expected to give effect to those proposals;

(vii) if the outcome of the review is that the Section 151 Officer or Service Director – Resources confirms that the unfunded budget pressure cannot be met from the BER or other savings in the Directorate, the Strategic Director is required to refer the matter to the Council Directors Team for resolution;

(viii) if the unfunded budget pressure cannot be resolved by the Council Directors Team a report is taken to Cabinet by the responsible Director or at their direction the responsible Service Director to seek approval to use the central contingency reserve to meet the unfunded budget pressure; and

(ix) any dispute under this protocol will be determined by the Council Directors Team or Cabinet, as appropriate, but in either case regard must be had to the advice and requirements of the Section 151 Officer and the advice of the Monitoring Officer.

Key controls

B2.18 The key controls for managing and controlling the revenue budget are:
- budget managers should be responsible only for income and expenditure that they can influence
- there is a nominated budget manager for each cost centre heading
- budget managers follow an approved certification process for all expenditure
- income and expenditure are properly recorded and accounted for
- performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.
Responsibilities of Section 151 Officer

B2.19 To establish an appropriate framework of budgetary management and control that ensures that:
- budget management is exercised within annual cash limits unless the full Council agrees otherwise
- each Strategic Director receives regular timely budget monitoring reports, compiled on an accrual basis, where appropriate, and sufficiently detailed, to enable them and their managers to fulfil their budgetary responsibilities.
- expenditure is committed only against an approved budget head
- all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations (e.g. corporate procurement guidelines, compliance with contracting standing orders etc)
- each cost centre has a single named manager, determined by the relevant Strategic Director. As a general principle, budget responsibilities should be aligned as closely as possible to the decision-making process that commits expenditure.
- significant variances from approved budgets are investigated and reported by managers regularly.
- to report to the Cabinet and/or full Council on:
  - the robustness of these estimates
  - the adequacy of the proposed financial reserves, and
  - the inadequacy of controlled reserves.

B2.20 To administer the authority’s scheme of virement.

B2.21 To submit reports in her capacity as Section 151 Officer to the Cabinet and to the full Council, in consultation with the relevant Strategic Director, where a Strategic Director is unable to balance expenditure and resources within existing approved budgets under his or her control.

B2.22 In consultation with the Strategic Directors and the Managing Directors of Corporate entities to prepare and submit reports on the authority’s projected income and expenditure compared with the budget on a regular basis to the Cabinet, Overview and Scrutiny Committees and full Council as appropriate.

B2.23 To encourage the best use of resources and value for money by working with Directors to identify opportunities to improve economy, efficiency and effectiveness.

Responsibilities of Strategic Directors

B2.24 To maintain budgetary control within their departments and to ensure that all income and expenditure is properly recorded and accounted for.
B2.25 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Strategic Director (as a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure).

B2.26 To ensure that spending remains within the service’s overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast including managing budget pressures as determined under the protocol at B2.17.

B2.27 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and that it is operating effectively.

B2.28 To prepare and submit to the Cabinet, Overview and Scrutiny Committees and full Council, as appropriate, reports on the service’s projected expenditure compared with its budget, in consultation with the Section 151 Officer including unfunded budget pressures, as appropriate, in accordance with the protocol at B2.17.

B2.29 To ensure prior approval by the full Council or Cabinet (as appropriate) for new proposals, of whatever amount that:
  - create financial commitments in future years
  - change existing policies, initiate new policies or cease existing policies
  - materially extend or reduce the authority’s services

B2.30 To ensure compliance with the scheme of virement.

B2.31 To agree with the relevant Strategic Director(s) the appropriate course of action where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or the level of service activity for which they are responsible.

**Budgets and Medium-Term Planning**

**Why is this important?**

B2.32 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighted priorities. The budget is the financial expression of the authority’s plans and policies.

B2.33 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are
needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is unlawful for an authority to budget for a deficit.

B2.34 Medium term planning (or a three to five year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium term plan. This ensures that the authority is always preparing for events in advance.

Key controls

B2.35 The key controls for budgets and medium term planning are

- specific budget approval for all expenditure
- budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept availability within delegations set by the Cabinet for their budgets and the level of service to be delivered
- a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Responsibilities of Section 151 Officer

B2.36 To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

B2.37 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the full Council, and after consultation with the Cabinet and Strategic Directors.

B2.38 To prepare and submit reports to the Cabinet on the aggregate spending plans of Services and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.

B2.39 To advise on the medium term implications of spending decisions.

B2.40 To encourage the best use of resources and value for money by working with Strategic Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
Responsibilities of Section 151 Officer

B2.41 To advise the full Council on Cabinet proposals in accordance with his or her statutory responsibilities.

Responsibilities of Strategic Directors

B2.42 To prepare estimates of income and expenditure, in consultation with the Section 151 Officer, supported by the Service Director – Resources, to be submitted to the Cabinet for recommending to Council and following such other procedures as are required to engage with or seek the views of other committees.

B2.43 To prepare budgets that are consistent with any relevant cash limits, with the authority’s annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Section 151 Officer or Service Director – Resources in accordance with the Full Council’s general directions.

B2.44 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

B2.45 In consultation with the Section 151 Officer, and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Cabinet, Council and such other committees as appropriate.

B2.46 When drawing up draft budget requirements, to have regard to:
   • spending patterns and pressures revealed through the budget monitoring process
   • legal requirements
   • policy requirements as defined by the full Council in the approved policy framework
   • initiatives already under way

B2.47 In consultation with the relevant finance staff to compile and present a report on their Directorate’s financial performance to their Leadership Team at least once per month, with the exception of April if the Section 151 Officer or Service Director – Resources agrees that a risk report may instead be taken

Capital budget preparation, monitoring and control

Why is this important?

B2.48 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create
financial commitments for the future in the form of financing costs and revenue running costs. The procedures that follow should be read in conjunction with the Capital Strategy and Contract Procedure Rules.

B2.49 The Government places strict controls on the financing capacity of the Council through the Prudential Code. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

B2.50 Feasibility Costs: In general, costs incurred in the feasibility stage of a project should always be treated as revenue and charged as an expense when they are incurred. This is due to the fact that feasibility studies tend to cover multiple options and the decision to proceed with a specific project or scheme has not normally been determined at that point in time. Feasibility costs can only be capitalised if they can be reliably measured and specifically identified as part of the expenditure incurred in bringing a particular asset into use, or for sale, and if they are incurred in the same year in which the preferred scheme goes ahead. If a scheme is subsequently aborted then these capitalised costs will need to be written back to revenue, provided that this happens in the same year, or the asset under construction will need to be impaired accordingly in order to write out these previously capitalised costs.

Key controls

B2.51 The key controls for capital programmes are:
- specific approval by the full Council for the programme of capital expenditure
- expenditure on capital schemes is subject to the approval of the Section 151 Officer, supported by the Service Director – Resources
- a scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project, for approval by the Cabinet
- approval by the Cabinet where capital schemes are to be financed from the revenue budget, up to a specified amount, and subject to the approval of the full Council, where the expenditure exceeds this amount
- proposals for improvements and alterations to buildings must be approved by the appropriate Strategic Director
- schedules for individual schemes within the overall budget approved by the full Council must be submitted to the Cabinet for approval (for example, minor works), or under other arrangements approved by the full Council
- the development and implementation of asset management plans
- accountability for each proposal is accepted by a named manager
- monitoring of progress in conjunction with expenditure and comparison with approved budget.

**Responsibilities of Section 151 Officer**

**B2.52** To prepare capital estimates jointly with Strategic Directors and the Head of Paid Service and to report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the full Council. Cabinet Member approval is required where a Strategic Director proposes to bid for or exercise additional borrowing approval not anticipated in the capital programme. This is because the extra borrowing may create future commitments to financing costs.

**B2.53** To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.

**B2.54** To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of “capital” will be determined by the Section 151 Officer or Service Director – Resources, having regard to government regulations and accounting requirements.

**B2.55** To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than 5% or £250,000 whichever is less.

**B2.56** To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.

**B2.57** To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of ‘capital’ will be determined by the Section 151 Officer or Service Director – Resources, having regard to government regulations and accounting requirements.

**B2.58** To monitor the capital programme and make recommendations on corrective action to the Cabinet as appropriate.

**B2.59** To report to the Cabinet and/or the full Council where in the opinion of the Section 151 Officer the prudential indicators for the authorised limit for external debt are likely to be breached; setting out the appropriate action that should be taken.

**Responsibility of Strategic Directors**

**B2.60** To comply with guidance concerning capital schemes and controls issued by the Section 151 Officer or Service Director – Resources.
B2.61 To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Section 151 Officer or Service Director – Resources.

B2.62 To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Section 151 Officer.

B2.63 To ensure that adequate records are maintained for all capital contracts.

B2.64 To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Section 151 Officer or Service Director – Resources where required.

B2.65 To prepare and submit reports, jointly with the Service Director – Resources or Service Director – Commercial Services, as appropriate, to the Cabinet, of any variation in contract costs greater than the approved limits. The Cabinet may meet cost increases of up to 5% by virement from savings elsewhere within their capital programme.

B2.66 To prepare and submit reports, jointly with the Service Director – Resources or Service Director – Commercial Services, to the Cabinet on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.

B2.67 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Section 151 Officer or Service Director – Resources and, if applicable, approval of the scheme through the capital programme.

B2.68 To consult with the Section 151 Officer or Service Director – Resources, as appropriate, and to seek Cabinet approval where the Strategic Director proposed to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year’s capital programme.
B3 RISK MANAGEMENT AND CONTROL OF RESOURCES

RISK MANAGEMENT

Why is this important?

B3.1 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational wellbeing of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

B3.2 It is the overall responsibility of the Audit Committee to approve the authority’s risk management strategy, and to promote a culture of risk management awareness throughout the authority.

Key Controls

B3.3 Key controls include:

The key controls for risk management are:

- procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority
- a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
- managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
- provision is made for losses that might result from the risks that remain
- procedures are in place to investigate claims within required timescales
- acceptable levels of risk are determined and insured against where appropriate
- the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.
Responsibilities of Section 151 Officer

B3.4 To liaise with the Service Director – Assurance, Service Director – Resources and Head of Internal Audit and Risk in preparing and promoting the authority’s risk management policy statement.

B3.5 To develop risk management controls in conjunction with other Strategic Directors.

B3.6 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.

B3.7 To offer insurance cover to schools in accordance with Fair Funding arrangements.

B3.8 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

Responsibilities of Strategic Directors

B3.9 To notify the Service Director – Resources and Head of Internal Audit and Risk immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Service Director – Resources, Head of Internal Audit and Risk or the authority’s insurers.

B3.10 To take responsibility for risk management, having regard to advice from the Service Director – Resources, Head of Internal Audit and Risk and other specialist officers (e.g. crime prevention, fire prevention, health and safety).

B3.11 To ensure that there are regular reviews of risk within their departments.

B3.12 To notify the Service Director – Resources and Head of Internal Audit and Risk promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

B3.13 To consult the Service Director – Resources and the Service Director - Assurance on the terms of any indemnity that the authority is requested to give.

B3.14 To ensure that employees, or anyone covered by the authority’s insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.
INTERNAL CONTROLS

Why is this important?

B3.15 The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.

B3.16 The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

B3.17 The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

B3.18 The system of internal controls is established in order to provide measurable achievement of:

- efficient and effective operations
- reliable financial information and reporting
- compliance with laws and regulations
- risk management.

Key Controls

B3.19 The key controls and control objectives for internal control systems are:

- key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
- managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in the Auditing Practices Board’s auditing guideline Guidance for Internal Auditors, CIPFA’s Code of Practice for Internal Audit in Local Government in the United Kingdom and with any other statutory obligations and regulations.
Responsibilities of Section 151 Officer

B3.20 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

Responsibilities of Strategic Directors

B3.21 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

B3.22 To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Section 151 Officer. Strategic Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective for example, because of duplication.

B3.23 To ensure staff have a clear understanding of the consequences of lack of control.

AUDIT REQUIREMENTS

Internal Audit

Why is this important?

B3.24 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 more specifically impose requirements as to internal audit.

B3.25 Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

Key Controls

B3.26 The key controls for internal audit are:
- that it is independent in its planning and operation
- the Head of Internal Audit and Risk has direct access to the Chairman of Council, the Head of Paid Service and all levels of management
• the internal auditors comply with the Auditing Practices Board’s Guidance for Internal Auditors, as interpreted by CIPFA’s Code of Practice for Internal Audit in Local Government in the United Kingdom.

Responsibilities of Service Director – Assurance in conjunction with Section 151 Officer

B3.27 To ensure that internal auditors have the authority to:
• access authority premises at any time
• access all assets, records, documents, correspondence and control systems
• receive any information and explanation considered necessary concerning any matter under consideration
• require any employee of the authority to account for cash, stores or any other authority asset under his or her control
• access records belonging to third parties, such as contractors, when required
• directly access the Head of Paid Service and the external auditor

Responsibilities of Strategic Directors

B3.28 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents, records and assets that the auditors consider necessary for the purposes of their work.

B3.29 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.

B3.30 To consider and respond promptly to recommendations in audit reports.

B3.31 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

B3.32 To notify the Section 151 Officer, Service Director – Resources, Service Director – Assurance and Head of Internal Audit and Risk immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority’s property or resources. Pending investigation and reporting, the Strategic Director should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

B3.33 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Internal Audit and Risk prior to implementation.
External Audit

Why is this important?

B3.34 The Council is required to appoint external auditors. The external auditors will be given access to all documents and information necessary for the discharge of their audit responsibilities.

B3.35 The external audit requirements are governed principally by the Local Audit and Accountability Act 2014 and related subordinate legislation. The external auditors will, amongst other things, review and report upon:

- the financial aspects of the audited body’s corporate governance arrangements
- the audited body’s financial statements
- aspects of the audited body’s arrangements to manage its performance, including the preparation and publication of specified performance information and compliance with performance standards and other requirements.

The local audit requirements will be complied with in the manner determined by the Section 151 Officer and Head of Internal Audit and Risk.

B3.36 The Council’s accounts are required to be scrutinised by external auditors, who must be satisfied that the statement of accounts ‘presents fairly’ the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

Key Controls

B3.37 External audits will be undertaken in accordance with the prevailing statutory framework and professional standards and, from the Council’s perspective, will be overseen by the Head of Internal Audit and Risk in conjunction with the Section 151 Officer.

Responsibilities of Section 151 Officer

B3.38 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents, records and assets that the external auditors consider necessary for the purposes of their work.

B3.39 To ensure there is effective liaison between external and internal audit.

B3.40 To work with the external auditor and advise the Full Council, committees and Strategic Directors on their responsibilities in
relation to external audit.

B3.41 To put in place and keep up to date effective arrangements to meet the local audit requirements or such other audit requirements as the Council is required to comply with.

Responsibilities of Strategic Directors

B3.42 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents, records and assets which the external auditors consider necessary for the purposes of their work.

B3.43 To ensure that all records and systems are up to date and available for inspection.

PREVENTING FRAUD AND CORRUPTION

Why is this important?

B3.44 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.

B3.45 The authority’s expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

B3.46 The authority also expects that individuals and organisations (e.g. suppliers, contractors and service providers) with which it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

Key Controls

B3.47 The key controls regarding the prevention of financial irregularities are that:

- the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
- all members and staff act with integrity and lead by example
- Strategic Directors are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
- high standards of conduct are promoted amongst Members by the Standards Committee
- the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
- whistle blowing procedures are in place and operate effectively
- legislation including the Public Interest Disclosure Act 1998 is adhered to.
Responsibilities of Section 151 Officer and Service Director – Assurance

B3.48 Responsibilities of the Section 151 Officer and Service Director – Assurance include:
• to develop and maintain an anti-fraud and anti-corruption policy.
• to maintain adequate and effective internal control arrangements.
• to ensure that all suspected irregularities are reported to the Head of Internal Audit and Risk, the Head of Paid Service, the Cabinet and the Audit Committee.

Responsibilities of Strategic Directors

B3.49 Responsibilities of Strategic Directors include:
• to ensure that all suspected irregularities are reported to the Head of Internal Audit and Risk
• to instigate the authority’s disciplinary procedures where the outcome of an audit investigation indicates improper behaviour
• to ensure that where financial impropriety is discovered, the Section 151 Officer and Head of Internal Audit and Risk is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place. This does not prevent the Council from pursuing a prosecution or taking such other action as is considered appropriate, including disciplinary action and seeking recover of any monies due to the Council
• to maintain a register of interests for staff in their Directorate
• To encourage and promote the authority’s Code of Conduct and Confidential Reporting Procedure (“Whistleblowing”).

ASSETS

Security

Why is this important?

B3.50 The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

Key Controls
B3.51 The key controls for the security of resources such as land, buildings, fixed plant, machinery, equipment, software and information are:
- resources are used only for the purposes of the authority and are properly accounted for
- resources are available for use when required
- resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
- an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
- all staff are aware of their responsibilities with regard to safeguarding the authority’s assets and information, including the requirements of the Data Protection Act and software copyright legislation
- all staff are aware of their responsibilities with regard to safeguarding the security of the authority’s computer systems, including maintaining restricted access to the information held on them and compliance with the authority’s computer and internet security policies.

**Responsibilities of Service Director – Resources**

B3.52 To ensure that an asset register is maintained in accordance with good practice for all fixed assets. The function of the asset register is to provide the authority with information about fixed assets so that they are:
- safeguarded
- used efficiently and effectively
- adequately maintained.

B3.53 To receive the information required for accounting, costing and financial records from each Strategic Director

B3.54 To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (CIPFA/LASAAC).

**Responsibilities of Strategic Directors**

B3.55 The appropriate Strategic Director shall maintain a property database in a form approved by the Section 151 Officer or Service Director – Resources for all properties, plant and machinery and moveable assets currently owned or used by the authority. Any use of property or other assets by a Directorate, Service or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.

B3.56 To ensure that lessees, tenants and other prospective occupiers
of Council land are not allowed to take possession or enter the land until a lease, agreement or other appropriate documentation, in a form approved by the Strategic Director in consultation with the Service Director – Resources, the Service Director – Resources and the Service Director – Commercial Services, has been put in place as appropriate.

**B3.57** To ensure the proper security of all buildings and other assets under their control.

**B3.58** Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a report by or on behalf of the Strategic Director in conjunction with the Service Director – Commercial Services and in accordance with the Protocol on Land and Property Transactions.

**B3.59** To pass title deeds to the appropriate Strategic Director who is responsible for custody of all title deeds.

**B3.60** To ensure that no authority asset is subject to personal use by an employee without proper authority.

**B3.61** To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.

**B3.62** To ensure that the Directorate maintains a register of moveable assets in accordance with arrangements defined by the Service Director – Resources.

**B3.63** To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.

**B3.64** To consult the Service Director – Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

**B3.65** To ensure cash holdings on premises are kept to a minimum.

**B3.66** To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Service Director – Resources and the Head of Internal Audit and Risk as soon as possible.

**B3.67** To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Service Director – Resources and Service Director – Commercial Services the Cabinet agrees otherwise.

**B3.68** To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Service Director – Resources.
B3.69 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

**Inventories**

**Responsibilities of Strategic Directors**

B3.70 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery with an individual value of £10,000 and above.

B3.71 To carry out a check at least annually of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.

B3.72 To make sure that property is only used in the course of the authority’s business, unless the Strategic Director concerned has given permission otherwise.

**Stocks and stores**

**Responsibilities of Strategic Directors**

B3.73 To make arrangements for the care, custody and recording of stocks and stores in the Directorate.

B3.74 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

B3.75 To investigate and remove from the authority’s records (i.e. write off) discrepancies as necessary in consultation with the Service Director – Resources, or to obtain Cabinet approval if they are in excess of predetermined cumulative limits in any one financial year as follows:

- up to £20,000 – Director in consultation with the Service Director – Resources
- above £20,000 and up to £50,000 – Director in consultation with the Portfolio Holder and the Service Director – Resources
- above £50,000 – Cabinet.

B3.76 To authorise or write off disposal of redundant stocks and
equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Service Director – Resources, the Cabinet decides otherwise in a particular case.

B3.77 In consultation with the Service Director – Resources to seek Portfolio Holder or Cabinet approval to the write-off of redundant stocks and equipment in excess of predetermined cumulative limits in any one financial year as follows:
- up to £20,000 – Director in consultation with the Service Director – Resources
- above £20,000 and up to £50,000 – Director in consultation with the Portfolio Holder and the Service Director – Resources
- above £50,000 – Cabinet.

B3.78 In accordance with the closure of accounts timetable to forward to the Service Director – Resources a stock certificate certifying quantities of stocks held together with their values as at 31 March.

**Intellectual property**

**Why is this important?**

B3.79 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various pieces of legislation cover different types of intellectual property.

B3.80 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

**Key Controls**

B3.81 In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority’s approved intellectual property procedures.

**Responsibilities of Section 151 Officer**

B3.82 To develop and disseminate good practice through an intellectual property procedure.

**Responsibilities of Strategic Directors**

B3.83 To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of
an employer’s rights with regard to intellectual property.

Asset Disposal

Why is this important?

B3.84 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

Key Controls

B3.85 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

B3.86 Procedures protect staff involved in the disposal from accusations of personal gain.

Responsibilities of Section 151 Officer

B3.87 To issue guidelines representing best practice for disposal of assets.

B3.88 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority’s records and to include the sale proceeds if appropriate.

Responsibilities of Strategic Directors

B3.89 To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.

B3.90 To ensure that income received for the disposal of an asset is properly banked and coded.
TREASURY MANAGEMENT

Treasury Management and Banking

Why is this important?

B3.91 Millions of pounds pass through the local authority’s books each year. The adoption of CIPFA’s Code of Practice for Treasury Management in the Public Services (2011, a revision of the original 2002 Code), the Prudential Code as determined under the Local Government Act 2003 and the Local Authorities (Capital Finance and Accounting) Regulations 2003, as part of Financial Regulations, ensure that there is a strong foundation to facilitate the careful management of the Council’s monies. These aim to provide assurances that the authority’s money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority’s capital sum.

Key Controls

B3.92 That the authority’s borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the authority’s treasury policy statement and that borrowings remain within the authorised limits required by the Prudential Code for Capital Finance, section 3 of the Local Government Act 2003 and such other requirements as may be imposed.

Responsibilities of Section 151 Officer

B3.93 To arrange the borrowing and investments of the authority in such a manner as to comply with the latest CIPFA Code of Practice for Treasury Management in the Public Services the authority’s treasury management policy statement and strategy and Treasury Management Practices.

B3.94 To produce an Annual Treasury Management Strategy incorporating the Annual Investment Strategy and Minimum Revenue Provision Policy to be approved by the full Council before the start of each financial year. To report the Outturn position to full Council and to produce quarterly reports to the Cabinet.

B3.95 To operate bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Head of Business Planning and Development.

B3.96 All bank accounts held by the Council shall be in the name of Cornwall Council.
Responsibilities of Strategic Directors

B3.97 To follow the instructions on banking issued by or on behalf of the Section 151 Officer.

B3.98 To report immediately to the Service Director – Resources any failures to comply with the instructions on banking and any errors or other issues identified whether or not as a result of such failure.

Investments and Borrowing

Responsibilities of Service Director – Resources

B3.99 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the full Council or Cabinet as appropriate.

B3.100 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority’s ownership are held in the custody of the Service Director – Resources or in the case of title deeds such Service Director as the Service Director – Resources and the Service Director – Commercial Services with responsibility for property agree.

B3.101 To effect all borrowings in the name of the authority.

B3.102 To act as the authority’s registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

Responsibilities of Strategic Directors

B3.103 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet, following consultation with the Section 151 Officer or Service Director – Resources.

Trust Funds and Funds Held for Third Parties

Responsibilities of Strategic Directors

B3.104 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Service Director – Resources, unless some other requirement relates to a particular security or deed in which case that requirement shall be complied with, subject to the Service Director – Resources being satisfied as the
appropriateness of the arrangements.

B3.105 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Service Director – Resources and to maintain written records of all transactions.

B3.106 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

Imprest Accounts (and petty cash)

Responsibilities of Section 151 Officer

B3.107 To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.

B3.108 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.

B3.109 To reimburse imprest holders as often as necessary to restore the imprest, but normally not more than monthly.

Responsibilities of Strategic Directors

B3.110 To ensure that employees operating an imprest account:
- obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
- make adequate arrangements for the safe custody of the account
- produce upon demand by the Head of Business Planning and Development cash and all vouchers to the total value of the imprest amount
- record transactions promptly
- reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- provide the Service Director – Resources with a certificate of the value of the account held at 31 March each year
- ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- on leaving the authority’s employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Service Director – Resources for the amount advanced to him or her.
STAFFING

Why is this important?

B3.111 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

Key Controls

B3.112 The key controls for staffing are:

- an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- procedures are in place for forecasting staffing requirements and cost
- controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

Responsibilities of Service Director – Resources

B3.113 To ensure that an appropriate Staffing Structure is maintained that is able to deliver all the services and plans approved by the full Council and that no posts are created or deleted without sign off by the Service Director – Resources and proof that a sufficient ongoing budget exists.

B3.114 To ensure that the authorised Staffing Establishment is accurately maintained on the computerised Personnel System and this in turn automatically maintains the corresponding payroll records.

B3.115 To ensure that only authorised posts can be created or deleted on the Establishment and only authorised personnel can be created or deleted on the Payroll System.

Responsibilities of Service Director – Resources

B3.116 To ensure that robust budget provisions exist for all existing employees and that adequate arrangements exist for monitoring staffing costs against budgets.

B3.117 To act as an advisor to Strategic Directors on areas such as National Insurance and pension contributions, as appropriate.
Responsibilities of Strategic Directors

B3.118 To produce an annual staffing budget as part of the overall annual budget.

B3.119 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on costs and overheads).

B3.120 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.

B3.121 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

B3.122 To ensure that the and the Service Director – Resources is immediately informed if the staffing budget is likely to be materially over or under spent.
B4 FINANCIAL SYSTEMS AND PROCEDURES

GENERAL

Why is this important?

B4.1 Directorates and Services have many systems and procedures relating to the control of the Council’s assets, including purchasing, costing and management systems. The whole Council is increasingly reliant on computers for financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly. ERP contributes to this.

Key controls

B4.2 The key controls for systems and procedures are
- basic data exists to enable the authority’s objectives, targets, budgets and plans to be formulated.
- Performance is communicated to the appropriate managers on an accurate, complete and timely basis
- Early warning is provided of deviations from target, plans and budgets that require management attention
- Operating systems and procedures are secure

B4.3 The Section 151 Officer and Service Director – Resources have professional responsibilities to ensure that the Council’s financial systems are sound and should therefore be notified of any new developments or changes.

Responsibilities of Section 151 Officer:

B4.4 To make arrangements for the proper administration of the Council’s financial affairs, including to:
- to ensure that there is a documented and tested disaster recovery plan (Business Continuity Plan) to allow financial system processing and transactions to resume quickly in the event of an interruption and that the plan is reviewed regularly;
- issue advice, guidance and procedures for officers and others acting on the Council’s behalf;
- determine the accounting systems, form of accounts and supporting financial records;
- establish arrangements for audit of the Council’s financial affairs;
- approve any new financial systems to be introduced;
- approve any changes to be made to existing financial systems;
- ensure the arrangements for the management of funds
secured by way of planning obligation or otherwise are robust and transparent;

- to ensure that a register or registers of bonds or other securities put in place to support the contractual obligations of others, whether under highways agreements, planning obligations, contracts for works or otherwise;
- to maintain an approved list of bondsmen/sureties and to review the financial standing of each bondsman on a regular basis.

**Responsibilities of Strategic Directors:**

**B4.5** Strategic Directors shall comply with such directions as the Section 151 Officer may issue regarding the use and operation of financial information and accounting systems.

**B4.6** To ensure that accounting records are properly maintained and held securely.

**B4.7** To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Section 151 Officer.

**B4.8** To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.

**B4.9** To incorporate appropriate controls to ensure that, where relevant:

- all input is genuine, complete, accurate, timely and not previously processed;
- all processing is carried out in an accurate, complete and timely manner;
- output from the system is complete, accurate and timely.

**B4.10** To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.

**B4.11** To ensure that there is a documented and tested disaster recovery plan (Business Continuity Plan) to allow information system processing to resume quickly in the event of an interruption and that the plan is reviewed regularly.

**B4.12** To ensure that systems are documented and staff trained in operations.

**B4.13** To consult with the Section 151 Officer before changing any existing system or introducing new systems.

**B4.14** To establish an Ordering and Payments Authorisation Scheme identifying officers authorised to act on the Corporate Director’s
behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority. The Ordering and Payments Authorisation Scheme has been embedded in the Council’s Oracle ERP system. This means that officers generally do not need to identify specific individuals to authorise transactions, as the system will identify the appropriate officer. Where officers are acting on behalf of others or are raising transactions in relation to other areas of the Council, then the system allows them to select an appropriate officer.

B4.15 Where transactions originate outside of Oracle, the Ordering and Payments Authorisation Scheme still applies, as all transactions will complete on the system. When an officer needs to raise transactions against a particular cost centre they should reference the dashboard report that has been prepared identifying officers and their Ordering and Payments Authorisation Scheme responsibilities by cost centre and level of delegated authority for approval.

B4.16 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Service Director – Resources, together with any subsequent variations.

B4.17 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.

B4.18 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

B4.19 To ensure that relevant standards and guidelines for computer systems issued corporately or by the Strategic Director are observed.

B4.20 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.

B4.21 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- only software legally acquired and installed by the Council is used on its computers;
- staff are aware of legislative provisions;
- in developing systems, due regard is given to the issue of intellectual property rights.

B4.22 To comply with the Council’s Anti Money Laundering Policy and Guidance.
B4.23 To ensure that there is a documented audit trail recording the receipt and use of monies secured by way of planning obligation or otherwise.

B4.24 To use/accept only those bondsmen that are on the Council’s approved list and to maintain a register of all bonds or other securities in respect of highways agreements, planning obligations, contracts for works or otherwise as are within the responsibility of their Directorate.

INCOME AND EXPENDITURE

Why is this important?

B4.25 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council’s cashflow and also avoids the time and cost of administering debts.

Key controls

B4.26 The key controls for income are:
- all income due to the authority is identified and charged correctly, in accordance with all approved charging policy, which is regularly reviewed
- all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- all money received by an employee on behalf of the authority is paid without delay to the Service Director –Resources or, as he or she directs, to the authority’s bank or National Giro account, and properly recorded. The responsibility for cash collection should be separated from that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received
- effective action is taken to pursue non-payment within defined timescales
- formal approval for debt write-off is obtained
- appropriate write-off action is taken within defined timescales
- appropriate accounting adjustments are made following write-off action
- all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- money collected and deposited is reconciled to the Bank account by a person who is not involved in the collection or banking process

Responsibilities of Section 151 Officer
B4.27 To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.

B4.28 To order and supply to departments all receipt forms, books or similar items and to satisfy himself or herself regarding the arrangements for their control.

B4.29 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.

B4.30 To draft and maintain a “Credit Management Code of Practice” incorporating the write-off limits approved from time to time by the full Council.

B4.31 In accordance with the statutory requirements contained within the Money Laundering Regulations 2007 to:
- produce and keep under review an anti-money laundering and counter terrorist financing policy
- to implement customer due diligence procedures (procedures to verify the customer’s identity before entering into a business relationship or transaction)
- establishing and maintaining appropriate risk-sensitive policies and procedures
- ensuring employees are trained in and implement those procedures and are aware of the law relating to money laundering and terrorist financing
- appointing a nominated or money laundering reporting officer to receive and make suspicious activity reports to the Serious Organised Crime Agency (SOCA)

Responsibilities of Strategic Directors

B4.32 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, following consultation with the Service Director – Resources and in accordance with corporate policies.

B4.33 To separate the responsibility for identifying amounts due, the responsibility for collection and the responsibility for reconciliation of monies received against monies due, as far as is practicable.

B4.34 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.

B4.35 To ensure that no amount due to the Council, once correctly established, shall be discharged otherwise than by payment in full, by the writing off in accordance with limits laid down by the Section 151 Officer or by resolution of the Cabinet.
B4.36 To ensure that all receipt forms, tickets and other documents of a similar nature shall be in a form agreed by the Head of Business Planning and Development. No officer shall, so far as may be practical, give a receipt for money received on behalf of the Council on any form other than an official receipt form.

B4.37 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

B4.38 To hold securely receipts, tickets and other records of income for the appropriate period.

B4.39 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

B4.40 To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips and on other forms as directed by the Service Director – Resources in order to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.

B4.41 All cheques received in payment shall be made payable to Cornwall Council and not to an individual Member, Officer, Director, service unit or other payee.

B4.42 To ensure income is not used to cash personal cheques or other payments

B4.43 To supply the Service Director – Resources with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Service Director – Resources to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do this, Strategic Directors should use established performance management systems to monitor recovery of income and flag up areas of concern to the Service Director – Resources. Strategic Directors have a responsibility to assist the Service Director – Resources in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority’s behalf. Only up to approved levels of cash can be held on the premises.

B4.44 To keep a record of every transfer of the Council’s money or other money for which the Council is responsible, whether cash, cheques or other instruments, between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy of the receipt.
B4.45 To recommend to the Service Director – Resources all debts to be written off and to keep a record of all sums written off up to the approved limit in accordance with the Sundry Debt Policy or Write Off Policy as approved by the Section 151 Officer. Once raised, no bona fide debt may be cancelled except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

B4.46 To obtain the approval of the Service Director – Resources when writing off debts in excess of the approved limit, and the approval of the Cabinet when required in accordance with the Sundry Debt Policy or Write Off Policy as approved by the Section 151 Officer.

B4.47 To notify the Service Director – Resources of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Business Planning and Development and not later than 30 April.

B4.48 Under no circumstances should an amount of cash in excess of £5,000 (five thousand pounds) be received by anyone on behalf of the Council in payment for any goods or services supplied or provided to any customer of the Council unless prior approval has been obtained from the Section 151 Officer or Service Director – Resources or his/her representative. Such acceptance would have serious implications under the legislation governing the criminal activity of money laundering, including the need to register the Council as a High Value Dealer, as defined by the legislation.

Ordering and Paying For Work, Goods and Services

Why is this important?

B4.49 Public money should be spent with demonstrable probity and in accordance with the Council’s policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. Best Value principles should underpin the Council’s approach to procurement and value for money should always be achieved. The Council’s procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council’s Contract Procedure Rules and any separate procedural requirements approved by the Cabinet, Section 151 Officer and Service Director – Assurance, or any of those persons, such as those relating to the Procurement Assurance Scheme and the Oracle ERP System.

General

B4.50 Every officer and Member of the Council has a responsibility to
declare any links or personal interests that they, or any person living with them or any close member of their family, may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with the Employee Code of Conduct or the Members’ Code of Conduct as appropriate.

B4.51 Official orders must be in a form approved by the Service Director – Resources. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Service Director – Resources. The requirements of the Oracle ERP system as approved by the Section 151 Officer and the Ordering and Payments Authorisation Scheme must be complied with.

B4.52 Each order must conform to the guidelines approved by the full Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Service Director – Resources, Service Director – Assurance or Service Director – Commercial Services as appropriate.

B4.53 Apart from petty cash, schools’ own bank accounts and other payments from advance accounts, the normal method of payment from the Council shall be by BACS, cheque or other instrument or approved method, drawn on the Council’s bank account by the Service Director – Resources. The use of Direct Debit, Standing Orders, CHAPS or other means of electronic payment shall require the prior agreement of the Service Director – Resources.

B4.54 Advances for the purpose of defraying certain expenses may be made in accordance with arrangements agreed by the Section 151 Officer or Service Director – Resources. Officers receiving advances shall observe such procedures and maintain such records as laid down by the Section 151 Officer or Service Director – Resources. Maximum limits for cash holdings shall be agreed with the Service Director – Resources and shall not be exceeded without the prior approval of the Service Director – Resources.

B4.55 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts by any Member, officer, employee or other person.

B4.56 Purchasing officers can be issued with a Purchase Card (as provided at paragraph B4.99) with the authority of the relevant Service Director, subject to oversight by the Service Director – Resources. Officers using Purchase Cards are bound by the procedures laid down by the Section 151 Officer or Service Director – Resources. The Council, its staff and Members must
not apply for or be issued with any corporate credit card.

Key Controls

B4.57 The key controls for ordering and paying for work, goods and services are:

- save where specifically excluded by the Section 151 Officer or required by the Contract Procedure Rules, goods and services will be purchased using the Oracle ERP system and in accordance with the requirements of that system as approved by the Section 151 Officer and the Ordering and Payments Authorisation Scheme
- all goods and services are ordered only by appropriate persons and are correctly recorded
- all goods and services shall be ordered in accordance with the Council’s Contract Procedure Rules and associated requirements unless they are purchased from sources within the Council. The Council’s owned and controlled entities are not to be considered to be within the Council for these purposes and the appropriate procedures and safeguards as approved by the Section 151 Officer, Service Director – Commercial Services and the Service Director – Assurance, as appropriate, must be complied with
- goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
- payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
- all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
- all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- all expenditure, including VAT is accurately recorded against the right budget and any exceptions are corrected
- in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically. The proper use of the Oracle ERP system should contribute significantly to this security and integrity.

Responsibilities of Section 151 Officer

B4.58 To ensure that all the Council’s financial systems and procedures are sound and properly administered, including having primary responsibility for the Oracle ERP unless such responsibility is assigned to another officer.

B4.59 To approve any changes to existing financial systems and to
approve any new systems before they are introduced.

B4.60 To approve the form of official orders and associated terms and conditions.

B4.61 Cheques on the Council’s bank accounts shall be ordered by the Service Director – Resources, who shall make arrangements for their safe custody.

B4.62 To make payments from the Council’s funds on the Strategic Director’s authorisation that the expenditure has been duly incurred in accordance with financial procedures.

B4.63 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.

B4.64 To make payments to contractors on the certificate of the appropriate Strategic Director, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

B4.65 To provide advice and encouragement on making payments by the most economical means.

B4.66 To ensure, where appropriate, that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

Responsibilities of Strategic Directors

B4.67 To ensure that official orders, as approved by the Service Director – Resources or Service Director – Commercial Services, as appropriate, are used for all goods and services, other than the following exceptions:
   • for supplies of utilities, periodic payments such as rent or rates;
   • Purchase Card or petty cash purchases
   • such other exceptions as may be specified by the Section 151 Officer or Service Director – Resources from time to time.

B4.68 To ensure that orders are only used for goods and services provided to the Directorate, Service or other business unit. Individuals must not use official orders to obtain goods or services for their private use.

B4.69 To ensure that only those staff authorised by him or her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority, including in accordance with the Ordering and Payments Authorisation Scheme, The authoriser of the order
should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the Council’s approach to procurement and value for money should always be achieved.

B4.70 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different person from the person who authorised the order. When the order has been raised on Oracle, the goods received note should be entered into the system and matched to the purchase order. If a match is achieved, payment of the invoice will be made automatically. Where orders are raised on other systems, goods received notes should be matched and recorded in line with the requirements of that system. If the goods received note does not match the purchase order, payment will not be made automatically and managers will be expected to authorise payment of the invoice only after any discrepancies have been resolved and the amount of the appropriate payment determined. Appropriate entries should then be made in inventories or stores records.

B4.71 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, after confirming:
- receipt of goods or services;
- that the invoice has not previously been paid;
- that expenditure has been properly incurred and is within budget provision;
- that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
- correct accounting treatment of tax (e.g. VAT and Construction Industry Tax);
- that the invoice is correctly coded;
- that discounts have been taken where available;
- that appropriate entries will be made in accounting records.

B4.72 To ensure that at least two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.

B4.73 To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Service Director – Resources.

B4.74 To ensure that payments are not made on a photocopied, e-mailed or faxed invoice, statement or other document other than
the formal invoice. Where in exceptional circumstances this is impossible, the Strategic Director will satisfy themselves that the payment has not already been made and certify the invoice accordingly. Any significant instances of these being rendered should be reported to the Service Director – Resources.

B4.75 To encourage suppliers of goods and services to receive payment by the most economical means for the Council (Guidance on appropriate payment methods is obtainable from Exchequer Services). It is essential, however, that payments made by direct debit have the prior approval of the Service Director – Resources.

B4.76 To ensure that the Directorate obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines issued by the Section 151 Officer or Service Director – Resources, which are in line with best value principles and contained in the Council’s Contract Procedure Rules.

B4.77 To utilise any central purchasing procedures established or approved by the Service Director – Resources, the Service Director – Commercial Services and the Service Director – Assurance in putting purchases, where appropriate, out to competitive quotation or tender. These will reflect and comply with the Contract Procedure Rules, the requirements relating to the Oracle ERP system and the Ordering and Payments Authorisation Scheme and will cover:

- authorised officers and the extent of their authority;
- advertisement for tenders;
- procedure for creating, maintaining and revising a standard list of contractors;
- selection of tenderers;
- compliance with UK and EC legislation and regulations;
- procedures for the submission, receipt, opening and recording of tenders;
- the circumstances where financial or technical evaluation is necessary;
- procedures for negotiation;
- acceptance of tenders;
- the form of contract documentation;
- cancellation clauses in the event of corruption or bribery;
- contract records.

B4.78 To ensure that employees are aware of the provisions of the Employee Code of Conduct adopted by the Council.

B4.79 Strategic Directors shall not enter into any form of credit arrangement (for example hire purchase or finance leasing agreements), other than the Council’s standard payment terms of 28 days, without the prior agreement of the Service Director – Resources. Where prior agreement has been obtained from the
Service Director – Resources to enter into a hire purchase or finance leasing arrangement then a copy of the signed agreement must be sent to him/her and the original stored securely.

B4.80 To notify the Service Director – Resources of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the authority’s accounts closedown timetable determined by the Section 151 Officer or Service Director – Resources.

B4.81 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Service Director – Resources the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of Construction Industry Tax status.

B4.82 To notify the Section 151 Officer and Service Director – Resources immediately of any expenditure to be incurred as a result of statute, court order or other circumstances where there is no budgetary provision and to provide the Section 151 Officer and Service Director – Resources with details of any proposals to fund such expenditure having regard to, inter alia, the Unfunded Budget Pressures Protocol.

B4.83 To ensure that all appropriate ordering and payment records are retained and stored for the defined period, in accordance with the document retention schedule.

B4.84 To ensure prompt processing of purchase invoices within agreed payment terms.

Contracts

B4.85 All contracts made on behalf of the Council shall be subject to the Council’s Contract Procedure Rules and the related codes of practice.

B4.86 The basis of the contract, i.e., whether fixed price or subject to a rise and fall clause, should be established before the tender is invited. The forms of contract used must be agreed with the Service Director – Assurance and, where necessary, the Service Director – Commercial Services.

B4.87 Where appropriate, advice on the financial clauses of contracts should be obtained from the Service Director – Resources before contracts are entered into. The Service Director – Assurance and Service Director – Resources may require that a contract includes a performance bond, or a parent company guarantee, including
in circumstances not envisaged in the Contract Procedure Rules.

B4.88 The process for tender acceptance is set out in the Contract Procedure Rules and includes the following requirements:
- is within an approved budgetary provision whether of a capital or revenue nature;
- has received any necessary Government approvals; and
- if from an external organisation, is the subject of a satisfactory performance bond or parent company guarantee where appropriate.

B4.89 In the event of a delay on the completion of a contract that is attributable to the contractor, the Council’s supervising officer, for the contract, shall give the contractor notice that the Council may claim liquidated damages in respect of such delay, in accordance with the terms of the contract. Such liquidated damages should only be deducted after consultation with the Service Director – Assurance, and upon the instructions of the Cabinet where necessary.

B4.90 Claims received from contractors which are likely to cause the approved expenditure limit for the contract to be exceeded shall be referred to the Service Director – Assurance for consideration of the Council’s legal liability if they are likely to lead to arbitration or other means of dispute resolution, and to the Service Director – Resources for financial consideration before settlement is reached.

B4.91 A subcontractor must not be engaged on a building contract; no matter how small the works are, unless the subcontractor holds a valid Inland Revenue card or certificate.

**Responsibilities of Section 151 Officer**

B4.92 The Section 151 Officer shall examine the systems of control and the monitoring procedures for all types of contract as deemed appropriate to ensure the security and effectiveness of the arrangements.
Responsibilities of Strategic Directors

B4.93 To ensure that only those staff authorised by him or her sign contracts and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. Such authorisations shall only be given in appropriate cases and having regard to, inter alia, the Contract Procedure Rules and the Scheme of Delegation.

B4.94 Where the Council is the contractor and the contract requires that the Council provides Performance Indemnity Insurance the Strategic Director concerned must contact the Insurance Section to arrange for suitable cover.

B4.95 Strategic Directors shall maintain a register of all contracts for their respective Directorates through which the award and performance of each contract is monitored. The contracts register historically kept by the Procurement Service has been superseded by the Oracle ERP contracts module and will be used to capture contract and contract management information. The Legal Service will populate the ERP contracts module with information relating to new contracts that they have been directly involved in concluding. However, the Legal Service will not upload information relating to contracts that they have not been directly involved in concluding. Accordingly, Directors remain ultimately responsible for ensuring that the information in the ERP contracts module is correct and maintained for all contracts for which they are responsible.

B4.96 Where a contract is payable by instalments, the Strategic Director concerned shall prepare and keep statements as to the progress of the contract, claims for payment, payments made, disputed sums and any authorised extras or variations to the contract, updating the ERP contract information as appropriate.

B4.97 The Strategic Director concerned shall be responsible for the compilation of the final account and authorisation of the final payment to the contractor. The final certificate on a contract or accepted estimate shall be issued by the Strategic Director or his/her duly authorised officer in accordance with the contract after the production by the contractor of a detailed final account, together with such vouchers or documents as are necessary. The Service Director – Resources may elect to inspect such documents prior to making the payment under the terms of the contract.

B4.98 Payments to contractors on account for building or construction contracts shall be made only on a certificate issued by the appropriate Strategic Director, which shall show the total amount of the contract, the value of the work executed to date, retention money, the amount paid to date and the amount now certified.
B4.99 In the case of construction and maintenance contracts that are entered into by the Council, but which are supervised and managed by persons other than the Council’s own officers, the arrangements entered into with that person and which should be set out in a formal agreement shall provide that he/she furnish to the Council for inspection by its officers, if requested, all documents and vouchers relating to prime costs, provisional sums, and matters of like nature. Subject to the terms of the contract, the final certificate shall not be issued, nor balance due under such contract paid, until the Strategic Director concerned has examined the accounts, vouchers and relevant documents and has authorised payment.

B4.100 The appropriate Strategic Director shall notify the Service Director – Resources and the Head of Internal Audit and Risk of all contracts for building works for new premises and alterations or extension to existing premises in order that insurance cover may be obtained for buildings in the course of construction.

**Purchase Cards**

B4.101 Purchase Cards will only be issued to staff where approved by the Section 151 Officer after assessment of a business case submitted by or on behalf of the relevant Service Director or Strategic Director explaining why payments cannot be made by any other means or why it is otherwise appropriate for an exception to be made from normal purchasing procedures.

B4.102 Purchase Card Holders must follow the procedures specified by the Section 151 Officer when the Card is issued including:

- not exceeding the single transaction limit
- not exceeding the monthly value limit
- only purchasing the goods and services specified by the Section 151 Officer when the Card was issued
- all vouchers and receipts must be obtained or printed
- full details of expenditure made must be recorded in the way specified by the Section 151 Officer
- not making available to anyone else their Purchase card, any PIN number or passwords attached to the Card
- keeping the card in a secure place when not in use

Further details on the use of Purchase Cards can be found on the intranet or obtained from the Service Director – Resources.

B4.103 All expenditure paid for by Purchase Cards must be supported by printed receipts and reconciled to statements provided by the Purchase Card provider. The reconciliation must be carried out and certified by staff authorised to do so in the Ordering and Payments Authorisation Scheme and be a different person to the Purchase Card holder.
B4.104 Purchase Cards must not be used to withdraw cash except where expressly permitted by the Section 151 Officer.

Payments to Employees and Members

Why is this important?

B4.105 It is important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals’ conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members’ allowances are authorised in accordance with the scheme adopted by the full council.

Key controls

B4.106 The key controls for payments to employees and members are:
- proper authorisation procedures are in place; and
- that there is adherence to corporate timetables in relation to:
  - starters
  - leavers
  - variations
  - enhancements

Responsibilities of Service Director – Resources

B4.107 To satisfy himself or herself that adequate and secure arrangements are made for the reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with agreed procedures, on the due date.

B4.108 To satisfy himself or herself that proper arrangements are made for the accurate and timely payment of tax, superannuation and other deductions.

B4.109 To satisfy himself or herself that proper arrangements are made for payment of all travel and subsistence claims or financial loss allowance.

B4.110 To satisfy himself or herself that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

Responsibilities of Service Director – Resources

B4.111 To satisfy himself or herself that proper arrangements are made for paying allowances to Members and for paying travel or other expenses upon receiving the prescribed form, duly completed and authorised.
Responsibilities of Strategic Directors

B4.112 To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.

B4.113 All time records and other pay documents shall be in a form agreed with the Service Director – Resources and shall be certified by or on behalf of the Strategic Director. Strategic Directors shall maintain an up-to-date list of authorised officers, supported by specimen signatures, and this list shall be made available to the Service Director – Resources or his/her representative, on request, for inspection.

B4.114 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall comply with the procedure notes issued by the Section 151 Officer or Service Director – Resources. In addition, claims shall be in a form agreed with the Service Director – Resources and be made up to a day specified each month and submitted to the Strategic Director concerned (or other appropriate officer agreed by the Service Director – Resources) within seven days after that date.

B4.115 To notify the Service Director – Resources of all appointments, terminations or variations that may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the and Service Director – Resources.

B4.116 To ensure that adequate and effective systems and procedures are operated, so that:
- payments are only authorised to bona fide employees;
- payments are only made where there is a valid entitlement;
- conditions and contracts of employment are correctly applied;
- employees’ names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

B4.117 To send an up-to-date list of the names of officers authorised to sign records to the Service Director – Resources, together with specimen signatures. The payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.

B4.118 To ensure that payroll transactions, including claims for travel, subsistence and other out of pocket expenses, are processed only through the approved payroll system. Strategic Directors should give careful consideration to the actual employment status of individuals treated as employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Service Director – Resources.
B4.119 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Service Director – Resources is informed where appropriate. Strategic Directors shall also be responsible for the checking of the arithmetical accuracy of the claims.

B4.120 To ensure that the Service Director – Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

B4.121 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

**Responsibilities of Members**

B4.122 To submit claims for Members’ travel and subsistence allowances on a monthly basis and, in any event, within one month of the year-end, providing receipts or other proof of expenditure acceptable to the Service Director – Resources. If receipts are not provided payment will not be made. No payment will be made for any item not claimed within three months of the expenditure or travel giving rise to the claim.

**TAXATION**

**Why is this important?**

B4.123 Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

**Key controls**

B4.124 The key controls for taxation are:
- budget managers are provided with relevant information and kept up to date on tax issues
- budget managers are instructed on required record keeping
- all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- records are maintained in accordance with instructions
- returns are made to the appropriate authorities within the stipulated timescale.

**Responsibilities of Service Director – Resources**
B4.125 It is the responsibility of the Service Director – Resources to complete or ensure the completion of all Inland Revenue returns regarding PAYE.

B4.126 It is the responsibility of the Service Director – Resources to complete a monthly return of VAT inputs and outputs to HM Customs and Excise.

B4.127 It is the responsibility of the Service Director - Resources, where appropriate, to provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

B4.128 The Service Director – Resources will maintain up-to-date guidance for Council employees on taxation issues, e.g. VAT and construction industry tax.

**Responsibilities of Strategic Directors**

B4.129 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.

B4.130 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

B4.131 To ensure that all persons employed by the Council are added to the Council’s payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

B4.132 To follow the guidance on taxation issued by the Section 151 Officer or Service Director – Resources in the Council’s VAT manual and to ensure that all relevant staff are aware of such a manual.

**TRADING ACCOUNTS AND BUSINESS UNITS**

B4.133 Trading accounts have become more important as local authorities have developed a more commercial culture. Authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost, such as quoted price or schedule of rates. They are also required to disclose the results of significant trading operations.

**Responsibilities of Service Director – Resources**

B4.134 To advise on the establishment and operation of trading accounts and business units.

**Responsibilities of Strategic Directors**
B4.135 To consult with the Service Director – Resources where a trading account or business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.

B4.136 To observe all statutory requirements in relation to trading accounts and business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged.

B4.137 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

B4.138 To ensure that each trading service or business unit prepares an annual business plan.
B5  EXTERNAL ARRANGEMENTS

PARTNERSHIPS

Why is this important?

B5.1 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the wellbeing of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

B5.2 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

General

B5.3 The main reasons for entering into a partnership are:
   • the ability to access new resources;
   • to provide new and better ways of delivering services;
   • to forge new relationships;
   • the desire to find new ways to share risk.

B5.4 A partner is defined as either:
   • an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project; or
   • a body whose nature or status give it a right or obligation to support the project.

B5.5 Partners participate in projects by:
   • acting as a project deliverer or sponsor, solely or in concert with others;
   • acting as a project funder or part funder;
   • being the beneficiary group of the activity undertaken in a project.

B5.6 Partners have common responsibilities:
   • to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
   • to act in good faith at all times and in the best interests of the partnership’s aims and objectives
   • be open about any conflict of interests that might arise
   • to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
   • to hold confidentially any information received as a result of
partnership activities or duties that is of a confidential or commercially sensitive nature

- to act wherever possible as ambassadors for the project

**Key controls**

**B5.7** The key controls for authority partners are:

- if appropriate, to be aware of their responsibilities under the authority’s financial regulations and the code of practice on tenders and contracts
- to ensure that risk management processes are in place to identify and assess all known risks
- to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

**B5.8** Partnerships are expected to adopt the Council’s Financial Regulations, where appropriate, or an equivalent version approved by the Section 151 Officer.

**Responsibilities of Section 151 Officer**

**B5.9** To advise on effective controls that will ensure that resources are not wasted.

**B5.10** To advise on the key elements of funding a project. They include:

- a scheme appraisal for financial viability in both the current and future years;
- risk appraisal and management;
- resourcing, including taxation issues;
- audit, security and control requirements;
- carry-forward arrangements.

**Responsibilities of Strategic Directors:**

**B5.11** To ensure compliance with any relevant Codes of Practice or Partnership Protocols, in particular, obtaining prior agreement from the Cabinet and the Section 151 Officer or Service Director – Resources where the Council takes on the role of Accountable Body as required under certain grant conditions, and to obtain advice on the legal and taxation consequences before setting up any partnership/joint venture arrangements with outside bodies.

**B5.12** To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Section 151 Officer.
B5.13 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Section 151 Officer.

B5.14 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.

B5.15 To ensure that all agreements and arrangements are properly documented.

B5.16 To provide appropriate information to the Service Director – Resources to enable a note to be entered into the Council’s statement of accounts concerning material items.

EXTERNAL FUNDING (Including Grants Receivable)

Why is this important?

B5.17 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies, such as the National Lottery, governmental and European sources, provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council’s overall plan.

Key controls

B5.18 The key controls for external funding are:
- to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the Council as accountable body are clearly understood.
- to ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council.
- to ensure that any match-funding requirements are given due consideration prior to entering into long term agreements and that future revenue budgets reflect these requirements.

Responsibilities of Section 151 Officer

B5.19 To approve all grant applications and returns prior to submission and to withhold approval where appropriate.
B5.20 To ensure that all funding notified by external bodies is received and properly recorded in the Council’s accounts.

B5.21 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

B5.22 To ensure that audit requirements are met.

B5.23 To ensure that Grant claims are submitted in a timely manner.

B5.24 To ensure that the terms and conditions of any grant offer are complied with.

**Responsibilities of Strategic Directors**

B5.25 To obtain the approval of the Section 151 Officer or Service Director – Resources for all grant applications and returns prior to submission and to address any impediments to the giving of such approval to the satisfaction of the Section 151 Officer or Service Director – Resources.

B5.26 To ensure that all claims for funds are made by the due date.

B5.27 To ensure that the project progresses in accordance with the agreed project plan and that all expenditure is properly incurred and recorded.

B5.28 To ensure that both revenue and capital resources are available for any match-funding requirements together with the revenue consequences of capital schemes.

B5.29 To ensure that the terms and conditions of any grant offer are properly understood and complied with and that full and accurate records are maintained to demonstrate such compliance.

**WORK FOR THIRD PARTIES**

**Why is this important?**

B5.30 Current legislation enables the Council to provide services to other bodies and people beyond those that might be considered as traditional local government services. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that the Council has the legal powers to enter into such arrangements. There are some limitations on the use of the Council’s broad legal powers and advice should be sought from the Service Director - Assurance where appropriate and particularly if there is any doubt.
**Key controls**

**B5.31** The key controls for working with third parties are:
- to ensure that proposals are costed properly in accordance with guidance provided by the Section 151 Officer
- to ensure that contracts are drawn up using guidance provided by or otherwise in accordance with the requirements of the Service Director – Resources, Service Director – Commercial Services or Service Director - Assurance and that the formal approvals process is adhered to
- to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

**Responsibilities of Section 151 Officer**

**B5.32** To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

**Responsibilities of Strategic Directors**

**B5.33** To ensure that approval is obtained before any negotiations are concluded to undertake work for third parties in respect of amounts in excess of £10,000 as follows:

**B5.34** Amounts between £10,000 and £50,000 must be approved by the relevant Portfolio Holder and must be reported to the Cabinet by way of the “Information Pack”. Amounts over £50,000 must have the approval of the Cabinet or the responsible Strategic Director in accordance with the Scheme of Delegation.

**B5.35** To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Service Director – Resources or Service Director – Commercial Services, including complying with the Oracle ERP record keeping requirements referred to in paragraphs B4.92 and B4.93.

**B5.36** To ensure that appropriate insurance arrangements are made.

**B5.37** To ensure that the Council’s risk from any bad debts is minimised.

**B5.38** To ensure that no contract is subsidised by the Council unless as a conscious decision to contribute towards a partnership, voluntary sector or other third party initiative or corporate priority and with the approval of the Service Director – Resources.

**B5.39** To ensure that, wherever possible, payment is received in advance of the delivery of the service.
B5.40 To ensure that the Directorate or service area has the appropriate expertise to undertake the contract.

B5.41 To ensure that such contracts do not impact adversely upon the services provided by the Council.

B5.42 To ensure that all contracts are properly documented.

B5.43 To provide appropriate information to the Service Director - Resources to enable a note to be entered into the statement of accounts.

GRANTS AND LOANS PAID BY THE COUNCIL

Grants

B5.44 Grants are payments made by the Council to other persons or legal entities where there is no transfer of ownership of goods or assets, no rights to use goods or assets, or no supply of any service.

Key Controls

B5.45 The key controls for awarding a grant in order to mitigate against inappropriate use, error, mistake or fraud are:

- State Aid issues are considered and addressed as appropriate at the earliest opportunity
- All grant applications are supported by a written business case that includes details of the purpose for which the grant is sought, the intended recipient, the benefits that will be derived and the groups that should benefit, an adequate risk assessment and such other details as the responsible Director, the Service Director – Resources or the Service Director – Assurance require
- All grants are administered by or under the direction of the Service Director – Resources within any guidelines set by the Section 151 Officer or the Cabinet
- Prior to awarding a grant due diligence measures must be undertaken including a financial assessment of the applicant for the grant, the recipient if different and any other persons or entities connected with the grant application and use, to the extent determined appropriate by the Service Director – Resources
- Each grant must be supported by a written agreement between the Council, the recipient and any other relevant parties, completed prior to the payment of the grant, and specifying as a minimum:
  o the purpose for the grant may be used
  o the payment schedule
  o the claim submission and payment process
  o the form and content of monitoring returns including
supporting evidence and certification sufficient to prove the correct use of the grant
  o the conditions to which the grant is subject including those relating to repayment whether of the whole or a proportionate part of the grant if the agreement is not complied with
  o requirements as to any approvals that are required such as planning permission
  o such insurance or indemnity requirements, if any, as may be considered appropriate by the Service Director – Resources and/or the Head of Internal Audit and Risk
• Budgetary provision has been identified to meet the cost in full prior to committing to the provision of the grant
• Any grant to be used for the purposes of capital expenditure must comply with the financial regulations applying to the Council’s Capital Programme including Prudential spending controls
• The authorisation arrangements have been complied with, including the decision to authorise having been made in accordance with the decision-making procedures determined by the Monitoring Officer.

Approval limits

B5.46 The approval limits for grants are:

<table>
<thead>
<tr>
<th>Value of Grant</th>
<th>Authorisation of Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £10,000</td>
<td>Where no adverse impact on Council Policy or service delivery and can be funded from approved budgets – Service Director</td>
</tr>
<tr>
<td>Above £10,000 and up to £50,000</td>
<td>Where no adverse impact on Council Policy or service delivery – Strategic Director or Portfolio Holder having regard to the advice of the Section 151 Officer and Monitoring Officer</td>
</tr>
<tr>
<td>Above £50,000</td>
<td>Cabinet</td>
</tr>
<tr>
<td>Any value where there is likely to be an adverse impact on Council Policy or service delivery</td>
<td>Cabinet</td>
</tr>
</tbody>
</table>

B5.47 In addition to the above, the Council may make available to each Member of the Council limited funds to be used in their respective electoral divisions. Historically those funds have comprised two separate strands. One is a community chest which is a grant allocation to assist projects run by voluntary and
community groups and the other is a highways capital budget to fund minor highways works in the respective electoral divisions. Each Divisional Member is authorised to make decisions on the allocation of the respective strands of funding but all decisions must be strictly in accordance with the corresponding protocols, procedures or guidance as approved by the Section 151 Officer and/or the Cabinet.

Responsibilities of Service Director – Resources

B5.48 To administer and monitor all grants, including the maintenance of an appropriate register, advise on requests for grant and to input to reports prepared by the appropriate Service Director or Strategic Director(s) to seek approval of grants.

Responsibilities of Strategic Directors

B5.49 To ensure that:

- Appropriate legal, financial and procurement advice is obtained and regard had to it in relation to each grant application, including in relation to State Aid implications
- All grant applications are supported by a written business case satisfying the requirements of these Procedure Rules as set out above
- Due diligence measures have been undertaken including a financial assessment of the recipient or other interested parties as appropriate and otherwise in accordance with the requirements of the Head of Business Planning and Development and these Procedure Rules
- Each grant is supported by a written agreement between the parties specifying as a minimum the matters referred to at paragraph B5.45
- Budgetary provision has been identified to meet the cost in full prior to committing to the provision of the grant
- The financial regulations applying to the Council’s Capital Programme including Prudential spending controls are complied with in respect of grants to be used for capital expenditure
- The correct authorisation procedures have been complied with.

Loans

B5.50 Loans are monies paid to third parties which require repayment, whether with or without interest. The absence of a requirement to pay interest does not detract from an advance of monies being a loan.

B5.51 Loan Schemes may be approved to enable individual loans to be given within the parameters of the Scheme as approved by the appropriate decision maker. This may be appropriate where it is desirable to make available a facility for loans to be provided to
different recipients but for the same or largely similar purposes and the adoption of a Scheme to provide certainty and clarity as to the availability, amounts, terms, conditions and other factors directly related to such loans is beneficial.

Key Controls

B5.52 The key controls for mitigating against inappropriate use, error, mistake or fraud when providing a loan are:

- It is administered by the Service Director – Resources within guidelines set by the Cabinet or determined by the Section 151 Officer
- The requirements of the Council’s Policy of the Making of Loans or Credit Arrangements to Third Parties or any other control measures agreed by the Section 151 Officer are to be complied with
- Appropriate advice is obtained at the earliest possible stage from the Service Director – Resources and the Service Director – Assurance including as to whether there are any State Aid issues
- No loans by the Council to third parties, including to Council-owned entities, shall be made without the prior approval being obtained from the Cabinet or other appropriate decision notice on the advice of the Section 151 Officer and the Monitoring Officer
- Due diligence measures have been undertaken including a financial assessment of the recipient and any premises or other assets proposed as security for the loan to determine that the recipient of the loan will be in, and maintain, a financial position that will enable the repayment of the loan in line with the proposed repayment terms and that should the recipient default in making repayment or other breach of the conditions to which the loan is subject the Council can enforce the security to recover the monies due to it
- Each loan must be supported by a written agreement, usually in the form of an acceptable security between the Council, the recipient and such other parties as the Council requires, such as a guarantor, specifying as a minimum:
  o the purpose for the loan approved by the Council
  o the timing and amounts of repayments including the period of the loan
  o the rate of Interest to be charged, if any
  o the form and content of monitoring returns including supporting evidence and certification sufficient to prove the correct use of the loan
  o the other conditions to which the loan is made including as to the requirement to make repayment in full or in part if the terms of the loan are not complied with
- Full consideration has been given to whether an appropriate guarantee or other form of security, usually a legal charge, on land, property or other assets, whether owned by the
recipient of the loan or some other party, is appropriate

- Where there is to be a legal charge or other security, that the land, property or other assets is sufficient based on a valuation report and that the value of such land, property or other assets is sufficient at the commencement of the loan repayment period and is predicted to remain sufficient to protect the Council’s loan debt, interest and costs during the term of the loan or until earlier repayment

- That any security that the Council takes to protect the monies due to it shall be and shall remain as a first ranking security unless the Service Director – Resources, following consultation with the Service Director – Assurance agrees otherwise

- Loans are paid to recipients in stages where appropriate and subject to the achievement of such milestones as the Service Director – Resources shall agree

- Budgetary provision or uncommitted reserves have been identified to meet the costs in full prior to committing to the making of a loan.

Approval limits

B5.53 The approval limits for grants are:

<table>
<thead>
<tr>
<th>Value of Loan or cumulative value of Scheme</th>
<th>Authorisation of Loan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £1m funded from existing resources</td>
<td>Section 151 Officer</td>
</tr>
<tr>
<td>Over £1m funded from existing resources</td>
<td>Cabinet</td>
</tr>
<tr>
<td>£1m to £5m not funded from existing resources</td>
<td>Cabinet</td>
</tr>
<tr>
<td>Over £5m not funded from existing resources</td>
<td>Cabinet but only after Council has made specific provision in the capital programme/budget.</td>
</tr>
</tbody>
</table>

B5.54 Following the approval of a Scheme by the appropriate decision maker, the approval of loans on an individual basis may be approved in accordance with the above limits as they apply to individual loans provided such approval is in accordance with the approved parameters of the Scheme and the following requirements of these Regulations and Procedure Rules are complied with.
Responsibilities of Section 151 Officer

B5.55 To provide appropriate advice and guidance in relation to the determination of loan proposals including the terms upon which they are made and the due diligence or other checks that are considered by the Section 151 Officer to be appropriate prior to determining and/or completing loan proposals.

B5.56 To monitor the payment and other financial aspects of all loans, including the maintenance of an appropriate register, and to require the appropriate Director(s) or other officer(s) to take such action as the Section 151 Officer in consultation with the Service Director - Assurance considers appropriate to protect the Council’s position and in particular as to enforcing the provisions of loan agreements or securities.

B5.57 To advise on loan proposals being referred for decision by individual Portfolio Holders, Directors or the Cabinet and to contribute, as appropriate, to reports that are prepared for that purpose.

B5.58 To approve the terms of loan agreements and securities in conjunction with the Service Director – Assurance.

Responsibilities of Strategic Directors

B5.59 To ensure that:

- Loans are only made in accordance with these Procedure Rules and following the prior obtaining of all necessary approvals.
- Due diligence measures have been undertaken as required by these Procedure Rules and any additional requirements stipulated by the Section 151 Officer including a financial assessment of the recipient and, where required, the assets over which security may be taken.
- No commitment to provide a loan is made until such time as all requirements of these Procedure Rules have been satisfied to the extent that they are required to be satisfied prior to such commitment.
- No monies are advanced in relation to any loan until such time as the loan agreement, security or other formal arrangements as stipulated by the Section 151 Officer and the relevant decision maker is in place, save that in relation to security over land, property or other assets where registration is required such registration may be completed after the completion of the documentation and payment of the loan to the recipient.
- Loan agreements, securities or other formal arrangements are in accordance with the requirements of these Procedure Rules and such other requirements as the Section 151 Officer and the Service Director – Assurance may have.
• Where security is required it is adequate and is predicted to remain adequate to enable the Council to recover the loan, interest and costs in default or breach of condition
• No particular loan is made unless there is sufficient budgetary provision or uncommitted reserves available in the Directorate’s budget

LEASING ARRANGEMENTS

Why is this important?

B5.60 Contractual arrangements often include a lease arrangement, even if it is not specifically termed as such. Leases of real property (land and buildings) are invariably clearly referred to as such in the documentation relating to them.

B5.61 Leases are required to be classified as either finance or operating leases and require specific accounting arrangements. A finance lease transfers substantially all the risks and rewards of ownership from the lessor to the lessee and gives rise to asset and liability recognition on the lessee’s balance sheet. An operating lease is similar to a rental agreement, which gives rise to an expense recognition by the lessee with the asset remaining on the lessor’s balance sheet.

B5.62 It is important that the accounting implications of all contractual agreements are suitably assessed for all lease and service concession arrangements prior to entering into any contracts.

Key Controls

B5.63 The key controls in relation to lease arrangements are:
• All leases are administered by or under the direction of the Service Director – Assurance, Service Director – Commercial Services and the Service Director - Resources within any guidelines set by them or the Cabinet
• Each lease must be supported by a written agreement between the lessee and lessor and any other relevant parties, detailing the purpose for the lease, the payment schedule and such other requirements as may be relevant to the particular circumstances
• Leases for real property (land and buildings) also comply with the Council’s Code of Practice for Land and Property Transactions
• Insurance or indemnity requirements, if any, as may be considered appropriate by the Service Director – Resources and/or the Head of Internal Audit and Risk are in place
• Budgetary provision has been identified to meet the cost in full prior to committing to the leasing arrangement
• Authority to enter into the lease arrangements must be obtained prior to committing to the arrangements and in accordance with the Council’s adopted decision-making
procedures

Responsibilities of Section 151 Officer

B5.64 To administer and monitor all leases, advise on requests to enter into leasing arrangements and to input to reports prepared by the appropriate Service Director or Strategic Director(s) to seek approval of leases.

B5.65 To ensure that a register of all leases is maintained in addition to the details maintained by the Service Director with responsibility for property or other officers with responsibility for leasing arrangements.

B5.66 To comply with the relevant accounting Codes of Practice relating to such arrangements, including IAS17, IFRIC12, IFRIC4 and IAS40, as appropriate.

B5.67 To ensure that correct accounting arrangements are in place for all lease or service concession arrangements.

Responsibilities of the Strategic Directors

B5.68 To ensure that:
- Appropriate legal, financial and procurement advice is obtained and regard had to it in relation to each lease arrangement
- All lease arrangement are supported by a written business case satisfying the requirements of these Procedure Rules as set out above in accordance with the requirements of the Section 151 Officer and these Procedure Rules
- Each lease must be supported by a written agreement between the lessee and lessor and any other relevant parties, the purpose for the lease and the payment schedule
- Budgetary provision has been identified to meet the cost in full prior to committing to the lease
- The financial regulations applying to the Council’s Capital Programme including Prudential spending controls are complied with in respect of leases as appropriate
- The correct authorisation procedures have been complied with
- All leasing arrangements are notified to the Service Director - Resources with such detail being provided as the Service Director - Resources requires
- That all rent reviews, periodic inspections or other procedural requirements arising under lease arrangements are promptly and effectively addressed, having regard to legal, financial and other professional advice as appropriate, and that the most advantageous outcome for the Council is sought, whether financial or otherwise.

COUNCIL OWNED OR CONTROLLED ENTITIES
Why is this important?

B5.69 The Council, influenced by financial and central policy pressures, has determined that where appropriate financial and other commercial advantages available through the use of alternative business structures should be exploited for the benefit of the Council and those it serves. This is alongside the normal internal service delivery and third party contracting models. The Council recognises that a mix of different service delivery and business models is likely to realise the greatest benefits rather than seeking to exploit a single solution.

B5.70 There are different service delivery models available to the Council including the establishment of companies that benefit from the Teckal exemption, trading companies, arms-length management organisations and the delivery of services by charitable trusts.

B5.71 The delivery of services by local councils is outside of the scope of this section of these Regulations and Procedure Rules and any interaction with local councils will be strictly in accordance with the relevant parts of Constitution, including these Regulations and Procedure Rules and the Contract Procedure Rules, as well as such protocols, policies or procedures as may be approved by the Cabinet or otherwise agreed by the appropriate decision maker.

B5.72 There are various controls and compliance measures that have to be adhered to in relation to the Council’s setting up of and interaction with Council owned and controlled external entities and these Regulations and Procedure Rules must be read in conjunction with such guidance, protocols or other requirements approved by the Cabinet or otherwise agreed by the appropriate decision maker.

Key Controls

B5.73 No such entities are to be established by the Council other than in accordance with the formal decision-making process including the established Gateway process and with the approval of the Cabinet.

B5.74 Where services, goods, works or supplies are to be sought by the Council from any of the owned or controlled entities, appropriate procurement processes will be undertaken according to the nature of the entity with which the Council is engaging and the nature and extent of the services, goods or supplies sought. Such procurement processes shall be in accordance with these Regulations and Procedure Rules, the Contract Procedure Rules and such guidance or requirements as the Council has in place relating to passporting or otherwise placing orders with Council owned or controlled entities.
B5.75 No grants, loans, credit or other form of assistance, financial or otherwise, shall be provided to any owned or controlled entities other than with the prior agreement of the Section 151 Officer and the Service Director – Assurance and, where required or determined by one of these officers, the approval of the Cabinet. Regard must always be had in relation to such proposals to any State Aid implications that might arise as a result of the provision of such benefits.

B5.76 Where the Council owns shares, or in some cases the share, in an external entity a shareholder representative will ordinarily be appointed and that person will usually be the Chief Executive. Currently the power to appoint the shareholder representative rests with the Leader of the Cabinet.

B5.77 The principal responsibility for the financial management of Council owned and controlled entities is of the finance director, board of directors and other staff and officers of the entities. However, given the requirement for the Council to prepare and publish consolidated accounts referencing such entities and the responsibilities of the Section 151 Officer as to proper accounting practices and to protect the Council’s financial position, the Section 151 Officer and/or Service Director – Assurance is authorised to exercise such control as is appropriate and lawful in relation to the proper financial management of such entities. This includes recommending to such entities the embedding of and compliance with appropriate accounting arrangements and the adoption of appropriate Financial Regulations and Procedure Rules.

**Responsibilities of Section 151 Officer**

B5.78 To provide advice on all proposals to establish Council owned or controlled entities in conjunction with the Service Director – Assurance.

B5.79 To provide advice on all financial arrangements between the Council and those entities which the Council owns or controls including in relation to loans, grants and credit arrangements, in conjunction with the Service Director – Assurance where necessary or otherwise appropriate.

B5.80 To ensure that appropriate records relating to owned or controlled entities are maintained with a particular emphasis on financial interests and dependencies.

B5.81 To ensure that appropriate arrangements are in place and complied with in relation to payment of sums due to and collection of sums due from owned or controlled entities.

B5.82 To require Directors or other responsible persons to take such
action as may be considered by the Section 151 Officer to be necessary to remedy any non-compliance with these Regulations and Procedure Rules or the other requirements of the Section 151 Officer.

B5.83 To comply with the requirement to prepare and publish consolidated accounts and to take whatever action is appropriate, involving others such as the Service Director – Assurance, where the information necessary to prepare and publish those accounts is not made available by one or more of the owned or controlled entities or the Section 151 Officer is otherwise prevented from accessing that information.

B5.84 To promote the embedding of and compliance with appropriate accounting practices, including Financial Regulations and Procedure Rules, within owned or controlled entities, to monitor compliance through appropriate operational arrangements and to the extent necessary and to provide guidance and assistance to such entities where it is in the Council’s interests to do so or otherwise appropriate.

B5.85 To ensure that appropriate audits are undertaken of owned and controlled entities to the extent that it is lawful and proper to do so.

**Responsibilities of Strategic Directors**

B5.86 Not to commence the democratic approval process in relation to any proposals to establish a Council owned or controlled entity without first seeking and having regard to the Section 151 Officer and the Service Director – Assurance and such other persons as either of those officers shall determine.

B5.87 To undertake appropriate procurement processes on the advice of the Section 151 Officer, Service Director – Commercial Services and Service Director – Assurance and in compliance with these Regulations and Procedure Rules, the Contract Procedure Rules and such guidance or requirements as the Council has in place relating to passporting or otherwise placing orders with Council owned or controlled entities for the provision of services, goods, works or supplies.

B5.88 To comply with the requirements of the Section 151 Officer in relation to all interaction with owned or controlled entities and not to provide any financial or other benefit to such entities or any of them, such as loans, grants or credit, other than in strict accordance with the requirements of the Section 151 Officer and the Service Director – Assurance.

B5.89 To identify, assess, monitor and take appropriate actions to mitigate or otherwise manage risks, including financial risks to the Council, associated with the setting up of or interaction with
owned or controlled entities for which they are the responsible
Director and to report to the Section 151 Officer any risks that
are identified that may impact on the financial standing of the
Council with details of the proposals to address those risks.

B5.90 To influence, to the extent possible, the business and financial
plans of Council owned or controlled entities to ensure that they
reflect the corporate requirements of the Council and facilitate
the realisation of the Council’s financial and service delivery
aspirations.

B5.91 Not to progress any proposals for the winding up or the disposal
or acquisition of shares in any Council owned or controlled
entities other than in accordance with the requirements of the
Section 151 Officer and the Service Director – Assurance.
Contract Procedure Rules

May 2018
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SECTION 1 – Introduction

Introduction

The Contract Procedure Rules are formal procedures and a legal structure explaining how the Council enters into and manages its contractual arrangements, and form part of the formal Constitution of the Council.

Section 2: Explains the overall purpose and guiding principles of the Contract Procedure Rules.

Section 3: Explains the Rules to be followed throughout the commercial lifecycle.

Section 4: Explains the main roles and responsibilities of those involved in the process, including the consequences for failure to comply with the Contract Procedure Rules.

Sections 5, 6 and 7: Provide more information on supporting documents and also other useful reference points.

The Contract Procedure Rules consist only of these Rules which define what the requirements are.

The accompanying “Procedure Notes” explain how the Rules are to be complied with. These are not a formal part of the Contract Procedure Rules but they must be followed. Regard will be given to them as well as the Rules in considering whether there has been compliance with the Rules.

Reference is made to the UK Public Contracts Regulations 2015 as amended from time to time (the “Regulations”), throughout. Where this reference is made, the Regulations need to be referred to and complied with. The Regulations are not extracted or transposed into these Contract Procedure Rules.

Consequences of not applying due process in how contracts and commercial arrangements are established are significant and as a result compliance with the Contract Procedure Rules is mandatory. Significant and serious failure to do so may result in formal disciplinary action. (Procedure Note 1 – Breach of Contract Procedure Rules).
Breaches and non-compliance

The Contract Procedure Rules are an essential part of the overall Constitution of the Council. Those with responsibility for fulfilling their duties in line with the Contract Procedure Rules are required to maintain ongoing knowledge, associated and relevant training and awareness to ensure compliance with the Rules.

In addition, it will be the responsibility of Responsible / Senior Responsible Officers (including those with line management responsibilities) to address non-compliance swiftly and in the most appropriate way according to the circumstances. Any potential misuse or non-compliance of the Contract Procedure Rules will be reported to the appropriate officer. Non-compliance with the Contract Procedure Rules may result in the Council’s Disciplinary and Capability Procedure being invoked. In respect of wilful, negligent, repeated or other serious breaches this could result in significant sanctions and even dismissal. Other sanctions may be applied, such as charging services for repeat failures or breaches in line with the resource cost to support non-compliant approaches.

Means of reporting concerns can also be raised anonymously in line with the Council’s Whistleblowing Policy – see http://cornwallcouncilintranet.cc.cornwallonline.net/media/13310566/whistleblowing-policy.pdf

The Contract Procedure Rules do not negate the requirement to follow the Council’s formal decision making process, the Scheme of Delegation and specific processes enforced by an individual Directorate or Service.
SECTION 2 – Overall Purpose and Principles

Purpose

1. The purpose of the Contract Procedure Rules is to:

   1.1 Establish formal, robust and clear procedures and legal structure around how the Council enters into and manages its contractual arrangements.
   1.2 Provide appropriate safeguards for all involved in the process.
   1.3 Minimise risks in relation to fraudulent and corrupt activity.
   1.4 Consider and assess other associated risks and liabilities to ensure they are actively managed to minimise the Council’s exposure in contractual arrangements.
   1.5 Support the Council in delivering value for money through the provision of streamlined, best practise procedures and templates ensuring that processes add value and are as time-efficient as possible.
   1.6 Make commercial and operational contractual roles and responsibilities clearer and therefore easier to manage.
   1.7 Support the formal decision-making of the Council as part of the wider Constitution and associated governance framework (e.g. the Financial Regulations and Procedure Rules and the Scheme of Delegation).
   1.8 Ensure the Council complies with all relevant legal requirements, including but not limited to domestic legislation, the European Union (EU) Procurement Directives, UK Public Contracts Regulations 2015 and EU Treaty.
   1.9 Maintain the Council’s good reputation around how it conducts third party contractual arrangements whilst maximising value for money and effectively managing risk.

2. The Contract Procedure Rules shall apply in the following situations:

   2.1 For all commercial activity between the Council and third parties resulting in the requisition of goods, works or services by any Council employee or other persons acting on behalf of the Council (e.g. agency staff or consultants)
   2.2 Contractual management of all third party spend

In relation to Concessions arrangements reference shall be made to Procedure Note 11 Concessions for information on how the Contract Procedure Rules and associated Concessions Contracts Regulations 2016 apply when establishing such arrangements.
3. The Contract Procedure Rules shall **not** apply in the following situations:

3.1 Acquisition, purchase (and / or disposal) of land, existing buildings or immovable property
3.2 Employment contracts (where the Council employs staff directly as an employer, including secondment arrangements where these do not form part of a contract for services)
3.3 Disposal of goods and supplies determined by the Council to be surplus to requirements
3.4 Financial dealings by the Section 151 Officer on behalf of the Council on the money markets (or obtaining of finance for the Council)
3.5 The appointment of Counsel by the Council
3.6 Grant payments from the Council to third parties, although the Investment and Commercial Board (ICB) or its Sub Board will consider all capital grants and any revenue grants to be paid in excess of £250,000
3.7 Loans made by the Council to third parties, but the ICB or its Sub Board will consider any loans granted
3.8 Planning and Highway Agreements (such as Section 106, 278 and 38), but the ICB or its Sub Board will consider any such agreements.
3.9 Where it is clear that the Council need not go through a procurement process on the basis of other Regulatory or Legislative grounds
3.10 Appointment of External Auditors outside of the control of the Council
3.11 Specific licensing requirements such as a TV License or Public Entertainment License
3.12 Subscriptions to National Organisations such as the Local Government Association, County Council Network and all professional subscriptions across the Council where not having membership would detrimentally impact on the Council’s ability to fulfil its purpose
3.13 Procurement of certain Insurances not available on the open market e.g. Marine Insurance
3.14 Where there is re-charge for a service which is provided as part of a partnership agreement with another public sector organisation
3.15 Payment of statutory undertakers obligations and charges during works on certain developments and highways under the New Roads and Street Works Act 1991
3.16 Where there is an agreed and recognised single supplier arrangement, approved by the procurement team, although ICB will still review these arrangements.
4. In cases where the Contract Procedure Rules do not apply, other rules and / or Regulations will likely apply. The Responsible Officer shall seek advice on those relevant other rules and Regulations.

**Principles**

5. The application of the Contract Procedure Rules is mandatory. In applying the Contract Procedure Rules the following principles shall be met:

5.1 Ensure equal treatment and act in a transparent manner, whilst maintaining appropriate confidentiality where required to do so

5.2 Act in a manner which maintains the reputation of the Council and the general interest of the public

5.3 Adopt an approach to the whole commercial lifecycle, from conception / project design, through the sourcing routes to ongoing contract management arrangements, which is proportionate to the complexities, risks and value of the procurement

5.4 Application of the Council's Social Value Policy

5.5 Follow the principles set out in the Contract Management Operating Model

5.6 Proactive and early engagement with service areas and the market

5.7 Declare relationships with Suppliers that could impact objectivity, ensuring compliance with the Employee Code of Conduct

5.8 Comply with all associated legal requirements

5.9 Achieve efficiencies, value for money and effective risk management

5.10 Support the Council's Corporate and Directorate strategies and policies

5.11 Retain relevant and proportional evidence to prove compliance with the Rules, support audit requirements and funding conditions where appropriate

5.12 Ensure appropriate parties are engaged in the procurement and commercial activity including, but not limited to, the Council’s Procurement Team, Health and Safety, Finance and Legal Services.

6. Following the commercial assessment of a business case, when a procurement is required the following principles shall also be applied:

6.1 There is an established and approved need for the purchase in advance of commencing any procurement process.
6.2 That the budget required for the procurement has been allocated and approved in accordance with the Financial Regulations and has followed the correct formal decision-making process. This includes all capital and revenue implications.

6.3 The procurement shall be based on a clearly defined specification that is relevant and proportional to the contract and shall give due regard to the Council’s Specification Guidance.

6.4 The supporting documents published as part of any procurement shall be based on the Council’s agreed templates.

6.5 The procurement and subsequent management of the contract will be clearly linked to the Council’s strategic objectives and meet all relevant legal requirements.

**SECTION 3 – The Rules and accompanying Procedure Notes**

**General Sourcing Strategy**

7. At the outset of any project / programme over £5k total contract value, a commercial assessment shall be undertaken to consider the strategic business case. This shall be proportional to the value and associated risks. It shall consider the make/do or buy decision, sourcing strategy and feasibility options for each individual requirement. Grant payments shall be considered if appropriate and would be covered by the Council’s Financial Regulations rather than the Rules.

8. The make / do or buy decision shall include consideration of existing capabilities and resource available across the Council.

9. If the appropriate decision is to buy rather than make, then the sourcing strategy as detailed in the Rules shall be considered and followed.
Diagram 1.  Sourcing Strategy Flow Chart

Step 1
Is award of the contract subject to specific funding conditions e.g. requires open competition?
Yes → Follow process required by funding conditions.
No

Step 2
Is there a contract or framework agreement in place with exclusivity clauses, locked in volume discount, guaranteed minimum values or block payments?
Yes → Place work within the existing contract or framework agreement in consultation with the Procurement Team.
No

Step 3
Is the contract within an area which one of the Council’s Companies is currently operating in?
Yes → Check if the requirement matches the strategic direction for the Company and that the Company can evidence value for money, competency and capacity. Internal Direct Award intranet page. If appropriate then follow the Internal Direct Award Procedure. If no go to step 4.
No

Step 4
Is the contract in a pre-agreed development area* for one of the Council’s Companies?
Yes → Discuss the requirement with the relevant Company first to consider whether they can deliver the requirement. Internal Direct Award intranet page. If yes then follow the Internal Direct Award Procedure. If no go to Step 5. Consideration must also be given to the individual Company’s structure and any need for shareholder approval.
No

Step 5
A Business Case and options appraisal shall be drafted that considers:
- Council contracts or frameworks
- Wider Public Sector frameworks or contracts
- Undertaking an external procurement process, collaboratively where possible

*Development Area is defined as a pre agreed category or market for expansion of the Company. This would be agreed by the Council Shareholder and have received the relevant approval within the Company’s structure. This consideration shall include a market impact assessment.
10. Depending on the outcome of the sourcing strategy flow chart the following shall be considered:

Circumstances dictated by funding conditions

11. Where the contract is funded by external grant funding (e.g. European Regional Development Funding) and there are requirements on the procurement (e.g. open competition) prior to award, those grant conditions shall be followed.

Use of existing Council contract or framework agreement with “lock in” arrangements

12. Where there is an existing Council contract or framework agreement in place with arrangements such as exclusivity clauses, locked in volume discounts, guaranteed minimum values or block payments, new requirements shall be placed within that existing contract. This shall be discussed with the Procurement Team to consider the materiality of any additional spend placed through an existing contract or framework agreement.

Internal Direct Award to one of the Council’s Companies benefitting from a Teckal exemption

13. If the outcome of the sourcing strategy flow chart is to award to one of the Council’s Companies then there needs to be an assessment of value for money, competency and capacity to deliver in the required timeframe and a willingness to accept the associated liabilities, e.g. Transfer of Undertakings (Protection of Employment) TUPE and pensions, where relevant.

14. Where the requirement is currently being met by an external supplier but the contract reaches a break point or expires then a full business case is required that examines:

14.1 The remaining term of the existing contract and the financial, operational, reputational and other implications of termination.
14.2 The desire of the Incumbent Supplier to compete and deliver the new contract.
14.3 Potential reputational risks and impact on the market of bringing delivery of the contract into the Council via one of its Teckal companies.
14.4 Value for Money, including an assessment of the market.

15. Formal specifications and terms and conditions shall be in place for all awards to the Council’s Companies and there will be contract management arrangements which will include performance
management in line with the approach set out in the Contract Management Toolkit. These shall all be proportional to the SCOT classification of the contract.

16. Where appropriate, “framework agreements” can be established with the Council’s Companies. This will help maximise efficiencies in the Internal Direct Award procedure. The Procurement Team shall be involved in the development of such framework agreements.

17. A proportionate and simple process will apply to contracts with a total value of under £25k.

18. Information on how to conduct an Internal Direct Award Procedure can be found in Procedure Note 2.

19. If under Step 5 of the sourcing strategy flow chart the use of internal contractual arrangements is considered the preferred option then the materiality of any additional spend placed through any existing Contract, Framework Agreement, or DPS and required modification of the contractual documentation shall be considered as it may render the use of a current arrangement inappropriate due to any modification materially changing the contract terms.

20. It is the responsibility of Procurement Team and Legal Services to assess the legality of any external Contract, Framework or DPS.

21. Where an external procurement process is considered the preferred option under Step 5, the Responsible Officer and the Procurement Team will consider all available contractual options.

22. Any new procurement process shall look to incorporate the Council’s own needs but also consider opportunities to collaborate with South West and other public sector partners. Where appropriate it shall enable the Council to generate income from any parties benefiting from the arrangement.

23. In all circumstances any new arrangement shall look to fulfil the needs of the Council as an entire entity, including its Companies and Local Authority Maintained Schools.

**Contract Value Thresholds**

24. When estimating the total contract value the estimate shall be:
24.1 For the whole life term of any anticipated contract
24.2 The total estimated spend and not split down or subdivided to avoid the application of these or any other rules/regulations
24.3 Net of Value Added Tax (VAT)

25. Where the initial contract value estimate is within 10% of the relevant Official Journal of the European Union (OJEU) Threshold, the Procurement Team shall be contacted and a further more detailed calculation shall be conducted in accordance with Regulation 6 of the Regulations.

26. Where an external procurement is required, the procurement approach will be determined based on total contract value as detailed in Table 1 below.
## TABLE 1 – Value Thresholds*

<table>
<thead>
<tr>
<th>Goods, works and Services Total Contract Value</th>
<th>Summary of minimum required actions</th>
<th>Minimum Means of advertising</th>
<th>Terms and Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to £1,000</td>
<td>Obtain a minimum of one written or verbal quote sufficient to ensure value for money</td>
<td>Direct supplier approach</td>
<td>Standard Terms and Conditions</td>
</tr>
<tr>
<td>Over £1,000 but below £25,000</td>
<td>Seek a minimum of three written quotations sufficient to ensure value for money</td>
<td>Quick Quote on the Council’s E-Tender System wherever possible. Otherwise Direct supplier approach</td>
<td>Standard Terms and Conditions where eligible for use *** or if not, Terms and Conditions to be drafted by Legal Services</td>
</tr>
<tr>
<td>£25,000 and over but below relevant OJEU** threshold</td>
<td>Request for Quotation (RFQ) or formal tendering as proportionate to risk</td>
<td>Council’s E-Tendering System &amp; Contracts Finder</td>
<td>Terms and Conditions to be drafted by Legal Services</td>
</tr>
<tr>
<td>Relevant OJEU** threshold and above</td>
<td>Formal tendering in line with the Regulations</td>
<td>Council’s E-Tendering System, OJEU Tenders Electronic Daily (TED) and Contracts Finder</td>
<td>Terms and Conditions to be drafted by Legal Services</td>
</tr>
</tbody>
</table>

* Where the contract is funded externally, for example through European Regional Development Funding, National Lottery or other funding bodies, thresholds for advertising will follow the requirements of the relevant external funding body, where specified.


*** It will be necessary to check the scope of the standard terms and conditions before using them. The standard terms and conditions are not to be used for contracts involving the following: Works, Concessions, Consultancy, Information Technology, Health and Social Care, externally funded projects, staff transfers pursuant to TUPE, any requirement for a change procedure or any high risk / politically sensitive contracts.
Other considerations

27. The commercial approach shall be proportionate to the risks and resources required to fulfil the requirements. The procedures outlined above are considered to be the minimum requirements. Depending on risk a more thorough procedure may be undertaken (e.g. advertising beyond the minimum requirement).

28. Timescales for the submission of quotes / tenders shall be reasonable, sufficient and proportional to enable suppliers to submit a suitable response and facilitate genuine competition as part of the process giving consideration to the Tender Timescales Guidance.

29. Where practical and appropriate to do so, forthcoming tender opportunities shall be made known to the market on the Council’s forward plan of procurement activity. This forward plan shall be made available on the Council’s website.

Application of the Light Touch Regime

30. A list of services to which the Light Touch Regime applies can be found in Schedule 3 of the Regulations.

31. The Council has been given flexibility to define the procurement procedures used to select providers for the delivery of Light Touch Regime Services.

32. Although the use of the flexibility is encouraged by the Cabinet Office the principals of the European Treaty still apply meaning procurement procedures and the award of contracts shall be fair, transparent and non-discriminatory.

33. The Light Touch Regime only applies to contracts over the stated threshold as defined by the European Union OJEU Thresholds (see https://www.ojec.com/thresholds.aspx). Below this value the requirements of Guidance Notes on Procurement Processes above and below £50k will apply as applicable.

34. The application of the Light Touch Regime does not negate the requirement to comply with the Contract Procedure Rules and follow the Council’s formal decision-making processes where required. Further guidance on applying the Light Touch Regime can be found in Guidance Note: Application of the Light Touch Regime.
Pre-Procurement Consultation

35. There shall be proportionate market intelligence / pre-procurement consultation with the market to inform all procurement process, with the appropriate engagement from the Procurement Team and Subject Matter Experts as required in line with the Rules. For further information please refer Guidance Note: Pre-Procurement Consultation.

Consideration of Social Value

36. There shall be proportionate consideration of social value within the Council’s approach to commissioning, procurement and contract management of goods, works or services, and as such the Council’s Social Value Policy and supporting guidance shall be applied. Social Value Policy & Guidance: Social Value Policy and Social Value Toolkit

Involvement of Procurement Team / Subject Matter Experts

37. The engagement threshold for the Procurement team in a proportional manner balanced on risks; key features being:

37.1 No mandated engagement with Procurement Team below £25k as this will primarily be self-service; Above £25k the requirement will follow a triage process to determine support services allocation. This triage will be based on a range of factors and will be further defined in the procedure note ‘Request for Procurement Support Triage’. The factors are expected to include value, risk, complexity, length of contract, savings/improvement opportunity, statutory/regulatory compliance and supply chain depth.

37.2 Where required to engage with the Procurement Team they shall be engaged at the earliest possible opportunity and prior to any commitment being made to external suppliers.

38. The Procurement Team shall ensure that relevant Subject Matter Experts (e.g. service area teams, Legal Services, Finance, etc.) are consulted at appropriate times during the procurement process. Subject matter experts shall be informed of new projects when the Procurement Team first become aware of them. Further reference shall be made to Procedure Note 3 - Commercial Assurance and Authorisation.
**Single Point of Contact during Procurement Processes**

39. In all procurement processes wherever possible there shall be a single point of contact between the Council and suppliers.

40. In procurement processes where the Procurement Team is engaged then they shall be the single point of contact between Candidates / Tenderers and the Council during the procurement process. Any communications received outside of these channels shall be redirected to the Procurement Team.

**Clarifications**

41. Clarifications regarding Procurement documentation which are received from a Candidate / Tenderer are only permitted via the Council’s E-Tendering and Contract Management System.

42. Any response to clarification questions raised by Candidates / Tenderers during the procurement process shall be posted using the Messaging Section of the Council’s E-Tendering and Contract Management System.

43. However, discussions with tenderers after submission of a Tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) shall not be performed. Further advice can be obtained from the Procurement Team.

**Submission, Receipt and Opening of Quotations / Tenders**

44. All quotations and tenders for contracts above £25k shall be received and managed through the Council’s E-Tendering and Contract Management system and opened by the allocated verifier (as defined in the E-Tendering System). This will automatically publish on Contracts Finder.

45. Where the system is not available, or would not be appropriate for a particular project, then a paper based procurement process may be undertaken. Where this is the case this shall be done with prior agreement from the Procurement Team.

46. Where a paper based procurement process is undertaken, responses shall:

46.1 Be kept in a safe and secure manner at all times and not opened until after the date and time specified for opening.

46.2 Only be opened by the Procurement Team in the presence of at least one Independent Witness and a record sheet completed, in
relation to quotations above £25k. Quotations received for contracts with a total value below £25k can be opened by the Responsible Officer in the presence of an Independent Witness.

46.3 Be recorded on the Council template record sheet. The following shall be recorded:
   46.3.1 Date and time of receipt
   46.3.2 Name of Supplier
   46.3.3 How the response was received (post, e-mail)

47. Where a quotation or tender is received after the published date and time the supporting Procedure Note 10 - Late Submissions shall be applied.

**Missing and Omitted Materials in a Quotation or Tender**

48. If there appears to be an error in the information submitted by the Candidate/Tenderer, including missing or omitted material, then Procedure Note 9 - Missing and Omitted Materials from a Quotation or Tender shall be followed.

**Evaluation**

49. All award criteria, including sub-criteria, shall be established at the outset of any process and made clear to potential Candidates / Tenderers in the advertisement.

50. Evaluations and any resulting award decisions shall be made against the award criteria published at the time of advertisement. In exceptional circumstances award criteria and sub-criteria may need to be varied during the procurement process and where this occurs all potential bidders will be notified of the variations prior to the deadline for the submission of Quotations / Tenders. Consideration shall be given to extending the submission deadline as appropriate. Award criteria shall:

   50.1 Clearly disclose how scores are to be awarded to responses
   50.2 Clearly disclose whether and how sub-criteria are to be used
   50.3 Be relevant and proportionate to the subject matter of the contract
   50.4 Be non-discriminatory

51. The award criteria shall be based on the principles of the Most Economically Advantageous Tender (MEAT). Formal award decisions shall be in accordance with the Rules and the Council’s decision-making requirements.
52. Any commercial information such as prices shall not be shared with the evaluation team until the final scores for all other elements have been collated. This is to avoid influencing views towards (or against) any particular candidate / tenderer.

53. For further information on conducting an Evaluation refer to Procedure Note 10 – Evaluation.

**Awarding**

54. No formal steps shall be taken in relation to the award of a contract, framework agreement or DPS unless all formal decision-making requirements have been met.

55. **Above £25k to below OJEU total contract value** - The principles of the Regulations shall be considered and applied as appropriate including:

   55.1 Informing unsuccessful applicant(s) and preferred applicant(s) of the outcomes of the evaluation.
   55.2 Informing the unsuccessful applicant(s) of the relative characteristics of the preferred applicant to their bid.
   55.3 Confirming what the Council will be doing to conclude contractual matters with the preferred tenderer.

56. **OJEU and above** – The Regulations apply and will be complied with.

57. Contract Award Notices shall be published in accordance with the requirements of the Regulations.

**Individual Contract Reports**

58. Individual Contract Reports shall be prepared in accordance with the requirements of the Regulations for each contract over the OJEU threshold.

**Specific to over Official Journal of the European Union (OJEU) Threshold Procurements**

59. The following Procedure Notes shall apply to procurement processes conducted over the OJEU Threshold when circumstances dictate:

   59.1 Procedure Note 5 - Reserved Contracts (to Sheltered Workshops with disabled or disadvantaged employees or programmes for disabled or disadvantaged workers).
   59.2 Procedure Note 6 - Reservations for Voluntary, Community and Social Enterprise (VCSE) Organisations and Staff Mutuals.
59.3 Procedure Note 7 - Discretionary Exclusions (of potential suppliers / contractors).

**Governance**

60. The Investment and Commercial Board (ICB) shall ensure that the Council only engages in schemes / expenditure that:

60.1 align with the Council’s strategy and business plan priorities
60.2 are based on sound commercial principles and evidence based decision making.

61. The ICB shall consider a project at the following stages:

   Stage 1: Strategic Outline Case – To scrutinise, challenge and endorse the detailed options appraisal for new capital schemes and revenue expenditure including any potential bids for external revenue or capital funding.

   Stage 2: Outline Business Case – To scrutinise, challenge and endorse the Business Case for new capital schemes and revenue expenditure prior to advertisement of any formal tender process

   Stage 3: Process and Award Stage – To review the commercial process at the award stage and endorse the award decision. The Business Case will be finalised at this stage

   Stage 4: Benefits Realisation / In Life Contract Delivery Review – To review the performance of the contract, use of extension options and significant variations and to consider lessons learned

62. There may be circumstances where, in agreement with the ICB or its Sub Board, Stages 1 and 2 are considered at the same meeting.

63. All capital schemes (any capital expenditure over £10,000) shall be endorsed by the ICB at Stages 1 and 2 for onward recommendation, in line with the Council’s Constitution, to the Cabinet (or other executive decision maker). Where the capital programme requires amendment, onward recommendation will be to Full Council.

64. The Capital Oversight Group is responsible for the monitoring and oversight function of projects within the Capital Programme.

65. Once considered by the ICB, Capital schemes will be subject to the same commercial assurance as all revenue expenditure following the thresholds defined below in Table 2.

66. All decisions shall be made in accordance with the Scheme of Delegation and shall follow the appropriate formal decision-making procedures.
### TABLE 2 – Commercial Assurance and Authorisation Process

<table>
<thead>
<tr>
<th>Goods, Works and Services Total Contract Value</th>
<th>Summary of minimum required Commercial Assurance and Authorisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below £50,000</td>
<td>The Service area with the requirement will be responsible for taking a proportional approach to justification of the spend and holding of supporting documentation for audit and reporting purposes.</td>
</tr>
<tr>
<td>£50,000 – below £250,000</td>
<td>Accelerated Commercial Assurance and Authorisation Procedure with commercial endorsement by the appointed Senior Responsible Officer within the Service and the Procurement Team as outlined in [Procedure Note 3 - Commercial Assurance and Authorisation].</td>
</tr>
<tr>
<td>£250,000 – below £500,000</td>
<td>Full Commercial Assurance and Authorisation Procedure with commercial endorsement by the Investment and Commercial Sub-Board</td>
</tr>
<tr>
<td>£500,000 and over</td>
<td>Full Commercial Assurance and Authorisation Procedure with commercial endorsement by the Investment and Commercial Board as outlined in [Procedure Note 3 - Commercial Assurance and Authorisation].</td>
</tr>
</tbody>
</table>

67. The full procedure is outlined in [Procedure Note 3 - Commercial Assurance and Authorisation.]

68. Payments (and registering of the Contract) shall be made in line with the Council’s Guidance on Requisitions.

### Contract Signature

69. Formalising contracts and execution (signing or sealing) shall be completed as follows in TABLE 3:

### TABLE 3 – Contract signature and sealing summary

<table>
<thead>
<tr>
<th>Total Value</th>
<th>Method of Completion</th>
<th>By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below £25,000</td>
<td>Purchase Order or standard terms</td>
<td>The person authorised under the Scheme of Delegation or with the appropriate ERP responsibilities approved at a Service level</td>
</tr>
<tr>
<td>Above £25,000 - below £1million</td>
<td>Signature</td>
<td>The person authorised under the Scheme of Delegation or with the appropriate ERP responsibilities approved at a Service level</td>
</tr>
<tr>
<td>£1million and above (or where 71 applies)</td>
<td>Sealing</td>
<td>Service Director – Assurance and Monitoring Officer or delegated nominee</td>
</tr>
</tbody>
</table>
70. **Sealing**: The Council’s seal shall be witnessed by the Service Director – Assurance and Monitoring Officer or delegated nominee. Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal shall not be affixed without the authority of the Cabinet or other appropriate decision-maker in accordance with the Council’s formal decision making requirements including the Scheme of Delegation and the Cabinet Procedure Rules.

71. A contract shall be sealed where:

71.1 the Council may wish to enforce the contract more than six years after its end; or
71.2 the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
71.3 the Total Value exceeds £1,000,000; or
71.4 in any other circumstances where it is considered appropriate to do so in consultation with Legal Services

**Terms and Conditions**

72. There shall be written terms and conditions in place for all contractual arrangements. Wherever possible and appropriate to do so, contracts shall be based on the Council’s Terms and Conditions, prepared by Legal Services, related to the subject matter of the contract.

73. Where this is not the case then suitable justification shall be made for audit purposes. Justification may include (but is not limited to) procuring from (“calling off”) other parties’ framework agreements pursuant to which the terms and conditions of that framework agreement will be applicable. In such cases consideration of the implications of those terms and conditions is required prior to purchasing from the framework agreement and advice from Legal Services shall be obtained.

74. Any proposed deviation from the Council’s Terms and Conditions shall be flagged to the Governance and Development Team in the Procurement Team for consideration prior to commencing the procurement process.

**Contract and Supplier Relationship Management**

75. Contracts for goods or services with a total contract value over £5,000 shall be managed in accordance with the Contract Management Operating Model and supporting Toolkit.

76. Operational management of contracts is to be maintained within the Service areas; professional advice to be provided by the Contract and Supplier Relationship Management Team available for managers of Strategic and Critical contracts. The
77. Contracts will be managed in proportion to risk and value based on the SCOT matrix which can be found in the Contract Management Toolkit. The Procurement Team shall work with the Responsible Officer to identify the contract categorisation. This will be done at the pre-procurement stage so that Contract management resources and roles and responsibilities can be identified at the earliest stage before commercial activity begins; and will be reviewed at the stage of contract award by the Contract and Supplier Relationship Management Team.

78. Every contract outlined in Rule 2 (including those awarded as a result of an Exemption or Internal Direct Award) shall be recorded on the Council’s Contracts system. Ensuring the contract is recorded is the responsibility of the Responsible Officer and may be completed by the Procurement Team if the contract is agreed through the triage process as requiring central support. The Contracts system is maintained by the Procurement Team.

79. During the life of all contracts the appropriate Strategic or Service Director shall ensure that the Council’s approved processes for contract management are adhered to. This is as set out in the Contract Management Operating Model and supporting Toolkit.

**Modifications to Contracts / Framework Agreements**

80. Particular attention shall be given to modifications of contracts or framework agreements including variations, extensions and novations. Where a modification to the contract or framework is not expressly provided for in the initial procurement documents and the contract or framework agreement, the involvement of both Commercial and Legal Services is required to assess the commercial and legal implications of any such modification. Commercial and Legal Services shall consult with subject matter experts as required. All modifications shall be in writing and in accordance with the terms of the relevant contract or framework agreement.

**Exemptions**

81. Exemptions to the Rules and Procedure Notes are only by exception and for arrangements above £10k require formal authorisation.

82. Exemptions shall be completed in advance of committing spend. Where this is not the case this shall be considered to be an Internal Process Failure. Regardless of timing, the Exemption Form must be completed on every occasion.
83. The Procurement Team shall be engaged prior to the development of any Exemption to ensure that there is consideration given to the appropriateness of an Exemption.

84. Specific exclusions under the Regulations may be applicable to contracts and framework Agreements above OJEU Threshold subject to the specific conditions set out in the Regulations being satisfied. The involvement of both Commercial and Legal Services is required before a decision to rely on any such exclusion is made.

85. Sign off of an Exemption does not forgo the requirement to ensure a formal contract is put in place with proportionate contract management or the obtaining of any formal decision to award the contract.

86. Any Exemption granted over the OJEU Threshold approves only the anticipated non-compliance with the Council’s Contract Procedure Rules and does not mitigate the risks associated with non-compliance with the UK Public Contract Regulations or the EU Procurement Directive as applicable.

87. Exemptions shall be in line with the supporting Procedure Note 4 - Exemptions.

Prevention of Corruption

88. The Council’s Anti-Fraud and Corruption Policy shall be observed at all times when conducting a procurement process and subsequently in the management of the contract which is awarded.
SECTION 4 - Roles and Responsibilities

General

89. In carrying out their duties Officers shall ensure:

89.1 Their actions comply with the Contract Procedure Rules.
89.2 Value for money considerations are taken into account.
89.3 Suitable records are maintained for audit, accountability and reporting purposes in line with the document retention policy, Regulations and any external funding arrangements.
89.4 Relevant and proportional due diligence and assurance is undertaken and, where required, advice sought in a timely manner.
89.5 They have provided an up to date Declaration of Interest form in accordance with the Employee Code of Conduct.
89.6 They have complied with the Scheme of Delegation and the Council’s formal decision-making requirements.

Specific

90. Specific responsibilities can be found in TABLE 4 below:

TABLE 4 – Specific responsibilities

<table>
<thead>
<tr>
<th>Position</th>
<th>Specific Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Officer</td>
<td>• Quoting, tendering or contract renewals shall be appropriately planned to ensure the Contract Procedure Rules are applied.</td>
</tr>
<tr>
<td></td>
<td>• Seeking additional advice where the Rules do not apply.</td>
</tr>
<tr>
<td></td>
<td>• Ensuring there is a genuine and legitimate business requirement for the spend and an approved budget.</td>
</tr>
<tr>
<td></td>
<td>• Ensuring that the appropriate approvals have been received in respect to committing spend.</td>
</tr>
<tr>
<td></td>
<td>• Drafting a fit for purpose specification for each procurement.</td>
</tr>
<tr>
<td></td>
<td>• Supporting the definition of an appropriate sourcing strategy for each contract.</td>
</tr>
<tr>
<td></td>
<td>• Providing justification for any deviation from the approved sourcing strategy.</td>
</tr>
<tr>
<td></td>
<td>• Accurately estimating the total contract value at the start of each procurement.</td>
</tr>
<tr>
<td></td>
<td>• Conducting self service procurement following the triage process.</td>
</tr>
<tr>
<td></td>
<td>• Understanding and fulfilling their role in the Exemptions process – see Procedure Note - Exemptions</td>
</tr>
<tr>
<td></td>
<td>• Meeting the requirements of the Contract Management Toolkit</td>
</tr>
<tr>
<td></td>
<td>• Engaging with the Procurement Team as required.</td>
</tr>
<tr>
<td></td>
<td>• Being the budget holder, or acting with the authority of</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Role</th>
<th>Responsibilities</th>
</tr>
</thead>
</table>
| **Senior Responsible Officer – Head of Service/Service Director / Strategic Director** | - Ensuring their staff comply with the rules  
   - Following supporting guidance in their role as a signatory for Exemptions  
   - Approval of the commercial business case, sourcing strategy and contract management arrangements subject to compliance with the corresponding assurance requirements under the Rules  
   - Ensuring that contract award decisions are made in accordance with the Council’s decision-making requirements, including the Cabinet Procedure Rules and the Scheme of Delegation. |
| **Monitoring Officer**                         | - Applying the requirements of the Monitoring Officer role diligently in the overarching governance of the Contract Procedure Rules. |
| **Section 151 Officer**                       | - Applying the requirements of Section 151 Officer responsibilities diligently in the overarching governance of the Contract Procedure Rules.  
   - Effective monitoring of key parts of the Contract Procedure Rules, for example considering the Exemptions process and also determination of acceptance or otherwise of late tenders.  
   - Effective monitoring of key parts of the Contract Procedure Rules including:  
     - Exemptions process  
     - Consideration of Discretionary Exclusions  
     - Determination of acceptance or otherwise of late tenders with documented rationale for decision made |
| **Procurement Team**                          | - Assessing the commercial considerations at the design stage, drafting of the Sourcing Strategy for each procurement and putting the contract management arrangements in place in accordance with the contract management framework.  
   - Exploring options for using pre-existing Public Sector compliant contractual arrangements.  
   - Exploring options for collaboration with other contracting authorities where appropriate  
   - Overall management and co-ordination of all procurement processes for Strategic / Critical Contracts including overall probity around the submission and supporting documents in the process  
   - Proportional engagement to ensure the compliance of all procurement processes over £25,000 with the EU Procurement Directive and the Regulations, and monitoring and intervention as appropriate below £25,000. |
| **Head of Procurement**                       | - Overall ownership of the Contract Procedure Rules and ensuring that the overall framework for commercial considerations is complied with robustly and effectively.  
   - Ensuring compliance with the Council’s overarching decision-making responsibilities and providing related guidance |
| **Contract and Supplier Relationship Management Team** | - oversight over all revenue contracts following award  
   - Setting Contract Management Standards for the Council and providing associated support and guidance  
   - Providing professional advice to the managers of Strategic and Critical Contracts |
• Collating and validating reports on Contract Management across the Council for Senior Managers and Members
• Provide intensive support where contracts are nearing failure
• Professionalisation of Contract Management across the Council

**Investment and Commercial Board (ICB) (and Sub Board)**

• Oversee, act as a corporate gateway and, where relevant, recommend to Cabinet/Council and all relevant decision-makers all future capital investment.
• Provide Commercial Assurance on all expenditure over £250k as defined in Table 2.
• This includes consideration of Internal Direct Awards to any of the Companies which are owned/controlled by the Council.
• To consider loans and grants to be paid to third parties.

**Elected Members**

• Where they have specific responsibilities in the procedural aspects, comply with the Contract Procedure Rules and follow supporting guidance.
• Ensuring compliance with the Members’ Code of Conduct, including in relation to any interests they may have.
• Make such decisions as are referred to them for determination in relation to the Rules.

**Chief Audit Executive**

• Providing assurance to Service management and Members on compliance with these Contract Procedure Rules and investigating any suspected cases of fraud and irregularity.

### SECTION 5 - Procedure Notes

#### Strategic

The following Procedure Notes are considered to be strategic and generally apply in application of the Contract Procedure Rules and therefore need to be considered in all situations:

- **Procedure Note 1** Breach of Contract Procedure Rules
- **Procedure Note 2** Internal Direct Award
- **Procedure Note 3** Commercial Assurance and Authorisation
- **Procedure Note** Contract and Supplier Relationship Management
- **Procedure Note** Request for Procurement Support Triage

#### Operational

The following Procedure Notes apply in specific operational situations or circumstances and would need to be applied if / when such situations arise:
• Procedure Note 4    Exemptions
• Procedure Note 5    Reserved Contracts (Sheltered Workshops)
• Procedure Note 6    Reserved Contracts (VCSE – Light Touch)
• Procedure Note 7    Discretionary Exclusion
• Procedure Note 8    Late Quotation / Tender Submissions
• Procedure Note 9    Missing and Omitted Materials from a Tender
• Procedure Note 10   Evaluation
• Procedure Note 11   Concessions

SECTION 6 – Associated Policy and / or Guidance

• Social Value Policy (and supporting guidance)
• Specifications
• Application of the Light Touch Regime
• Tender Timescales
• Storage and retention
• Pre-Market Engagement and Consultation
• Procurement process
• Assurance Considerations
• Contract Management Operating Model and Supporting Toolkit
• Requisitions

SECTION 7 - Supporting Documents / Useful References

Related documents
Due regard shall be given to the following related Council documents:
• Anti-Fraud, Bribery and Corruption Policy
• Acquisition and Disposal Policy
• Code of Practice for Land and Property Transactions
• Storage and Retention Guidance
• Disciplinary Policy
• Whistle Blowing Policy
• Safeguarding Policy
- Health, Safety and Wellbeing Policies
- Small Business Friendly Concordat
- Constitution, including but not limited to;

Articles on Contract and Legal Matters, Officers, and Decision Making, the Scheme of Delegation, Finance Regulations and Procedure Rules, Budget and Policy Framework Procedure Rules, Officer Employment Procedure Rules, Member and Employee Code of Conduct, Urgency Procedure for Non-Executive Decisions)

https://democracy.cornwall.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12848

In addition the key external documents include:
Public Contracts Regulations 2015
EU Public Procurement Directive 2014
Additional guidance from the Cabinet Office
https://www.gov.uk/transposing-eu-procurement-directives
Concession Contracts Regulations 2016

**Defined Terms**

**Breach:** Where there has been failure to comply with an aspect of the Contract Procedure Rules.

**Commercial Assurance and Authorisation:** Means the assurance and authorisation around the appropriately qualified and procured Supplier and commercial terms of contract relevant and proportional to the subject matter of the goods, works and / or services. The award of all contracts must follow the Council's decision making processes as appropriate to the value/risk associated with the contract.

**Constitution (and associated governance framework):** Meaning the overarching formal Constitution of the Council and the associated documents that govern how the Council shall operate, and as can be found here: https://democracy.cornwall.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12848&path=0

**Contracts Finder:** Means the Governments portal for Contracting Authorities (as defined under the Public Contract Regulations 2015) for advertising tender opportunities about contracts worth over £10,000 with the government and its agencies. It enables suppliers / interested parties to:
- search for contract opportunities in different sectors
- find out what’s coming up in the future
- look up details of previous tenders and contracts
https://www.gov.uk/contracts-finder
Concession Arrangements: Meaning where the provision and the management of services or the execution of works is entrusted to one or more economic operators, the consideration of which consists either solely in the right to exploit the services or works that are the subject of the contract or in that right together with payment. Reference also to be made in relation to the Concessions Contracts Regulations 2016.

Discretionary Exclusion: As defined within the Public Contracts Regulations (also see reference to Procedure Note 7 Discretionary Exclusions.

Grants: For the purpose of this document Grants shall mean a payment to help the recipient (e.g. charity). In return, the grant funder (e.g. the Council) gets no services delivered directly. A grant is usually provided subject to conditions that state how the grant shall be used (for example to support the wider objectives of the public body in promoting the social, economic or environmental well-being of their area). Grant funding is usually preceded by a call for proposals. The grant offer letter will normally set out general instructions as to how this is to be achieved, for example, that children need to be kept entertained by taking them on excursions and have sporting activities.

Internal Direct Award Procedure: Means the Council’s own process for determining whether to direct award to one or other of the Council’s own Teckal companies, also referenced as the Council’s Companies.

Independent Witness: An employed individual Officer of the Council with no association, conflict of interest or involvement in relation to the tender or contract for which they are sought to act as a witness.

Internal Process Failure: Where expenditure has been committed in advance of an Exemption being issued.

Investment and Commercial Board (ICB): The Board and its associated Sub Board that ensures that the Council only engages in schemes/project/expenditure that aligns with the Council’s strategy and business plan priorities and which are based on sound commercial principles and evidence based decision making.

Light Regime: As defined within the Public Contracts Regulations.

The Official Journal of the European Union (OJEU): Is the official gazette of record for the European Union. It is published every working day in all of the official languages of the member states.

Procurement Team: Means the Council’s own Procurement Team within the Commercial Service of Customer and Support Services.

Responsible Officer: In general means the Officer within the Council who is the budget holder and who has direct responsibilities from an operational / client perspective for the goods, works and services.

Requisition Authority: Means assurance around the spend being against genuine and legitimate business needs, with sufficient budget to fulfil any resulting commitment.

Reserved Contracts: As defined within the Public Contracts Regulations (also see reference to Procedure Notes 5&6 - Reserved Contracts for Sheltered Workshops, VCSE Organisations and Staff Mutuals.

Strategic / Critical / Operational / Transactional (SCOT): As defined in the Contract and Supplier Relationship Management Toolkit.

Senior Responsible Officer: Means Strategic Director, Service Director or Head of Service.

Subject Matter Experts: Subject Matter Experts will be the associated Council teams or appointed representative acting on behalf of the Council required to give consideration to risks and mitigations relevant to their area of expertise, as part of the overall assurance and due diligence related to the procurement and commercial matters. Relevant functional areas of the Council may include, as appropriate: legal, HR, finance, health and safety, ICT, asset management and others as defined and required in light to the nature of the procurement itself.

Contract and Supplier Relationship Management Team: Means the Council’s own Contract and Supplier Relationship Management Team within the Commercial Service of Customer and Support Services.
**Tenders Electronic Daily (TED):** Is the 'Supplement to the Official Journal of the EU, dedicated to European public procurement and associated notices and gives access to the OJEU archives for the past 5 years.

**The Regulations:** Means the Public Contracts Regulations 2015 (or Public Utilities Regulations where applicable to the subject matter).

**The Rules / Contract Procedure Rules:** Shall mean the Contract Procedure Rules themselves (encompassing the supporting Procedure Notes)
Code of Conduct for Members
Code of Conduct for Members

General principles of public life

The Localism Act 2011 requires the Council to adopt a Code of Conduct for Members that is consistent with the following principles:

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

Honesty and integrity – Members should not place themselves in situations where their honesty and integrity may be questioned. The public nature of a Member’s role means the distinction between acting in your official capacity and your private life may become blurred and a Member’s honesty and integrity may therefore be questioned.

As a result, a Member must ensure that, as far as possible, there is clear separation between what they do in their private life and in their capacity as a Member. This is especially the case when a Member’s activity in their private life relates to the functions of the Council and/or their corporate responsibilities as a Member such that a reasonable member of the public may perceive that the conduct comes within the scope of this Code of Conduct.

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

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

Openness – Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Leadership – Members should promote and support these principles by leadership and, by example, and should act in a way that secures or preserves public confidence.

Cornwall Council also expects its Members to observe the following principles:

Duty to uphold the law – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Personal judgement – Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
**Respect for others** – Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority’s statutory officers and its other employees.

**Stewardship** – Members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Whilst these overriding principles are not formally part of the Code of Conduct they underpin the purpose and provisions of the Code of Conduct and are principles in accordance with which Members should conduct themselves.
Introduction and Interpretation

1. This Code of Conduct has been adopted by Cornwall Council to support its duty to promote and maintain high standards of conduct by Members of the Council as required by the Localism Act 2011. The Standards Committee assumes ownership of the Code on behalf of the Council and also monitors the operation of the Code in conjunction with the Monitoring Officer.

2. In this Code:
   **“disclosable pecuniary interest”** means an interest described in Part 5A of this Code and which is an interest of a Member or an interest of (i) that Member’s spouse or civil partner; (ii) a person with whom that Member is living as husband or wife; or (iii) a person with whom that Member is living as if they were civil partners, and that Member is aware that that other person has the interest

   **“dispensation”** means a dispensation granted by the Standards Committee of the Council or other appropriate person or body which relieves a Member from one or more of the restrictions set out in sub-paragraphs 3(5)(i), 3(5)(ii) and 3(5)(iii) of Part 3 of this Code to the extent specified in the dispensation

   **“interest”** means any disclosable pecuniary interest or any disclosable non-registerable interest where the context permits

   **“meeting”** means any meeting of the Council, the Cabinet and any of the Council’s or the Cabinet’s committees, sub-committees, joint committees, joint sub-committees, area committees or working groups

   **“Member”** includes an Elected Member and a Co-opted Member

   **“non-registerable interest”** means an interest as defined in Part 5B of this Code

   **“register”** means the register of disclosable pecuniary interests maintained by the Monitoring Officer of the Council

   **“sensitive interest”** means an interest that a Member has (whether or not a disclosable pecuniary interest) in relation to which the Member and the Monitoring Officer consider that disclosure of the details of that interest could lead to the Member, or a person connected with the Member, being subject to violence or intimidation

   **“trade union”** means a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992

3. This Code is arranged as follows:
Part 1 – Application of the Code of Conduct

1.1 This Code applies to you as a Member of the Council.

1.2 This Code should be read together with the preceding general principles of public life.

1.3 It is your responsibility to comply with the provisions of this Code.

1.4 Subject to paragraphs 1.5 and 1.6 of this Code, you must comply with this Code whenever you:
   (a) conduct the business of the Council, which in this Code includes the business of the office to which you have been elected or appointed; or
   (b) act, hold yourself out as acting or conduct yourself in such a way that a third party could reasonably conclude that you are acting as a representative of the Council and references to your official capacity are construed accordingly.

1.5 Where you act as a representative of the Council:
   (a) on another authority which has a Code of Conduct, you must, when acting for that other authority, comply with that other authority’s Code of Conduct; or
   (b) on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any lawful obligations to which that other body may be subject.

1.6 Where you are also a member of an authority other than the Council you must make sure that you comply with the relevant Code of Conduct depending on which role you are acting in. Your conduct may be subject to more than one Code of Conduct depending on the circumstances. Advice can be sought from the Monitoring Officer or one of his team.

Part 2 – General obligations

2.1 You must treat others with respect.

2.2 You must not treat others in a way that amounts to or which may reasonably be construed as unlawfully discriminating against them.

2.3 You must not bully any person.
2.4 You must not intimidate or attempt to intimidate others.

2.5 You must not conduct yourself in a manner which is contrary to the Council’s duty to promote and maintain high standards of conduct by Members.

2.6 You must not accept any gifts or hospitality that could be seen by the public as likely to influence your judgement in relation to any matter that you deal with in your official capacity. There is no requirement to register or declare any gifts or hospitality which have been offered or received.

2.7 You must not do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the Council.

2.8 You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
   (i) you have the consent of a person authorised to give it;
   (ii) you are required by law to do so;
   (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees in writing not to disclose the information to any other person before the information is provided to them; or
   (iv) the disclosure is –
      (a) reasonable and in the public interest; and
      (b) made in good faith; and
      (c) in compliance with the reasonable requirements of the authority, which requirements must be demonstrable, be reference to an adopted policy, procedure or similar document of the Council or evidenced by advice provided by the Monitoring Officer or his nominee.

2.9 You must not prevent or attempt to prevent another person from gaining access to information to which that person is entitled by law.

2.10 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

2.11 You must not use or attempt to use your position as a Member of the Council improperly to confer on or to secure for yourself or any other person an advantage or disadvantage.

2.12 You must when using or authorising the use by others of the resources of the Council:
   (i) act in accordance with the reasonable requirements of the Council;
   (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
   (iii) have regard to any statutory or other requirements relating to
local authority publicity.

2.13 When reaching decisions on any matter you must have regard to any relevant advice provided to you by the Council’s Chief Financial Officer and Monitoring Officer.

2.14 You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.

2.15 You must not participate in any meeting of an Overview and Scrutiny Committee that is scrutinising or otherwise considering the business of one of the Council’s decision-making persons or bodies, other than the Cabinet or an individual exercising executive decision-making powers, in relation to which you have been involved in making the decision, save as may be required to make representations, answer questions or give evidence relating to that business to the meeting and subject to the reasonable requirements of the person Chairing that meeting.

Part 3 – Registering and declaring interests and withdrawal from meetings

3.1 The provisions of this Part of this Code are subject to the provisions of Part 4 of this Code relating to sensitive interests.

3.2 Within 28 days of becoming a Member you must notify the Council’s Monitoring Officer of any disclosable pecuniary interest that you have and your membership of any trade union(s) at the time of giving the notification.

3.3 Where you become a Member as a result of re-election or your co-option being renewed you need only comply with paragraph 3.2 of this Code to the extent that your disclosable pecuniary interests and your trade union membership(s) are not already entered on the register at the time the notification is given.

3.4 You are not required to notify non-registerable interests to the Monitoring Officer for inclusion in the register.

3.5 If you are present at a meeting and you are aware that you have a non-registerable interest, a disclosable pecuniary interest or an interest by virtue of any trade union membership in any matter being considered or to be considered at the meeting you must disclose that interest to the meeting if that interest is not already entered in the register and, unless you have the benefit of a current and relevant dispensation in relation to that matter, you must:
   (i) not participate, or participate further, in any discussions of the matter at the meeting;
   (ii) not participate in any vote, or further vote, taken on the matter at the meeting; and
(iii) remove yourself from the meeting while any discussion or vote takes place on the matter, to the extent that you are required to absent yourself in accordance with the Council’s standing orders or other relevant procedural rules.

3.5A Where a Member has a non-registerable interest in a matter to which paragraph 3.5 relates that does not benefit from a valid dispensation and that interest arises only from the Member’s participation in or membership of a body whose objects or purposes are charitable, philanthropic or otherwise for the benefit of the community or a section of the community the Member may with the permission of the Chairman of the meeting or until such time as the Chairman directs the Member to stop address the meeting to provide such information as they reasonably consider might inform the debate and decision to be made before complying with paragraphs 3.5(i), (ii) and (iii).

3.6 If a disclosable pecuniary interest or any membership of a trade union to which paragraph 3.5 relates is not entered in the register and has not already been notified to the Monitoring Officer at the time of the disclosure you must notify the Monitoring Officer of that interest within 28 days of the disclosure being made at the meeting.

3.7 Where you are able to discharge a function of the Council acting alone and you are aware that you have a non-registerable interest, a disclosable pecuniary interest or an interest by virtue of any trade union membership(s) in a matter being dealt with, or to be dealt with, by you in the course of discharging that function you must:

(i) not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by you); and

(ii) if the interest is a disclosable pecuniary interest or membership of a trade union, notify the Monitoring Officer of that interest within 28 days of becoming aware of the interest if the interest is not entered in the register and has not already been notified to the Monitoring Officer.

3.8 Within 28 days of becoming aware of any new disclosable pecuniary interest or trade union membership, or change to any disclosable pecuniary interest or trade union membership already registered or notified to the Monitoring Officer, you must notify that new interest or the change in the interest to the Monitoring Officer.

3.9 All notifications of disclosable pecuniary interests and trade union membership to the Monitoring Officer, excepting those made verbally at meetings, must be made in writing.

Part 4 – Sensitive interests

4.1 Members must notify the Monitoring Officer of the details of sensitive interests but the details of such interests shall not be included in any published version of the register.
4.2 The requirement in paragraph 3(5) of Part 3 of this Code to disclose interests to meetings shall in relation to sensitive interests be limited to declaring the existence of an interest and the detail of the interest need not be declared.

Part 5A – Disclosable Pecuniary Interests

In this Part of the Code the expressions in the middle column have the meanings attributed to them in the right hand column

<table>
<thead>
<tr>
<th>(a)(i)</th>
<th>“body in which the relevant person has a beneficial interest”</th>
<th>means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)(ii)</td>
<td>“director”</td>
<td>includes a member of the committee of management of an industrial and provident society</td>
</tr>
<tr>
<td>(a)(iii)</td>
<td>“land”</td>
<td>includes an easement, servitude, interest, or right over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income</td>
</tr>
<tr>
<td>(a)(iv)</td>
<td>“relevant authority”</td>
<td>means the authority of which you are a member</td>
</tr>
<tr>
<td>(a)(v)</td>
<td>“relevant person”</td>
<td>means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners</td>
</tr>
<tr>
<td>(a)(vi)</td>
<td>“securities”</td>
<td>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</td>
</tr>
</tbody>
</table>

The following table sets out the disclosable pecuniary interests that have been prescribed by the Secretary of State for the purposes of the Code of Conduct and the Localism Act, 2011.

<table>
<thead>
<tr>
<th>Interest</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b)(i)</td>
<td>Employment, office, trade, profession or vocation</td>
</tr>
<tr>
<td></td>
<td>Any employment, office, trade, profession or vocation carried on for profit or gain</td>
</tr>
<tr>
<td>(b)(ii)</td>
<td>Sponsorship</td>
</tr>
<tr>
<td></td>
<td>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out</td>
</tr>
</tbody>
</table>
Sections 14

| (b)(iii) | Contracts | Any contract which is made between the relevant person (or a body which in which the relevant person has a beneficial interest) and the relevant authority under which goods and services are to be provided or works are to be executed and which has not been fully discharged |
| (b)(iv) | Land | Any beneficial interest in land which is within the area of the relevant authority |
| (b)(v) | Licences | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer |
| (b)(vi) | Corporate tenancies | Any tenancy where, to your knowledge, the landlord is the relevant authority and the tenant is a body in which the relevant person has a beneficial interest |
| (b)(vii) | Securities | Any beneficial interest in securities of any body where that body, to your knowledge, has a place of business or land in the area of the relevant authority and either the total nominal value of the securities exceeds £25,000 or one hundredth of the total of the issued share capital of that body, or if the share capital of that body is of more than one class the total nominal value of the shares in any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class |

### Part 5B – Non-registerable interests

You have a non-registerable interest where a decision in relation to a matter being determined or to be determined:

(i) might reasonably be regarded as affecting the financial position or wellbeing of you; a member of your family or any person with whom you have a close association; or any body or group which you are a member of more than it might affect the majority of council tax payers, rate payers or inhabitants in your electoral division or area; and

(ii) the interest is such that a reasonable person with knowledge of all the relevant facts would consider your interest so significant that it is likely to prejudice your judgement of the public interest;
save that business relating to the following functions will not give rise to non-registerable interests:

(iii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iv) statutory sick pay under, where you are in receipt of, or are entitled to the receipt of, such pay;

(v) an allowance, payment or indemnity given to Members;

(vi) any ceremonial honour given to Members; and

(vii) setting of the council tax

and for the avoidance of doubt the above exceptions to the definition of non-registerable interests do not negate the requirements arising from having a disclosable pecuniary interest.
Protocol for Member/Officer Relations
Protocol for Member/Officer Relations

1. Introduction and Principles

1.1 The purpose of this Protocol is to guide Members and officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues shall serve as a guide to dealing with other circumstances.

1.3 This Protocol is, to a large extent, a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed, it should ensure that Members receive objective and impartial advice and that officers are protected from accusations of bias and any undue influence from Members.

1.4 It 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 the Codes, therefore, demand very high standards of personal conduct.

1.5 This Protocol should be read in conjunction with such Members' and Employees' Codes of Conduct as are in place from time to time along with the Guidance for Members and officers dealing with planning matters, other relevant parts of the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer.

2. General Points

2.1 Both Members and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, the Cabinet,
their committees and sub-committees.

2.2 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.

2.3 A Member should not raise matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, they should raise the matter with the respective Service Director. The Service Director shall then look into the facts and report back to the Member. If the Member continues to feel concern then they should report the facts to the Strategic Director with responsibility for the Service concerned or, if after doing so they are still dissatisfied, should raise the issue with the Chief Executive who shall look into the matter afresh. Any action taken against an officer in respect of a complaint shall be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

2.4 An officer should not raise with a Member matters relating to the conduct or capability of another officer or to the internal management of a Service or Directorate at, or 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 Confidential Reporting Procedure (Whistleblowing).

2.5 Where an officer feels that they have not been properly treated with respect and courtesy by a Member or otherwise has concerns about a Member’s behaviour, they should raise the matter with their Service Director, Strategic Director 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 Service Director, Strategic Director or Chief Executive shall take appropriate action, either by approaching the individual Member and/or Political Group Leader, or by referring the matter to the Monitoring Officer, in the context of
the Standards Committee considering the complaint.

3. **The Relationship: Officer Support to Members – General Points**

3.1 Officers are responsible for day-to-day managerial and operational decisions within the Council and shall provide support to all Members.

3.2 Certain statutory officers, i.e. the Chief Executive, the Monitoring Officer and the Chief Financial Officer, have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.

3.3 The following key principles reflect the way in which the officers generally relate to Members:

- all officers are employed by, and accountable to, the Council as a whole;
- support from officers is needed for all of the Council’s functions including support to all Council Committees and individual Members;
- day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other officers.

3.4 On occasion, a decision may be reached which authorises named officers to take action between meetings following consultation with a Member or Members. It should be recognised that it is the officer, rather than the Member or Members, who takes the action and it is the officer who is accountable for it.

3.5 It should be remembered that officers within a Service are accountable to their Service Director and Strategic Director and that whilst officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Director or Strategic Director.

3.6 It is clearly important that there should be a close working relationship between Chairmen and Vice-Chairmen of Committees 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 other Political Groups.

4. **Officer Support to the Cabinet**

4.1 The Cabinet and its Members have wide ranging leadership roles. These include:

- setting the Council’s priorities;
- leading the preparation of the Council's budget and business plan;
- taking decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policies decided by the Council; and
- being the focus for forming partnerships with other local public, private voluntary and community sector organisations to address local needs.

4.2 It is clearly important that there should be a close working relationship between Cabinet Members 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 ability of officers to deal impartially with other Members and other Political Groups. Officers must ensure that even if they are predominantly supporting the Cabinet, their political neutrality is not compromised.

4.3 Whilst Cabinet Members shall routinely be consulted as part of the process of drawing up proposals for consideration on the agenda for a forthcoming meeting, it must be recognised that in some situations an officer shall be under a professional duty to submit a report. Similarly, the Chief Executive, Strategic Director, Service Director or other senior officer shall always be fully responsible for the contents of any report submitted in their name. This means that any such report shall be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between a Cabinet Member and a Strategic Director, Service Director or other senior officer in this area should be referred to the officer’s line manager and ultimately the Chief Executive, following consultation with the Leader of the Council, for
resolution.

4.4 Where functions which are the responsibility of the Cabinet are delegated to officers, or other structures outside the Cabinet, the Cabinet shall nevertheless remain accountable to the Council, through the Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Cabinet shall be held to account for both its decision to delegate a function and the way that the function is being carried out.

4.5 Under Cabinet arrangements, individual Members of the Cabinet are allowed to take formal decisions. The Cabinet, Cabinet Members and officers must satisfy themselves that they are clear what exactly they can and cannot do.

4.6 The Council has put in place mechanisms/protocols which ensure that (as with the Council, its committees and sub-committees, and the Cabinet and its committees) individual Cabinet Members seek advice from relevant officers before taking a decision within their delegated authority. This includes taking legal advice, financial advice and professional officer advice (particularly about contractual matters), as well as consulting the Monitoring Officer where there is doubt about legal powers.

4.7 In organising support for the Cabinet, there is a potential for tension between officers and Portfolio Holders. All Members and officers need to be constantly aware of the possibility of such tensions arising and both officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

5. Officer Support: Overview and Scrutiny Committees

5.1 Overview and Scrutiny Committees have, amongst other things, the following roles:

- review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's functions;
- make reports and/or recommendations to the Council and/or the Cabinet and/or any Joint Committee in connection with the discharge of any functions;
- consider any matter affecting the area or its inhabitants;
and

- exercise the right to call-in, for reconsideration, decisions made, but not yet implemented, by the Cabinet.

5.2 Overview and Scrutiny Committees shall gather evidence and interview witnesses in accordance with the Council’s Overview and Scrutiny Protocol.

5.3 It is not Overview and Scrutiny’s role to act as a disciplinary tribunal in relation to the actions of Members or officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on a panel’s behalf. This is the Chief Executive’s function alone in relation to staff, subject to complying with the corresponding procedures, and that of the Monitoring Officer supporting the Standards Committee in relation to the conduct of Members.

5.4 Overview and Scrutiny should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Members, officers or the public) which are the subject of other procedures, e.g. the Corporate Complaints Procedure, Social Services Complaints Procedure, the Local Government Ombudsman, complaints to the Standards Committee or appeal to the Courts.

6. Officer Advice to Political Groups and Individual Members

6.1 It must be recognised by all officers and Members that, in discharging their duties and responsibilities, officers serve the Council as a whole and not any Party Political Group, combination of groups or any individual Member of the Council.

6.2 There is statutory recognition for Political Groups and it is common practice for such groups to 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 assist and contribute to such deliberations by Political Groups or to assist individual Members, but must at all times, maintain political neutrality. All officers must, in their dealings with Political Groups and individual Members, treat them in a fair and even-handed manner.

6.3 The assistance provided by senior officers can take many forms
ranging from a briefing meeting with a Cabinet Member, Chairman or other Members prior to a meeting, to a presentation or to a full Political Group meeting. It is an important principle that such assistance is available to all Political Groups and individual Members.

6.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular:

- Attendance by senior officers at meetings of Political Groups is voluntary and, save for attendance by Strategic Directors and Service Directors, attendance must be specifically authorised by the relevant Strategic Director or the Chief Executive;

- Officer assistance must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political business. The observance of this distinction shall be assisted if officers are not present at meetings or parts of meetings, when matters of Party business are to be discussed;

- Political 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

- Similarly, where officers provide information and advice to a Political 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 Council decision-making body when the matter in question is considered.

6.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a Political Group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Council’s Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.
6.6 Officers must respect the confidentiality of any Political Group discussions at which they are present. When information is disclosed to an officer during discussions with a Political Group and the officer is requested not to pass the information to other groups, then the officer shall not do so. However, Members should be aware that this shall not prevent officers from disclosing such information to other officers of the Council so far as that is necessary in performing their duties.

6.7 Any particular cases of difficulty or uncertainty in this area of officer advice to Political Groups should be raised with the relevant Strategic Director or the Chief Executive who shall, if appropriate, discuss them with the relevant Group Leader(s).

7. **Use of Council Resources**

7.1 The Code of Conduct states that a Member must, when using or authorising the use of the resources of the Council, act in accordance with the Council’s requirements and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which the Member has been elected or appointed. The Council provides support services to Members to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business and should never be used in connection with party political or other campaigning activity or for private purposes. The use of computers provided to Members of the Council is governed by the policies and procedures adopted by the Council, including the Acceptable Use Policy.

8. **Members' Access to Information and to Council Documents**

8.1 Members are free to approach any Council service to obtain such information, explanation and advice (about the functions of that service) 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. Such approaches should normally be directed to the appropriate Strategic Director or Service Director concerned. In cases of doubt, Democratic Services Officers shall be happy to channel the request to the appropriate officer.
8.2 The legal rights of Members to inspect Council documents are covered partly by statute and partly by the common law.

8.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted by the Council. 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 to inspect any document does not, however, apply to documents relating to certain items which may appear as confidential or exempt (pink) items on the agenda for a meeting. The items in question include those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations. These documents will be provided to Members as appropriate.

8.4 In relation to business of the Cabinet, by virtue of Regulation 16 of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012:

- where there is a meeting (e.g. Cabinet) and there is a document which is in the possession/under the control of the Cabinet, relating to the business to be conducted at that meeting, that document shall be available for inspection;

- where the decision is made at a private meeting, by a Cabinet Member, or is a Key Decision delegated to an officer, the document shall be available either after the meeting closes or when the decision is made; but

- there are exceptions for exempt and confidential material and any document that contains advice provided by a political advisor or assistant.

8.5 The common law rights of Members remain intact and are much broader and are based on the principle that any Member has a prima facie right to inspect Council documents so far as his access to the document is reasonably necessary to enable the Member properly to perform his duties as a Member of the Council. This principle is commonly referred to as the 'need to know' principle.
8.6 The exercise of this common law right depends, therefore, upon an individual Member being able to demonstrate that he has the necessary 'need to know'. In this respect, a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular Strategic Director or Service Director whose department holds the document in question (with advice from the Monitoring Officer if required).

8.7 In some circumstances (e.g. a committee Member wishing to inspect documents relating to the business of that committee), a Member's 'need to know' shall normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties), the Member shall normally be expected to justify the request in specific terms. In some circumstances, duties of confidentiality to external bodies, e.g. the Courts in child care cases, or imposed by statute may override the common law right.

8.8 Whilst the term 'Council document' is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a Member of any Political Group shall not have a 'need to know' and therefore, a right to inspect, a document which forms part of the internal workings of another Political Group.

8.9 Further, and more detailed advice, regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer.

8.10 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. Therefore, for example, early drafts of committee reports or briefing papers 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 2.8 of the Members’ Code of Conduct.

9. **Correspondence**

9.1 Correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other
Member. Where it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.

9.2 Official correspondence, by email or any other means, on behalf of the Council should normally be sent in the name of the appropriate officer, rather than in the name of a Member. It shall, however, be appropriate in certain circumstances (e.g. representations to a Government Minister) for correspondence to appear in the name of a Portfolio Holder, the Leader or the Chairman of the Council. Correspondence which, for example, creates legal obligations or gives instructions on behalf of the Council should never be sent out in the name of a Member, Cabinet or otherwise.

10. **Publicity and Press Releases**

10.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This shall be promoted by the Council, explaining its objectives and policies to the electors and Council taxpayers. 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, in the words of the Government, "to be welcomed".

10.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that Council decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. All local authorities are required to have regard to the provisions of any such Code in coming to any decision on publicity.

10.3 Officers and Members of the Council shall, therefore, in making decisions on publicity, take account of the provisions of this Code. If in doubt, officers and/or Members should initially seek advice from the Strategy and Engagement Team, who, if necessary, shall refer the matter to the Monitoring Officer. Particular care should be paid to any publicity used by the Council around the time of an election and more so during the period of heightened sensitivity during the pre-election period known as Purdah. Advice shall be given on this by the Monitoring Officer, as appropriate.
11. **No Surprises - Involvement of Local Members**

11.1 Good working relationships between Members and officers are essential to any successful local authority. The Cabinet and Council Leadership Team are proud of the generally productive and effective way Members and officers work together. They are committed to building and improving on this for the benefit of residents. A key part of achieving a successful working relationship is ensuring local Members are appropriately informed, engaged and involved about issues affecting their communities. There is a need to ensure this is effective, proportionate and consistent across the whole of the Council.

11.2 As a local Member, they are often the first point of contact for their residents who may be concerned about an issue or simply want information. When a Member refers such an enquiry to Council officers, in accordance with the Council’s Customer Service Promise, a prompt response is critical, as it is only then that they can respond themselves. When an issue arises in their area, it is vital that Members are appropriately informed and engaged at an early stage, and that this contact is maintained until the issue has been resolved.

11.3 In addition to being elected by their communities to represent them, Members are also Cornwall Council’s ambassadors to those communities. They often have to explain the details of Council services, decisions and projects to the public and can also be asked by the media to comment on these matters. In order to do this, Members need appropriate information and engagement from key officers; without it, this reflects badly on them and the Council. In the worst case, if they are taken unawares because they have not been informed about a particular issue, this can cause embarrassment for all concerned, and significantly damage the Council’s reputation. The positive side of this is that Members are also advocates for the Council, sharing information about its services and successes with their constituents on a daily basis, whether this is one to one with residents, at meetings or via social media.

11.4 Officers must respond promptly and fully to queries from local Members. They must follow the timescales set out in the Council’s **Customer Service Promise**. If they cannot respond within the timescale, they must let the Member know why and keep them informed of the progress being made.

11.5 Services must keep local Members informed, briefed and engaged, as appropriate, on all issues that significantly affect all or part of their electoral divisions (a “significant local issue”). This liaison should commence when a significant local issue first arises and be maintained until it is resolved or concluded. It is important to remember that some issues will affect all or many electoral divisions.
The Council’s website lists Councillors by electoral division and provides a postcode search option.

11.6 Although some examples are listed below, it is not practicable to provide an exhaustive list of what may or may not constitute a significant local issue. Services will, therefore, need to exercise their own judgement. “Significant” issues will include strategic matters like large-scale service changes. However, they will also include very local issues that may be confined to a particular neighbourhood or street, anything that is significant to the residents in that locality, such as plans to change waste collection arrangements in a specific road or remove play equipment from an estate. Services will also need to judge whether to contact one or more local Members about the issue in question. In some cases, as with the play equipment example, this may be straightforward. However, there are cases of course where an issue will arise in one division that is directly relevant to, or has a knock-on effect on, other divisions (e.g. roadworks, a change in service at a local library, a school closure).

11.7 Examples of where Members should be contacted by the relevant officer include significant local issues include:

(i) changes to local services provided by the Council (directly or commissioned);
(ii) where decisions are to be taken by a decision maker (e.g. individual Strategic Director or Cabinet Member, Cabinet, Planning Committee) that affect local communities;
(iii) controversial issues where a Council service becomes aware of significant community concern over an important local issue (e.g. as a result of receiving representations from planning applications, petitions, formal complaints, local campaigns, etc. local interest groups or a significant number of residents) or that such concerns are likely to arise;
(iv) corporate issues (e.g. formal responses to consultations on matters where local Members are likely to be interested or would have a useful input) formal representations made by the Council on regional/national issues, formal responses to consultations etc.);
(v) works to local council facilities; sale of Council land/property
(vi) where the Council is contacted by the media in respect of a local issue.

11.8 Where a press release or publicity is to be issued on any local issue, or the media are to be contacted, the local Members must be contacted first, along with the Communications Team. If this is not possible on the grounds of urgency, they must be contacted at the earliest opportunity after this takes place. Where Members offer a
comment, the Council should reflect this in the communication, liaising with Members about any substantive amendments. If the comment cannot be included, the Council should explain to the Member why this is the case.

11.9 If the Council organises a public meeting to consider a local issue, the local Members must be invited to attend. If an officer is invited to attend such a meeting by a partner organisation, they should check whether the local Members have been invited and, if not, liaise as appropriate with the partner organisation and the Members (e.g. to secure the Members’ attendance/ensure they are kept informed).

11.10 Officers should consider whether policy or briefing papers, or other topics discussed with a Cabinet member, should be discussed with the relevant local Members.

11.11 In liaising with local Members, officers should consider whether the relevant information should also be circulated to all Members (e.g. via the Member newsletter) or whether some other approach is required (e.g. an all Member briefing). Duplication of communications should also be avoided.

11.12 Further details on the above points are set out elsewhere in this Protocol. It should also be noted that there are specific requirements elsewhere in the Constitution for officers to consult or engage with local Members. For example, under the Scheme of Delegation there is a requirement for Strategic Directors exercising delegated powers to, as appropriate, ensure that the local Member(s) is/are consulted on or advised of the exercise of delegated powers.

11.13 The following procedure should be followed where a Member has requested information from a service and this has not been forthcoming within the expected timescale:

Step 1 - Member to remind officer of their request, if no substantive response received within the 10 working days set out in the Customer Promise (or the officer has agreed a specific response date with the Member, and not kept to this). Officer must respond as a matter of
urgency, and within 2 working days of the reminder.

Step 2 - If no response or substantive response received within a further 2 working days, Member may refer issue to officer’s line manager. Line manager must respond as a matter of urgency, and within 2 working days of the referral. It is anticipated that the majority of escalations would be successfully dealt with at Step 2.

Step 3 - If still no response or substantive response within a further 2 working days, Member should refer issue to Head of Service. Head of Service must respond as a matter of urgency, and within 2 working days of the referral.

Step 4 - If still no response or substantive response received within a further 2 working days, Member should refer issue to Service Director (copying in Strategic Director and Monitoring Officer). Service Director must respond as a matter of urgency, and within 2 working days of the referral.

11.14 What Members must do to help ensure ‘No Surprises’ :-

(i) Respect the Council’s escalation and other procedures and only where an urgent response is needed expect officers to act outside of the corporate timescales.
(ii) Recognise the competing priorities and pressures on officers as they undertake their role, and be mindful of peak times of activity. Officers are likely to need to seek instructions and/or guidance from line managers and/or carry out research in order to answer your enquiry, all of which can take time to complete.
(iii) Provide clear, concise and precise information to officers when requesting information. This should help to facilitate their response.
(iv) When officers provide them with information on an issue you have raised on behalf of residents, ensure they feed this back to residents as appropriate and in a prompt manner.
(v) Follow the provisions set out elsewhere in this Protocol at all times

12. **Conclusion**

12.1 Mutual understanding, openness, understanding sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and officers.

13. **Interpretation of the Member/Officer Protocol**

13.1 Questions of interpretation of this Protocol shall be determined
by the Monitoring Officer.
Members’ Allowances Scheme
Members’ Allowances Scheme

1. Introduction

The Cornwall Council is statutorily required to make a scheme of allowances for Members of the Council and to periodically establish an Independent Remuneration Panel which advises the Council on the scheme of allowances and the amounts that should be paid.

2. The Schedule of allowances for Cornwall Councillors

The allowances for Members of Cornwall Council are as set out in the Schedule below.

3. Approved duties

The approved duties for which allowances are payable under this Scheme are set out in Appendix 1 to this Scheme. Claims for allowances for duties that are not within the list of approved duties shall not be paid.

4. Dependants’ Carers’ Allowance

Dependants’ carers’ allowance is payable in accordance with the provisions set out in Appendix 2 to this Scheme. The form for registering with the Monitoring Officer the need to claim this allowance is available from Democratic Services and available on the Intranet.
## Cornwall Council Members’ Allowances Scheme 2019/20
### Schedule of Allowances

<table>
<thead>
<tr>
<th>Allowance</th>
<th>Rate 2019/20 (per annum unless stated)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Basic allowance</strong></td>
<td></td>
</tr>
<tr>
<td>All Councillors (excluding co-opted members)</td>
<td>£14,472.51</td>
</tr>
<tr>
<td><strong>Special responsibility allowances</strong></td>
<td></td>
</tr>
<tr>
<td>Band One: Leader</td>
<td>£26,774.17</td>
</tr>
<tr>
<td>Band Two: Deputy Leader</td>
<td>£20,080.63</td>
</tr>
<tr>
<td>Band Three: Cabinet Members; Chairman of the Council</td>
<td>£18,741.92</td>
</tr>
<tr>
<td>Band Four: Chairman, Overview and Scrutiny Committee</td>
<td>£8,032.26</td>
</tr>
<tr>
<td>Band Five: Vice-Chairman of the Council</td>
<td>£5,622.59</td>
</tr>
<tr>
<td>Band Six: Chairmen, Strategic Planning Committee, Sub-Area Planning Committee, Audit Committee and Electoral Review Panel</td>
<td>£5,354.84</td>
</tr>
<tr>
<td>Band Seven: Chairman, Constitution and Governance Committee, Licensing Act Committee, Miscellaneous Licensing Committee, Vice Chairman, Overview and Scrutiny Committee.</td>
<td>£4,016.13</td>
</tr>
<tr>
<td>Band Eight: Chairman, Harbours Board, Joint Committees, Pensions Committee, Standards Committee.</td>
<td>£2,677.42</td>
</tr>
<tr>
<td>Band Nine: Vice-Chairmen, Strategic Planning Committee, Sub-Area Planning Committee, Audit Committee and Electoral Review Panel.</td>
<td>£1,606.45</td>
</tr>
<tr>
<td>Band Ten: Vice-Chairmen, Constitution and Governance Committee, Licensing Act Committee, Miscellaneous Licensing Committee.</td>
<td>£1,204.83</td>
</tr>
<tr>
<td>Band Eleven: Vice-Chairmen, Pensions Committee and Standards Committee.</td>
<td>£803.23</td>
</tr>
<tr>
<td>Independent Persons on the Standards Regime.</td>
<td>£1606.45</td>
</tr>
<tr>
<td>Co-optees Allowance:</td>
<td></td>
</tr>
<tr>
<td>Independent non-elected Members and Parish/ Town Council Members of Standards Committee</td>
<td>£1,352.96</td>
</tr>
<tr>
<td>Independent Lay Members for the Standards Regime</td>
<td></td>
</tr>
<tr>
<td>Independent non-elected Members of Audit</td>
<td></td>
</tr>
</tbody>
</table>
Dependants’ Carers’ Allowance:  
Child Care; Care of Elderly or Disabled People (in accordance with the provisions in Appendix 2 to the Scheme of Allowances)  

<table>
<thead>
<tr>
<th><strong>Formal Care</strong></th>
<th><strong>Informal Care</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Full cost.</td>
<td>£7.20 per hour per adult dependant. £4.25 per hour for childcare</td>
</tr>
</tbody>
</table>

**Travelling Allowance** **(paid when carrying out approved duties as defined in Appendix 1 to the Scheme of Allowances) (VAT fuel receipts dated the month for which the claim relates must be attached to the claim form):**

<table>
<thead>
<tr>
<th>Travel Medium</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car</td>
<td>40p per mile</td>
</tr>
<tr>
<td>Motorcycle</td>
<td>24p per mile</td>
</tr>
<tr>
<td>Bicycle</td>
<td>20p per mile</td>
</tr>
<tr>
<td>Passenger supplement: each passenger up to 4</td>
<td></td>
</tr>
</tbody>
</table>

**Reimbursement for mileage beyond Cornwall** shall be based on the cheapest standard class return rail fare available for use at the necessary time of outward travel and not on actual distance travelled.

<table>
<thead>
<tr>
<th>Maximum claimable:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breakfast</td>
</tr>
<tr>
<td>Lunch</td>
</tr>
<tr>
<td>Evening Meal</td>
</tr>
<tr>
<td>Overnight Provision (bed and breakfast)</td>
</tr>
<tr>
<td>Major cities (except London)</td>
</tr>
<tr>
<td>London</td>
</tr>
<tr>
<td>Accommodation with relatives or friends</td>
</tr>
</tbody>
</table>

**Subsistence Allowance** **(paid when carrying out approved duties as defined in Appendix 1 to the Scheme of Allowances).**

*A valid receipt for the actual expenditure incurred must accompany and support each claim otherwise no reimbursement shall be made.*

* No Member will receive payment for more than one SRA and they will be permitted to choose which they accept where such circumstances apply.
Cornwall Council Members’ Allowances Scheme – Appendix 1
Classification of Approved Duties

Members may claim for travel, subsistence or dependants’ carers’ allowances in respect of costs necessarily incurred in undertaking approved duties in accordance with the Regulations as follows:-

(a) the attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations (but only as or on behalf of the appointed/nominated person), or of any committee or sub-committee of such a body;

[Under this paragraph attendance at pre-agenda and briefing meetings for the Chairman, Vice-Chairman and Party Group Spokesman is eligible]

(b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other local authority within the meaning of section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that

(i) where the authority is divided into two or more political groups it is a meeting to which members of at least two such groups have been invited; or

(ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;

(c) the attendance at a meeting of any association of authorities of which the authority is a member;

(d) the attendance at a meeting of the executive or a meeting of any of its committees, where the authority is operating executive arrangements;

(e) the performance of any duty in pursuance of any standing order made under section 135 of the Local Government Act 1972 requiring a member or members to be present while tender documents are opened;

(f) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;

(g) the performance of any duty in connection with arrangements made by the authority for the attendance of pupils at any school approved for the purposes of section 342 of the Education Act 1996 (approval
of non-maintained special schools); and

(h) additional duties for the purposes of paragraph(h) of the Regulations and which may only be for the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees:

(i) Scheduled Community Network Panels included in the Members’ Diary.

(ii) Formal site meetings and visits if they are arranged by officers in accordance with the Council’s approved procedure or protocol for such visits.

(iii) Meetings at the invitation of a Cabinet Member, the Chief Executive, a Corporate Director, the Section 151 Officer or the Monitoring Officer.

(iv) Training activities and seminars as part of the approved annual training programme or approved by the Leader.

(v) Conferences and seminars included in the annex to the Members’ Allowances Guidance and those approved in advance by the Leader/Corporate Support Cabinet Member.

(vi) Public inquiries and court hearings, e.g. Licensing, where required to attend on behalf of the appropriate committee.

(vii) Office-holders in receipt of SRA undertaking duties directly relevant to their position of responsibility.

(viii) Other duties approved in advance by the Monitoring Officer.

Exemptions:

(a) any duty or activity undertaken primarily for party political purposes as opposed to the discharge of the Council’s functions;

(b) any duty or activity undertaken by virtue of being a school governor;

(c) meetings with officers, individuals or groups of electors to discuss constituency issues which are covered by the basic allowance;

(d) informal site visits, not arranged by officers in accordance with the Council’s approved procedure or protocol (see (h) (ii) above);

(e) attendance at meetings of outside bodies where the bodies themselves pay expenses; and

(f) other meetings, inquiries/hearings or events organised by other organisations.

Invitations from groups or bodies to attend meetings as a Local Member are not approved duties for the payment of travelling, subsistence and dependants’ carers’ allowances. These duties are constituency matters not connected with the discharge of the functions of Cornwall Council.
Cornwall Council Members’ Allowances Scheme – Appendix 2
Dependants’ Carers’ Allowance (DCA)

A Councillor may claim an allowance where they have incurred expenditure on engaging a carer for a dependent in order to carry out an approved duty as detailed in Appendix 2, subject to the following conditions:-

1. A carer will be any responsible mature person who does not normally live with the councillor as part of their family.

2. An allowance will be payable if the dependent normally lives with the councillor as part of their family and is unable to be left unsupervised.

3. Rates for the allowance:-

Formal Arrangements – Where formal arrangements for care of the dependant are in place, the full cost incurred will be reimbursed on the production of receipts.

Informal Arrangements – Where a person who is not a member of the Councillor’s household is used for care a maximum rate of £7.20 per hour can be claimed per adult dependants and £4.25 per hour for childcare will be reimbursed.

4. The period of duty is calculated on ‘door-door’ basis i.e. from the time a councillor leaves their place of residence to carry out the council duty to time they return.

5. Claims are to be made on the appropriate form, signed by both the Councillor and carer.

6. Approved duties for the purposes of the dependant are those set out in paragraphs (a) to (g) of regulation 7(1) of the Local Authorities (Members’ Allowances)(England) Regulations 2003 (“the Regulations”) and which are listed in Appendix 1 to the Scheme of Allowances and also the additional duties in Appendix 1 which are specified for the purposes of paragraph (h) of regulation 7(1).

7. In order to receive any payment of the allowance a Member must first register their need to claim with the Monitoring Officer. The Member shall provide the Monitoring Officer with such information as the Monitoring Officer reasonably requires to demonstrate their entitlement to the allowance.

8. It is ultimately the Members responsibility to make the adequate provision of care and they must satisfy themselves that the arrangements meet legal requirements.
Employee Code of Conduct
Employee Code of Conduct

Aims and Objectives

The public is entitled to expect the highest standards of conduct from Council employees. The aim of this Code is to ensure that the rules and standards that the Council expects of its employees are clear.

Breaches of the standards set out in the Code will be dealt with through the relevant Disciplinary and Capability Procedure for example Cornwall Council, Cornwall Fire, Rescue and Community Safety Service, Chief Officer, or Chief Executive.

Scope

The provisions of the Code will apply to all Cornwall Council employees, uniformed members of Cornwall Fire, Rescue and Community Safety Service, volunteers, agency workers, contractors, casual workers, consultants and anyone else who is providing a service on behalf of the Council in all activities in which they are engaged in the course of their employment, whether or not they take place at their normal place of work. This includes work-related functions that take place outside normal working hours such as leaving celebrations.

Version

This is the May 2019 version of the Code.

Roles and Responsibilities

All Employees

It is the responsibility of all employees to read, understand and conduct their day to day work in accordance with the Code of Conduct and to:

- Maintain conduct of the highest standards, such that public confidence in their integrity is sustained
- To be fair and honest in all activities at work
- Incorporate and promote equality and diversity in all that is done
- Ask for clarification on any aspects of the Code when there is uncertainty

Managers – in addition to the above

- Be a role model for the required standards of behaviour
- Reinforce the required standards of behaviour through appropriate communications with their teams
- Explain the provisions of the Code to promote understanding
- Coach, mentor, support and provide feedback to employees on their performance in relation to the required standards of conduct
• Take appropriate action at the earliest opportunity to deal with non-compliance with the standards of the Code

The Employee Code of Conduct

1. Public Concern

The public expects conduct of the highest standards from Council employees and their confidence would be shaken if the least suspicion arose that any employee might be influenced by improper motives.

2. Private Purchasing

Employees must not use the Council’s purchasing systems to purchase items for private use or to secure personal advantage. Employees are not entitled to receive any discount or advantage as a result of their employment with the Council unless this is expressly permitted by the Council, for example through corporate employee discount or voluntary benefit schemes which have been corporately agreed and are open to all employees.

3. Equality

Employees must ensure that they treat colleagues, service users, members of the public and Councillors fairly, impartially and with dignity and respect. Language and behaviour in the workplace must be conducive to productive and harmonious relationships.

4. Political Neutrality

Some employees may be required to provide information and advice to individual Councillors. In so doing, they must ensure that they remain politically neutral.

Employees who have been notified that they are employed in a role that is ‘politically restricted’ are prevented from becoming members of a local authority (other than parish councils), MPs or MEPs, from holding office in a political party and from canvassing, speaking in public or writing on party political matters.

In discharging their duties employees must follow every lawful policy of the Council and must not allow their own personal views or political opinions to interfere with their work.

5. Copyright

All records, documents and other papers relating to the Council’s business which are made or obtained by employees in the course of their employment are the property of the Council. The copyright on all such
original records, documents, papers (including copies and summaries thereof) belongs to the Council.

6. Patents and inventions

Any matter or thing capable of being patented under the Patents Act 1977 and which is made, developed or discovered by an employee, either alone or with others, whilst in the performance of their duties must be disclosed to the Council through the appropriate Service Director. Subject to the provisions of the Patents Act, it will belong to and be the absolute property of the Council.

7. Consideration of reports and contact with the media

Employees must not disclose to the public or media the contents of a confidential or exempt report made to the Cabinet, a Portfolio holder or a Director when it is an individual decision, the Council or a Committee of the Council. Where a decision is made in closed session, those proceedings, including all documentation being considered, must not be disclosed to members of the public unless required by law or expressly authorised.

Employees must not make statements on matters of policy to the media without consulting their Service Director. They must also comply with the Protocol for staff engagement with the media.

8. Confidential and Personal Information

Employees will often receive written, oral and computerised information which is of a confidential nature. Employees must be aware which information in the Council’s possession is classed as confidential and act accordingly. Information which is classed as confidential must not be disclosed except where there is a legitimate reason to do so and not otherwise unless specific approval has been given by an authorised manager. Information which is classed as personal or sensitive personal information cannot be disclosed without the consent of the individual concerned and in the case of sensitive personal information the consent must be unambiguous. If there is doubt about whether information can be disclosed, employees must consult their Service Director or the Information Governance Team.

When handling confidential information including forwarding it on to other officers internally or sending it to an external body or third party are to ensure that those that are to be provided with the information are entitled to receive it. It is the responsibility of all employees to ensure that emails and letters are correctly addressed and to the correct recipient. Repeated failures to ensure this could result in the failure being considered under the relevant Disciplinary and Capability procedure.

Deliberate disclosure of confidential information may be considered gross misconduct and may result in dismissal under the relevant Disciplinary and
Capability Procedure. It may also be a criminal offence and lead to criminal proceedings during and potentially after the employee’s employment has ended.

9. **Information security – Disclosure of Information**

Employees must positively prevent information misuse and ensure the accuracy of information by:

- Protecting information against unauthorised access
- Assuring the confidentiality of stored information
- Maintaining the integrity of information
- Meeting all current regulatory, legislative and Council Policy requirements in relation to Information Governance
- Ensuring that Flexible Working/Worksmart and remote access policies and procedures are followed when undertaking mobile/home working
- Producing, maintaining and testing business continuity plans or facilitating such actions where not their direct responsibility but requested to assist
- Providing and making available relevant information and security training for other employees or assisting with such actions where not their direct responsibility but requested to assist
- Preventing improper use of office equipment
- Limiting the use of electronic mail and internet to those uses permitted by the Council’s related policies and procedures.

Deliberate disclosure of information may be considered gross misconduct and may result in dismissal under the relevant Disciplinary and Capability. It may also be a criminal offence and lead to criminal proceedings during and potentially after the employee’s employment has ended.

If removed from Council premises, employees must ensure that all confidential and personal information is kept secure at all times and is returned to Council premises for retention and disposal. In order to prevent a continuing liability, on leaving employment with the Council, employees must return all confidential and personal information to their manager.

10. **Record Keeping**

Employees are responsible for making accurate and relevant records of their dealings with service users and others, and for keeping them so that they can be accessed by themselves and by colleagues if this is appropriate or necessary.

11. **Financial dealings/prejudicial interests and declaration of interests**

If, during the course of their employment, an employee has access to confidential information regarding the viability of an organisation, which could increase or decrease the share value of the organisation if the information were to be in the public domain, the employee is not permitted
to buy or sell shares or other securities in that organisation. This is to prevent an employee making a personal profit using privileged work-related information.

12 Gifts and Hospitality

There is an increasing expectation that the Council will be transparent, open and accountable in all its activities. The public must be satisfied that every effort is being made to limit the opportunity for favouritism, collusion or priority treatment.

Employees must not, at any time, allow their private interests or beliefs to conflict with their public duty as an employee of the Council. Employees are required to serve the whole of the Council and must act, and be seen to act, in the public interest at all times. Failure to register a conflict of interest can give the impression that employees are not acting in the public interest but serving a particular individual or organisation. Failure to declare a gift, hospitality or interest could ultimately lead to disciplinary action or even criminal prosecution.

13 Relationships

13.1 Personal Relationships

The Council recognises that personal relationships between colleagues at work can develop or already exist. As a large employer, situations will arise within the Council where parent and child, grandparent/grandchild, siblings or other relatives are employed within the same team or work area.

Employees must declare to their manager any situation where their impartiality, objectivity, or honesty may be compromised due to their being related to or having a personal relationship with someone at work.

A personal or family relationship between individuals is defined as one that could give rise to a conflict of interest or lead to undue influence or a lack of objectivity in a recruitment process, workplace or in procurement activities.

Personal or family relationships within the Relationship at Work policy are defined as:
• employees who are married or who are partners and/or co-habiting
• immediate family members of the applicants or employee, e.g. parents, son/daughter, stepchild, stepbrother, stepsister, stepmother, stepfather, adopted child, brother/sister, grandparent/grandchild
• other relationships of the employee or applicant e.g. extended family such as aunts/uncles/cousins/nieces/nephews
• any other individuals with whom there is a personal relationship
Employees who marry, register a civil partnership or form a personal relationship during employment in the same work areas will not be expected to move to separate work areas unless circumstances arise which make such a change appropriate. If, in the opinion of the Service Director or Strategic Director, a person has a personal relationship which is likely to prejudice discipline or be detrimental in any way to the interests of the Council or the public, they may be transferred to another role.

Employees must declare to their manager any situation where their impartiality, objectivity, or honesty may be compromised due to their being related to or having a personal relationship with someone at work.

13.2 Councillors

Mutual respect between employees and Councillors is essential to good local government. Employees are required to observe the Protocol on Member/Officer Relations. The Protocol is part of the Council’s Constitution.

13.3 Contractors/Procurement

Orders and contracts must be awarded impartially and on merit through fair competition in accordance with the Council’s Contract Procedure rules and such other procedure rules and legal provisions as apply. Employees whose work involves the procurement, appointment or supervision of contractors must disclose any former or current private or official relationship with relevant contractors to their Service Director. When a conflict of interest is disclosed, the Council reserves the right to remove the employee from any areas of direct or indirect involvement in the matter concerned.

14 Confidential reporting procedure (Whistleblowing)

The Council is committed to the highest possible standards of openness, probity and accountability, and expects employees who become aware of activities which they believe are illegal, improper, unethical or otherwise inconsistent with this Code to report the matter, acting in accordance with the employee’s rights under the Public Interest Disclosure Act 1998 (and Enterprise and Regulatory and with the Council’s Whistleblowing Policy. The Employment Handbook on the intranet contains further guidance and the full Whistleblowing Policy.

Employees must ensure that public interest and assets are protected by reporting immediately to their line manager or alternative contacts as named in the Whistleblowing Policy, any concerns about dishonesty or impropriety which they suspect has occurred or is likely to occur. Initial enquiries will be made which may result in a formal investigation. Concerns or allegations which fall within the scope of specific procedures (for example safeguarding) will normally be referred for consideration under those procedures. If an employee makes an allegation which it transpires is frivolous, malicious or for personal gain, the Council will treat this as a serious matter which may lead to disciplinary action.
Employees must not make any public statements in any capacity whatsoever about matters covered by the Whistleblowing Policy until they have exhausted that Policy, unless such a disclosure is allowed for within the Policy. Employees must assist in any investigation or hearing into suspected misconduct.

15 Health and Safety

The Health & Safety at Work Act 1974 places a duty on employees, whilst they are at work, to take reasonable care for the health and safety of themselves and others. Consequently employees are legally bound to comply with all safety rules and instructions set by the Council. The Corporate Manslaughter and Corporate Homicide Act 2007 has created new responsibilities for senior managers to ensure that there are safe working practices and safe premises. The Council will ensure that all senior managers who come within the purview of the Act receive appropriate training to discharge their responsibilities.

16 Attendance

Employees must comply with the Council’s rules and requirements regarding attendance.

17 Private Trading

Employees are not permitted to carry out private trading in relation to goods, services or any form of intellectual property (including the posting and distribution of private trading literature) on the Council’s premises nor may they do so elsewhere whilst on Council duties. Employees are permitted to advertise the sale of private goods or goods wanted on the ‘Trading Post’ intranet site, subject to complying with the related terms and conditions.

18 Other employment

Employees must not allow their private interests to come into conflict with their work. Employees must devote their whole time service to the work of the Council and may not engage in any other business or take up any other additional employment without the written permission of their manager in consultation with the Service Director if appropriate.

This does not preclude employees from undertaking additional work outside their working hours providing that it does not impact on, distract them from or conflict with their Council work and is subject at all times to written permission being granted. Regardless of the seniority of the post, all employees who undertake additional work (either paid or voluntary) must notify their line manager in order to ensure compliance with the Working Time Regulations 1998.

19 Alcohol, drugs and other substances
The Council takes the health and well-being of employees seriously and wishes to minimise problems at work arising from the effects of alcohol and drugs (whether prescribed or illegal). Employees are encouraged to make themselves familiar with the Council’s Alcohol and Drugs and Other Substances Policy.

Employees are encouraged to seek appropriate advice in relation to alcohol, drugs and other substance use and may contact the occupational health team in this respect.

Where the behaviour or performance of employees falls below expected standards and presents a risk to colleagues, services users, members of the public or others due to alcohol, drugs or other substance use, this will be addressed under the relevant Disciplinary and Capability Procedure or through such other measures as are appropriate to the circumstances.

Employees have a duty to report any problems associated with their ability to drive, use equipment or perform other work related tasks and must not drive or use such equipment whilst their judgment and/or physical ability may be impaired by the use of alcohol, drugs, medicines or fatigue.

20  Fidelity – commitment and loyalty to the Council

In addition to their express terms of employment, employees have common law duties implied into their contracts of employment. These duties require the employee to obey lawful and reasonable instructions, serve the employer personally and faithfully, exercise reasonable care and skill in carrying out their work, abide by the law as established by Parliament and the Courts and not to disclose confidential information after the employment ends. Breaches of these terms could, if proven, lead to disciplinary or legal action being taken against the employee.

21  Appointment of employees and other employment matters

Employees involved in the recruitment and appointment of employees must ensure that these are made on the basis of merit. Employees must not be involved in decisions relating to appointment, promotion, pay, discipline or grievance where the person is a relative, partner or close personal friend. If such a situation arises they must advise their manager.

The canvassing of any Councillor in connection with an application for employment with the Council will automatically disqualify the candidate from consideration for employment with the Council. In accordance with legislative requirements, employees must take care that they are not open to a charge of unlawful discrimination in their recruitment or employment practices.

Where the Monitoring Officer is undertaking an investigation into any allegation of misconduct by a Member, employees must comply with any requirement made by the Monitoring Officer in connection with such investigation.
22 Safeguarding

The Council has a statutory duty to ensure the safety and welfare of children, young people and adults at risk. All employees who, during the course of their employment, have direct or indirect contact with children or adults at risk, or who have access to information about them, have a responsibility to safeguard and promote the welfare of children and adults at risk. The Safeguarding Policy is available via the intranet or the employee’s manager and compliance with it is mandatory.

23 Childcare Disqualification Requirements

If you are in a role which falls within the scope of the Disqualification under the Childcare Act 2006 you must read and comply with the information below. These requirements apply to all schools and organisations, including local authorities which provide childcare and/or are directly concerned with the management of early years childcare or later years childcare (children above reception age but have not attained the age of 8).

If you are in a role that falls within the categories below then you are required to provide relevant information about any person who lives or works in the same household as you, which may disqualify you ‘by association’.

- staff who work in early years provision (including teachers and support staff working in nursery and reception classes);
- staff working in later years provision for children who have not attained the age of 8 including before school settings, such as breakfast clubs, and after school provision;
- staff who are directly concerned in the management of such early or later years provision.

The 6 criteria under the 2006 Act and 2009 Regulations which may disqualify you from undertaking your role are copied below and can be found on page 5 of the statutory guidance which is available here - [Childcare Disqualification Requirements](#).

a. inclusion on the Disclosure and Barring Service (DBS) Children’s Barred List,

b. being found to have committed certain violent and sexual criminal offences against children and adults which are referred to in regulation 4 and Schedules 2 and 3 of the 2009 Regulations (note that regulation 4 also refers to offences that are listed in other pieces of legislation);
c. certain orders made in relation to the care of children which are referred to in regulation 4 and listed at Schedule 1 of the 2009 Regulations;

d. refusal or cancellation of registration relating to childcare, children’s homes, or being prohibited from private fostering, as specified in Schedule 1 of the 2009 Regulations;

e. living in the same household where another person who is disqualified lives or is employed (disqualification ‘by association’) as specified in regulation 9 of the 2009 Regulations. This applies to domestic settings only;

f. being found to have committed an offence overseas which would constitute an offence regarding disqualification under the 2009 Regulations if it had been done in any part of the United Kingdom.

If you believe you are disqualified, you have a duty to inform your manager as soon as possible. Further guidance is available from the HR Safeguarding Team please contact: hrsafeguardingteam@cornwall.gov.uk or telephone 01872 324130.

24 Conduct and performance

Standards of conduct and performance are determined by senior management and will be written in the relevant Disciplinary and Capability Procedure and may also include reference to Professional Codes of Conduct or other Service related policies or procedures.

24.1 Gross Misconduct

The relevant Disciplinary and Capability Procedure lists the circumstances which are likely to be regarded as gross misconduct. Please refer to the Cornwall Council, Cornwall Fire, Rescue and Community Safety Service, Chief Officer or Chief Executive Disciplinary and Capability Procedures as appropriate.


- Theft, fraud, deliberate falsification of records
- Physical violence
- Damage to Council property
- Being under the influence of alcohol or illegal drugs at work
- Serious negligence
- Serious insubordination or refusal to undertake a management instruction
- Misuse of the Council’s information particularly deliberate disclosure of confidential or personal information
- Repeated accidental loss of confidential or personal information
• Misuse of the Council’s facilities including unauthorised use of computer, communications or information services systems
• Conduct which is likely to discredit or be prejudicial to the interests of the Council
• Serious breaches of Health and Safety procedures
• Serious bullying or harassment of any individual
• Unlawful discrimination or harassment on the basis of age, disability, ethnic or national origin, race, gender reassignment, marriage/civil partnership, pregnancy/maternity, religious beliefs, sex or sexual orientation
• Serious breach of confidence (subject to the Public Interest Disclosure Act 1998)
• Hate crimes/incidents
• Domestic Abuse/Sexual Violence
• Acceptance of bribes or any other corrupt or dishonest practice
• Deliberate disclosure of personal information
• Failure to declare a gift, hospitality or conflict of interest

24.2 Use of Personal Mobile phones and Electronic devices

Employees use of personal mobile phones or electronic devices during working time must be kept to a minimum and not interfere with their work. There may be times when an emergency call needs to be made or received, but it is expected that this is on an infrequent basis. Any personal calls or messages that need to be sent or read during the working day should be dealt with during unpaid break times.

Any excessive, inappropriate use or use of a personal mobile phone or electronic device that interferes with their work or work of other colleagues may lead to action under the relevant Disciplinary and Capability Procedure for example Cornwall Council, Cornwall Fire, Rescue and Community Safety Service, Chief Officer or Chief Executive.

25 Personal Use of Social Media by Employees

Employees must not assume that their comments on social media will remain private and any information posted on social media by an employee may be used as evidence in employment investigations and hearings.

Employees must ensure that, in their use of social media, they do not make comments about other employees, councillors or the Council that are or could be perceived to be derogatory, abusive, damaging to the individual’s or the Council’s reputation or amount to harassment, even where such comments are made outside working hours. They should be mindful that such comments could give rise to legal action.

Employees must ensure that no information is made available that could provide a person with unauthorised access to the Council’s confidential
information and they must refrain from recording any confidential information regarding the Council on any social networking website.

The Council will take action to prevent misuse of social networking sites as the Council as employer may be vicariously liable for the acts of an employee in certain circumstances. The Council will consider what action to take to address any malicious, untrue or otherwise inappropriate allegations which may circulate on social media sites.

26 Personal appearance

The Council expects employees to observe a standard of personal appearance which is appropriate to the nature of the work undertaken, follows operational requirements and which portrays a professional approach which the public will have confidence in. Employees are expected to observe a high standard of cleanliness and personal hygiene.

27 Use of Council property and facilities – Stewardship

Council assets and facilities, including stationery, tools, computers, laptops, machinery, photocopiers, vehicles, offices, and car parks must only be used for official Council business and not for personal use unless permission for their private use is obtained from the appropriate manager. Council telephones, either desk or work mobile phones, must be used in accordance with the relevant IT policy.

This restriction also applies to computers, software and data, which must not be used for private purposes or removed from the premises, without the express or prior consent of the appropriate manager or where permitted in accordance with the Council's related policies or procedures. The overriding consideration must be that of common sense, so that the situation can never arise whereby suspicion is aroused that an individual has taken advantage of their position as an employee of the Council for personal benefit.

All Council resources must be used with care to avoid wastage, loss or damage. All Council property must be returned on leaving employment or if transferred/promoted into a role in which it is not required.

28 Notification of Criminal Investigations and other required disclosures

The Employee Code of Conduct places a general obligation on all employees to disclose information which is relevant to their capability, capacity and suitability to carry out the duties and responsibilities for which they are employed. This general obligation applies irrespective of the role undertaken by the employee and is not limited to information which relates to a conviction, caution, reprimand or warning. For employees undertaking roles for which a criminal record disclosure is required there is a specific obligation on them to disclose any convictions, cautions, reprimands or
warnings that they receive in the course of or which are relevant to their employment.

In all cases a failure to disclose relevant information or the deliberate withholding of such information is likely to amount to a breach of trust and confidence and has the potential to lead to the termination of employment. All such instances will be subject to an appropriate investigation during which the Council may wish to instigate a criminal record disclosure check to assist the investigation process.

For the avoidance of doubt an employee must immediately inform their manager in writing, if during their employment with the Council they are:

- Advised that they are under investigation for a criminal act (including road traffic offences)
- Under investigation by another statutory agency e.g. Social Care Services
- Arrested in connection with a criminal act
- Notified that criminal charges are being considered against them
- In receipt of a summons to appear before a Court of Law for an alleged offence
- Found guilty and convicted of any offence
- Receive a police caution
- Are involved in any other matter which it would be reasonable to think would impact upon their role and or professional standing
- Employees who are required to drive as part of their duties must also declare any penalties received in connection with motoring offences.

Failure to disclose this information will be treated as a disciplinary offence.

**Further Advice**

Advice must be sought from the line manager, Service Director, or the Monitoring Officer if an employee is in any doubt as to the interpretation of this Code.

**Breaches and non-compliance**

Any instance of a breach of this policy which comes to the Council’s attention will be investigated and appropriate action taken. This may include action under the relevant Disciplinary and Capability Procedure for example Cornwall Council, Cornwall Fire, Rescue and Community Safety Service, Chief Officer or Chief Executive.

**Evaluation and review**

This Code will be subject to regular review and will also be reviewed in the following circumstances:

- Where new legislation is published or existing legislation is updated.
• Where new guidance is published or existing guidance is updated.
• Research, monitoring or auditing suggests that a review may be required.

For the avoidance of doubt the Employee Code of Conduct does not form part of your contract of employment.

Prepared by: **Employment Team, Human Resources and Organisational Development**

If you would like this information in another format please contact:

**Cornwall Council**  
County Hall  
Treyew Road  
Truro TR1 3AY

Telephone: **0300 1234 100**

Email: **enquiries@cornwall.gov.uk**

[www.cornwall.gov.uk](http://www.cornwall.gov.uk)

Please consider the environment. Only print this document if it cannot be sent electronically
Cornwall Council

Employee declaration of interests

Private and Confidential

All new employees must complete and sign this form within the first week of employment and then as required to notify their Service Director of any interests which need to be declared.

The form will also need to be updated and resubmitted electronically by all employees every January, even for nil returns.

Name ................................................................................................................................. Service .................................................................................................................................
Post held ............................................................................................................................. Team .................................................................................................................................

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<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>If yes, please indicate their name, their relationship to you, their role and in which Service they work</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do any members of your family work for Cornwall Council? (please include partners, common law wife/husband, civil partners)</td>
<td>Yes</td>
<td>No</td>
<td>If yes, please indicate their name, their relationship to you, their role and in which Service they work</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
<td>If yes, please provide more information on the personal interest</td>
</tr>
<tr>
<td>2. Do you have any personal interests which you consider gives rise to or may create a conflict with the Council’s interests?</td>
<td>Yes</td>
<td>No</td>
<td>If yes, please provide more information on the personal interest</td>
</tr>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
<td>If yes, please provide more information on the personal interest</td>
</tr>
<tr>
<td>3. Do you or any person living with you or any member of your family</td>
<td>Yes</td>
<td>No</td>
<td>If yes, please provide more information on the personal interest</td>
</tr>
<tr>
<td>Question</td>
<td>Yes</td>
<td>No</td>
<td>Information</td>
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<tr>
<td>or a close personal friend have any interest in a business or contract which is or may become a business relationship with the Council?</td>
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<tr>
<td>4. Do you have any financial interests which could conflict with the Council’s interests?</td>
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<tr>
<td>5. Do you have any other interests which you wish to declare?</td>
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</table>

If you indicated 'Yes' to any of Questions 1 to 5 and there is any risk of the declaration creating a conflict of interest or being reasonably perceived as creating a conflict of interest, you must obtain written clarification from your Service Director or other counter-signatory as to how this conflict of interest is being addressed. Please attach the written clarification to a paper copy of this form.

Signature of Employee: ................................................................. Date: .........................................................

Once completed, please pass this form to your Service Director or other counter-signatory for recording and retention.

Signature of Counter-signatory: .................................................... Date: .........................................................
Employee declaration of gifts and hospitality

Private and Confidential

All employees must complete this form on the offer or receipt of a gift or hospitality not covered by the exceptions stated in the policy or where they consider it advisable to do so.

Name ................................................................................................................................. Service ................................................................................................................................
Post held .............................................................................................................................. Section ................................................................................................................................

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>If Yes please provide details</th>
<th>Value</th>
<th>Donor</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Have you received any gifts?</td>
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<td></td>
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<tr>
<td>2.</td>
<td>Have you refused any gifts?</td>
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<tr>
<td>3.</td>
<td>Have you received any hospitality?</td>
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<tr>
<td>4.</td>
<td>Have you refused any hospitality?</td>
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</tbody>
</table>

Signature of Employee: ............................................................................................................... Date: .........................................................

Signature of Counter signatory:..................................................................................................Date: .........................................................

Once completed, please pass this form to your Counter Signatory for recording and retention
Officer Employment
Procedure Rules
Officer Employment Procedure Rules

1. Recruitment and Appointment

1.1 Declarations

1.1.1 The Council shall draw up a statement requiring any candidate for appointment as an officer to state in writing, whether they are related to the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Member or an officer of the Council, or the partner of such persons.

1.1.2 No candidate so related to a Member or an officer shall be appointed without the authority of the relevant Chief Officer or an officer nominated by them.

1.2 Seeking Support for Appointment

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

1.2.2 No Member shall seek support of any person for any appointment with the Council.

2. Recruitment of Head of Paid Service and Chief Officers

2.1 Where the Council proposes to appoint one of the above officers the Council shall:

2.1.1 draw up a statement specifying the duties of the officer concerned and any qualifications or qualities to be sought in the person to be appointed;

2.1.2 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;

2.1.3 make arrangements for a copy of the statement mentioned in paragraph 1 to be sent to any person on request;

2.1.4 the Council shall normally seek to fill Chief Officer vacancies following external advertisement, but if it proposes to make the appointment exclusively from among its existing officers, 2.1.2 and 2.1.3 above shall not apply; and
2.1.5 where a post has been advertised in accordance with the above provisions the Council will shortlist and interview candidates in accordance with its established procedures.

2.2 Where a committee, sub-committee, panel or officer is discharging, on behalf of the Council, the function of the appointment of the Head of Paid Service, Chief Financial Officer or Monitoring Officer an offer of appointment may not be made to that officer until approved by the full Council, requiring compliance with the procedures in annex 1 to these rules.

3. Appointment of Head of Paid Service

3.1 The Council shall approve the appointment of the Head of Paid Service, following the recommendation of such an appointment by the Chief Officers Employment Committee. The Committee shall comprise 7 Members of the Council, one of whom shall be the Leader, and be representative of the recognised political groups of the Council.

3.2 The Council may only make or approve the appointment of the Head of Paid Service where the procedure set out in Annex 1 to these rules has been completed.

4. Appointment of Chief Officers (other than the Head of Paid Service)

4.1 The Chief Officers Employment Committee shall appoint Chief Officers. The Committee shall comprise 7 Members of the Council, one of whom shall be the Leader, and be representative of the recognised political groups of the full Council.

4.2 An offer of employment as a Chief Officer shall only be made where the procedure set out in Annex 1 to these Rules has been completed.

5. Other Appointments

With the exception of the appointment of the Returning Officer and the Electoral Registration Officer, the appointment of officers who are not Chief Officers, is the responsibility of the Head of Paid Service or their nominee and may not be made by Members.

6. Disciplinary Action

6.1 Save for the action in sub-paragraph 6.3, no disciplinary action may be taken in respect of the Head of Paid Service, the Monitoring Officer or the Chief Financial Officer other than in accordance with Annex 2 to these Rules.
6.2 Save for the action in sub-paragraph 6.3, no disciplinary action may be taken in respect of any other Chief Officer other than in accordance with Annex 3 to these Rules.

6.3 The action mentioned in sub-paragraphs 6.2.1 and 6.2.2 above is the suspension of an officer on full pay for the purpose of investigating any alleged misconduct. Any such suspension must terminate no later than the expiry of 2 months beginning on the day on which the suspension takes effect, unless there are justifiable reasons in the opinion of the Service Director - Resources for continuing the suspension beyond that period but any continuation shall be for no more than one month at a time.

6.4 Members shall not be involved in disciplinary action against any officer who is not a Chief Officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct or is provided for in the Annexes to these Rules.

7. Dismissal

7.1 Members shall not be involved in the dismissal of any officer other than in strict accordance with the procedures in Annexes 2 and 3 to these Rules.

7.2 Where a committee, sub-committee, panel or officer is discharging, on behalf of the Council, the function of the dismissal of the Head of Paid Service, Chief Financial Officer or Monitoring Officer notice of dismissal must not be given to that officer until approved by the full Council, requiring compliance with the procedures in Annex 2 to these Rules.

7.3 Where a committee, sub-committee or panel is discharging, on behalf of the Council, the function of the dismissal of the Head of Paid Service, Chief Financial Officer, Monitoring Officer or any other Chief Officer, that committee, sub-committee or panel must include at least 2 Members of the Cabinet;

8. Appeals

Appeals against decisions to which these Rules relate will only be to Members of the Council where required by the Council’s Disciplinary and Capability Procedure or by the law.

9. Definitions


"Chief Financial Officer” means the officer so designated in accordance with the Council’s Constitution.
“Chief Officers” includes the Strategic Directors, the Chief Financial Officer appointed under s.151 of the Local Government Act 1972 and Monitoring Officer appointed under s.5 of the Local Government and Housing Act 1989 (collectively referred to as the relevant officers). The Council, through the Proper Officer, will determine which other roles are within this definition of Chief Officers, but this may include Service Directors and other statutory officers such as the Chief Fire Officer.

“Disciplinary action” in relation to a member of staff of the Council means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Council, be recorded on the member of staff’s personal file and includes any proposal or dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract for employment for a fixed term unless the Council has undertaken to renew such a contract.

“Dismissor” means the committee, sub-committee, panel or officer of the Council discharging on behalf of the Council the function of dismissing an employee, whatever their status or designation or however defined in these Rules.

“Head of Paid Service” means the Chief Executive.

“Independent Person” means a person appointed under section 28(7) of the 2011 Act.

“Local Government Elector” means a person registered as a local government elector in the register of electors in the Council’s area in accordance with the Representation of the People Acts.

“Monitoring Officer” means the officer so designated in accordance with the Council’s Constitution.

“Panel” means a committee appointed by the Council under section 102(4) of the Local Government Act 1972 for the purposes of advising the Council on matters relating to the dismissal of Relevant Officers of the Council.

“Proper Officer” shall be the Monitoring Officer or their nominee if the Monitoring Officer is affected.

“Relevant Independent Person” means any Independent Person who has been appointed by the Council or, where there are fewer than two such persons, such Independent Persons as have been appointed by another authority or authorities as the Council considers appropriate.

“Relevant Meeting” means a meeting of the Council to consider whether or not to approve a proposal to dismiss a Relevant Officer.

“Relevant Officer” means the Chief Financial Officer, Head of Paid Service or Monitoring Officer, as the case may be.
Annex 1 to the Officer Employment Procedure Rules

Appointment of Head of Paid Service and Chief Officers

1. This procedure applies to the appointment of the Head of Paid Service and Chief Officers and has been incorporated into these Rules, as required by legislation.

2. In this procedure, "appointer" means, in relation to the appointment of the Head of Paid Service and Chief Officers, the committee, sub-committee or panel making the appointment or, in the case of the appointment of the Head of Paid Service, is committee, sub-committee or panel making a recommendation to the Council.

3. Only the full Council can approve the appointment of the Head of Paid Service, Chief Financial Officer or Monitoring Officer.

4. An offer of an appointment to which this Annex applies must not be made by the appointer until:
   (a) the appointer has notified the Proper Officer of the name of the person to whom the appointer wishes to make the offer and any other particulars which the appointer considers to be relevant to the appointment;
   (b) the Proper Officer has notified every Member of the Cabinet of:
      i) the name of the person to whom the appointer wishes to make the offer;
      ii) any other particulars relevant to the appointment which the appointer has notified to the proper officer; and
      iii) the period within which any objection to the making of the offer is to be made by the Cabinet Leader on behalf of the Cabinet to the Proper Officer; and
   (c) either:
      i) the Leader has, within the period specified in the notice under sub-paragraph 3 (b)(iii), notified the appointer that neither they nor any Member of the Cabinet has any objection to the making of the offer;
      ii) the Proper Officer has notified the appointer that no objection was received by them within that period from the Leader; or
      iii) the appointer is satisfied that any objection received from the Leader within that period is not material or is not well founded.
Annex 2 to the Officer Employment Procedure Rules

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

1. This procedure applies to the dismissal of the Head of Paid Service, Chief Financial Officer and Monitoring Officer and has been incorporated into these Rules, as required by legislation.

2. The terms used in this Annex are as defined in paragraph 9 to these Rules.

3. A Relevant Officer may not be dismissed by the Council unless the procedure set out in this Annex is complied with.

4. The Council must invite Relevant Independent Persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

5. Subject to paragraph 6 of this Annex, the Council must appoint to the Panel such Relevant Independent Persons who have accepted an invitation issued in accordance with paragraph 4 in accordance with the following priority order:
   (a) a Relevant Independent Person who has been appointed by the Council and who is a Local Government Elector;
   (b) any other Relevant Independent Person who has been appointed by the Council;
   (c) a Relevant Independent Person who has been appointed by another authority or authorities.

6. The Council is not required to appoint more than two Relevant Independent Persons to the Panel in accordance with paragraph 5 of this Annex but may do so.

7. The Council must appoint any Panel at least 20 working days before the Relevant Meeting.

8. Before the taking of a vote at the Relevant Meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:
   (a) any advice, views or recommendations of the Panel;
   (b) the conclusions of any investigation into the proposed dismissal; and
   (c) any representations from the relevant officer.

9. Any remuneration, allowances or fees paid by the Council to an Independent Person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person’s role as Independent Person under the 2011 Act.
Annex 3 to the Officer Employment Procedure Rules

Dismissal of Chief Officers (other than those to which Annex 2 applies)

1. This procedure applies to the dismissal of Chief Officers, other than the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer to whom Annex 2 applies, and has been incorporated into these Rules, as required by legislation.

2. The terms used in this Annex are as defined in paragraph 9 to these Rules save as otherwise specifically provided in this Annex.

3. The Chief Officers to which this Annex applies are referred to for the purposes of this Annex only as “Senior Officers”.

4. Notice of the dismissal of a Senior Officer must not be given by the dismissor until:
   a) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers to be relevant to the dismissal;
   b) the Proper Officer has notified every Member of the Cabinet of:
      i) the name of the person who the dismissor wishes to dismiss;
      ii) any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
      iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
   c) either:
      i) the Leader has, within the period specified in the notice under sub-paragraph 3 (b)(iii), notified the dismissor that neither they nor any other Portfolio Holder has any objection to the dismissal; or
      ii) the Proper Officer has notified the dismissor that no objection was received by them within that period from the Leader; or
      iii) the dismissor is satisfied that any objection received from the Leader within that period is not well-founded.
Protocol for Council
Motions on Notice
Protocol for Council Motions on Notice

1. The purpose of this Protocol is to provide guidance to Members and officers on how motions on notice to the Cornwall Council shall be dealt with. It is intended to be read alongside, and to be complementary to, Council Procedure Rule 12. If there is any conflict between the two, Rule 12 shall take precedence and the Monitoring Officer shall provide any further guidance required as to the interpretation of the procedure for dealing with motions on notice.

2. Rule 12.1 provides that motions on notice should be delivered to the Monitoring Officer not later than noon 9 working days before the date of the relevant Council meeting. This does not allow a significant amount of time for the pre-meeting aspects of the procedure and Members are encouraged to deliver any motion as early as possible before the date of the relevant Council meeting.

3. Each motion on notice shall be set out and shall follow the headings of the standard form for this purpose and the mover shall give as much information as possible on the purpose and context of the motion and the proposed course of action to be taken by the Council.

4. If the Chairman considers that it shall be helpful for the efficient conduct of business, the Chairman shall use their best endeavours to consult with the mover of the motion prior to the relevant Council meeting. This shall be an opportunity for the mover to confirm the purpose and context of the motion and it shall enable the Chairman to have a better understanding as to whether the motion should stand referred and, if so, on what basis. If the Chairman is unavailable to meet with the mover of the motion prior to the meeting, the Vice-Chairman shall consult with the mover of the motion.

5. In accordance with Rule 12.3, where a motion is to stand referred, it is the Chairman’s responsibility to refer the motion and to state the criteria which apply having consulted with the mover and seconder of the motion and the Monitoring Officer or their Deputy.

6. If, in accordance with Rule 12.3, the Chairman decides that the motion shall be debated at the Council meeting because it is convenient and conducive to the despatch of business or sufficiently urgent to do so but subsequently decides that the motion shall stand referred to a committee of the Council or the Cabinet, e.g. to enable further background information to be supplied by officers to better inform the debate, the Chairman shall, following consultation with the mover and seconder, have the power to so refer.

7. If the subject matter of the motion is one which comes within the
functions of the Cabinet and stands referred, the matter shall stand referred either direct to the Cabinet or to the appropriate committee which shall make a recommendation to the Cabinet. In such cases, the decision of the Cabinet shall be reported to the Council but there shall be no further debate on the motion when reported back to Council.

8. If the subject matter of the motion comes within the functions of the Council and stands referred, the matter shall stand referred either direct to the Cabinet or to another committee of the Council. In either case, the Cabinet or the committee shall make a recommendation to the Council for a decision to taken.

9. In any case where a motion is referred, the Chairman shall make clear the process for determining the motion and this shall be recorded in the minutes of the Council meeting.

10. The mover and seconder of any motion on notice which stands referred shall be invited to attend the meeting of the body or bodies to which it stands referred and shall be entitled to address the meeting or meetings on the subject matter of the motion.

11. An individual Member can bring only one motion on notice to any meeting of the Council.

12. It is important that motions on notice to the Council are dealt with in a comprehensive and timely way. Rule 12 therefore provides a 6 month time limit during which the motion must be considered and either reported or referred back to a meeting of the Council.
Protocol for questions from the Public at Council Meetings
Protocol for questions from the Public at Council Meetings

1. Subject to the requirements set out below, a member of the public who lives or works in Cornwall may submit a written question to the relevant Portfolio Holder within the Cabinet, or the Chairman of any Council committee. Such questions shall be dealt with during the public question agenda item of the Council meeting.

2. A person wishing to ask a question under this rule shall submit the question in writing which must be received at the office of the Service Director – Assurance at County Hall no later than midday 2 clear working days before the meeting of the Council at which it is to be asked. The person’s name and town must be included in the question and the name and town of the person putting the question shall be included in the minutes.

3. A question put to a Member under this rule shall relate to Council business, shall not normally exceed 50 words in length and shall be so framed as to elicit information rather than make a statement. In accordance with the restriction in Council Procedure Rule 10.5, no member of the public may ask more than one question at any one meeting and no more than two questions in any one financial year. Any question put to an extraordinary meeting must relate to the business specified in the summons for the meeting.

4. Questions shall be printed in order of receipt and circulated, amongst the Members at the commencement of the Council meeting, and no discussion shall be allowed upon questions or answers.

5. Question time under this Procedure Rule shall not normally commence until after announcements, declarations of interests and the receiving of the minutes of the previous Council meeting, if applicable. The period for questions shall be restricted to a maximum of 30 minutes, provided that where a question to which an answer is to be given is not reached within the time limit, a written answer shall be given to the questioner within 7 working days of the relevant meeting and circulated to all Members of the Council.

6. If questions are unsuitable in form, frivolous, defamatory, derogatory, otherwise offensive or relate to a matter which the Council would be likely to consider in the absence of the press and public, the Chairman of the Council shall have the right to rule the question out of order and that it shall not be responded to within the public part of the meeting or at all.
Protocol for Questions from the Public at Overview and Scrutiny Committee Meetings
Protocol for questions from members of the Public at Overview and Scrutiny Committees

1. Members of the public are defined as any individuals living or working within Cornwall.

2. All questions must be notified to the Monitoring Officer at County Hall by midday at least 2 clear working days before the meeting. The person’s name and town must be included in the question and the name and town of the person putting the question shall be included in the minutes.

3. Normally, a total of 10 minutes shall be allocated at the start of the meeting for public questions.

4. Questions at ordinary meetings must relate to the business of the Committee, although not necessarily to an item on the agenda for the meeting. However, questions at extraordinary meetings must relate to an item on the agenda.

5. One follow up question may be allowed at the discretion of the Chairman of the Committee.

6. Each person may attend the relevant meeting to put their question or statement and shall be allowed a maximum of 3 minutes speaking time.

7. Questions shall be responded to by the Chairman of the Committee unless they nominate another Member or an officer to respond. If a response cannot be given at the meeting, a written response shall be provided within 7 working days and circulated to all Members of the Committee.

8. Where more than one person wishes to raise the question, they shall be asked to agree a spokesperson to speak on that issue. If they cannot reach such an agreement the Chairman will make a final decision on how the matter is resolved.

9. It is not intended that the same or similar question should be put to a future meeting of the same committee and where there is an overlap between the remit of committees the same or similar question shall not be put to any other of those committees once dealt with or rejected.

10. No member of the public may have more than two questions put to a Committee in a financial year.
11. If questions or statements are unsuitable in form, frivolous, defamatory, derogatory, otherwise offensive, confidential in nature or relating to a matter being investigated under the Council’s formal complaints and/or appeals procedures, the Monitoring Officer shall have the right to rule the question out of order and the matter be reported to the relevant Chairman.

12. If there is any dispute as to the admissibility of any question or statement under this Protocol, the matter shall be determined by the Monitoring Officer, following consultation with the Chairman of the Committee.

13. The ruling of the Chairman of the relevant Committee regarding the application of this Protocol at any meeting shall be final.
Urgency Procedure
for Non-Executive
Decisions
Urgency Procedure for Non-Executive Decisions

Where, in the opinion of the Chief Executive (or in their absence their nominated deputy for this purpose which, in the absence of a specific delegation, shall be taken to be any of the Strategic Directors), a decision is urgently required by the Council or committee, and cannot be delayed until a meeting is convened, they may take any decision within the competence of the Council or committee, having first consulted the Chairman and the Vice-Chairman of the Council or Chairman and Vice-Chairman of the committee, with delegated powers.

Where it is not reasonably practicable to consult with one of the nominated consultees, this shall not invalidate the decision. Where such matters have significant legal or financial implications, the Monitoring Officer and the Chief Financial Officer shall be consulted prior to the decision being made.

Where such matters have a local impact, the Local Members shall be notified of issues relating to their electoral divisions. The Council or appropriate committee shall be advised of the decision at their next meeting, and the reasons for it.
Protocol for Planning Procedures
Protocol for Planning Procedures

1. Background

The purpose of this Protocol is to outline clear principles for the operation of the Planning and Sustainable Development Service within the Economic Growth and Development Directorate. The overriding aim is to provide for, and maintain, the integrity of planning processes and advice given on planning matters so that both the reality and perception of the service is one in which the highest standards of integrity are attained.

The structure of the Council already provides for a separation of the planning application decision-making function from the Cabinet and through four Planning Committees which are the Strategic Planning Committee and the West, Central and East Sub-Area Planning Committees. This Protocol, therefore, deals with officer arrangements. However, it should be recognised that issues of probity are of the highest importance in the discharge of the Council’s planning function. Therefore, the Council is committed to the promotion of and adherence to the Code of Conduct for Members and appropriate training for all Members of the Planning Committees, and any nominated substitutes.

2. Basic Premises

2.1 To recognise that the successful operation of the planning system relies on ensuring that officers and Members act in a way which is not only fair, but is clearly seen to be so;

2.2 to recognise that different functions within the Directorate are either users or providers of planning services;

2.3 to ensure that decisions on the use of land and property and operational functions of the Service are undertaken in a manner consistent with the Council’s adopted planning policies; and

2.4 that planning decisions made by, or on behalf of, the Council are made with the benefit of professional planning advice and that structures, mechanisms and staff of the appropriate training and calibre are in place to achieve this.

3. Key Issues

The main circumstances where particular care should be taken in officer relationships are:

3.1 where the Council is responsible for the processing and determination of an application for development by the Council;
3.2 where the Council shall determine a planning application, in which the Council has a substantive interest, either as a partner, landowner, through a particular service function (e.g. Waste Disposal Authority) or a company in which it has an interest;

3.3 where allocations are to be made in the Minerals or Waste Local Plans in which the Council has an interest;

3.4 where property and service interests and planning (land use and transport policy) issues may need to be reconciled;

3.5 in the exercise of the Council’s permitted development rights (e.g. for highways, educational establishments, etc.);

3.6 in negotiating “planning gain” from development proposals; and

3.7 in the exercise of delegated functions, where the Council has an interest.

4. Operational Principles and Practice

The ultimate responsibility for decision making and operational practice on all planning matters within the Directorate lies with the Strategic Director for Economic Growth and Development. However, under the Scheme of Delegation in the Constitution, in relation to Planning Development Control matters including matters relating to local plans, the delegation is direct to the Service Director – Planning and Sustainable Development. The Service Director – Planning and Sustainable Development is also authorised to determine planning development control matters including certificates of lawful development and matters relating to local plans. In carrying out these responsibilities the following operational principles and practices shall apply:

4.1 where advice on the determination of planning applications or other planning matters is required either to any of the Planning Committees, or the Cabinet, this shall be undertaken with the explicit advice or recommendation of the Service Director – Planning and Sustainable Development or his nominee;

4.2 within the Scheme of Delegation in the Constitution, each Strategic Director has delegated authority to make applications for planning permission in connection with schemes that have already been approved by the Cabinet, following consultation with the appropriate Portfolio Holder;

4.3 all applications for planning permission prepared by, or handled by, the Directorate shall be subject to a pre-application discussion with the appropriate planning officer in the Planning and Sustainable Development Service. Any procedural or policy conflicts which
cannot be resolved by section heads shall be referred to the Service Director – Planning and Sustainable Development or his nominee and, if necessary and appropriate, to the Strategic Director;

4.4 all applications for Council development shall be dealt with in the same way as for private developers both in terms of procedures and the assessment of material planning considerations;

4.5 the Service Director – Planning and Sustainable Development shall be responsible for all procedural matters and reports and recommendations to the Planning Committees on behalf of the Strategic Director for Economic Growth and Development using the appropriate variant of the following forms:

a) Service Director – Planning and Sustainable Development; or

b) Service Director – Planning and Sustainable Development for the Strategic Director for Economic Growth and Development;

4.6 the delegated planning functions shall be undertaken in accordance with the Scheme of Delegation;

4.7 the Service Director – Planning and Sustainable Development shall act at all times in accordance with the Royal Town Planning Institute Code of Professional Conduct and, in particular, shall not make or subscribe to any statements or reports which are contrary to his own professional opinion; and

4.8 staff structures, development and training should recognise the value and need to maintain a cadre of professional planning staff to serve the needs of the Council and the wider community of Cornwall.
Guidance for Members and Officers dealing with Planning Matters
Guidance for Members and Officers dealing with Planning Matters

Introduction

This Guidance for Members and officers who are dealing with planning issues is based on a guidance note issued by the Local Government Association concerning probity in planning. The Council has four Planning Committees. They are the Strategic Planning Committee and the West, Central and East Sub-Area Planning Committees. The role of an elected Member on the Planning Committees involves the balance of representing the needs and interests of individual constituents and the community, with the need to maintain the ethos of impartial decision making on what can be highly controversial proposals. The intention of the guidance is to ensure that the planning process is characterised by open and transparent decision-making.

The attention of Members is also drawn to the publication issued by the Local Government Association in conjunction with a number of other bodies entitled ‘positive engagement – a guide for planning councillors’. It is an extremely useful publication that complements this Guidance and which shall help Members involved in the planning process to avoid difficulties.

This Guidance does not form part of the Code of Conduct for Members, but Members should be mindful of both when dealing with planning matters.

1. The General Role and Conduct of Members and Officers

Members and officers have different, but complementary, roles and consequently a successful relationship between them has to be based upon mutual trust and respect and understanding of each other’s positions.

Both Members and officers are subject to Codes of Conduct. The Council’s Code of Conduct for Members, which is a statutory requirement, provides the Code with which Members are required to comply and which Members agree to be bound by when they sign their Declaration of Acceptance of Office.

The Royal Town Planning Institute’s Code of Professional Conduct provides guidance for Chartered Town Planners and other professional officers, such as solicitors, also have their own professional rules. In addition, all employees of the Council are bound by the Employee Code of Conduct set out in the Constitution.

There is also a Protocol in the Constitution relating to Member and officer relations which must be observed.

The basis of the planning system is the consideration of private proposals
against the wider public interest and opposing views are often strongly held by those involved. Whilst Members should take account of those views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so.

2. **Declaration of Interests**

The Code of Conduct for Members sets out the requirements and guidance for Members on declaring interests, whether disclosable pecuniary interests or non-registerable interests. The responsibility for such declarations rests with individual Members. Further guidance on, amongst other topics, lobby groups, dual-hatted members and the Code of Conduct can be obtained from the Monitoring Officer or one of his team.

Although the effect on decision-making is now significantly limited by the Localism Act 2011, Members must also be mindful of the common law principles of bias and predetermination and should seek and have regard to advice from officers where appropriate.

3. **Member Training**

The Nolan Committee Report on Standards in Public Life, Local Government Association and the Royal Town Planning Institute, all place particular emphasis on the need for Members to have adequate knowledge of the planning process. From time to time, training sessions are arranged and Members of the Planning Committees, and their nominated substitutes, are expected to take part in these training sessions in order to keep themselves fully up to date with all relevant legislation, local, regional and national policy and Government guidance. Regular reports are also made, and shall continue to be made to committees on relevant issues so as to keep Members fully updated.

4. **Development Proposals Submitted by Members and Officers and the Council’s Own Development**

Proposals to the Council by serving, or former, Members and officers, and their close friends and relatives, can easily give rise to suspicions of impropriety as, indeed, can proposals for the Council’s own development. Whilst it is perfectly legitimate for such proposals to be submitted, serving Members who submit their own proposals, or who act as agents for people pursuing a planning matter within their authority, should play no part in the decision-making process for that proposal. Such proposals should be reported to the appropriate Planning Committee and not be dealt with by officers under delegated powers. The Council’s Monitoring Officer should be informed of such proposals.

Proposals for the Council’s own development must be treated in the same way as those proposals submitted by private developers.

5. **Lobbying of and by Members**
Lobbying of Members is a normal and proper part of the political process. However, unless care and common sense are exercised, the impartiality and integrity of Members can be called into question. When lobbied, Members should avoid expressing any opinion which may indicate that they have pre-judged an issue before it is debated in committee. In particular, Members should never indicate in advance of the determination of an application how they intend to vote, as Members must make up their mind about an issue once they have heard all the evidence and the arguments at the Planning Committee meeting when the application is determined.

Given that the point at which a decision on a planning application is made cannot occur before a committee takes place, any prior party group meeting must not be used to decide how Members should vote.

If Members are lobbied, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying that they should speak or write to the relevant officer in order that their opinions can be included in the officers’ report to the committee. If Members do express an opinion, they should make it clear that they shall only be in a position to make a final decision on how to vote on the application after having heard all the relevant evidence and arguments at the committee.

Members should avoid organising support for, or opposition to, planning applications and should not lobby other Members as such actions can easily be misunderstood by parties to an application or by the public.

Members may have real and valid concerns about a planning application or planning matter long before it comes to the committee. They are entitled to raise these concerns and to ask that they be looked at in any report that may go to the committee.

Members should not put pressure on officers for a particular recommendation.

Members of the Planning Committees who are also members of a Parish, Town or City Council acting as a consultee should take care to ensure that they maintain an open mind, and are seen to do so, until they have heard all the evidence and arguments which shall be presented at the appropriate Planning Committee of the Council.

6. **Pre-application Discussions**

The Council encourages pre-application discussions between applicants, potential applicants and Council officers. Pre-application discussions are an important part of the planning process, but officers shall make it clear from the outset that discussions shall not bind the Council to making a particular decision.

Advice should be consistent and based upon the Development Plan and other relevant material considerations.
A written note should always be made of pre-application meetings, and telephone conversations, and if Members are invited to attend meetings involving potentially controversial issues an officer should also attend.

Care should be taken to ensure that the advice given is impartial.

7. Reports to the Committee

Reports to the committees shall be in writing, and shall include a summary of objections, relevant policies, identification of any other material considerations, an appraisal and a written recommendation. If the recommendation is contrary to policy, or a departure from the statutory Development Plan, this shall be clearly identified and justified.

Where a Member of a Planning Committee is also consulted as a local Member for a proposal, any view expressed by that Member, and included in the committee report, shall be taken as provisional and subject to hearing the full facts at the committee, rather than as a statement about the way that Member proposes to vote on the matter.

Oral reporting, except to update a report, should be extremely rare and when it does occur should be carefully minuted.

8. Decisions Contrary to Officer Recommendation

Members are entitled to make decisions contrary to professional advice. The law requires, however, that decisions must be taken in accordance with the statutory Development Plan unless material considerations indicate otherwise. The planning legislation requires planning decisions to be taken having regard to the Development Plan unless other material considerations indicate otherwise. Members shall be required to make their decisions on the basis of written reports save as referred to above. Members should have good reasons, based on land use planning grounds, if they choose to resist such advice. For the Strategic Planning Committee and the Sub-Area Committees the procedure for dealing with a proposal to make a decision contrary to officer’s advice is as follows:

a) where the committee is minded to make a decision which is at variance with the recommendation of the Council’s officers, the mover shall set out the reasons for such a decision and allow sufficient time for officers to comment on those reasons and their ability to withstand challenge through the appeal procedure;

b) if, in the opinion of the Chairman of the Committee, following consultation with the Service Director – Planning and Sustainable Development, insufficient written planning reasons have been put forward or insufficient time has been allowed for officers to advise on the adequacy of the reasons during the meeting, the decision should be deferred and a further report prepared for the next meeting; and
c) reasons for decisions which are considered to be contrary to planning policy (as advised by the Council’s officers) shall be fully recorded in the minutes of the relevant meeting.

9. Site Visits and Site Meetings

Site visits, or site meetings, shall be held only in accordance with the procedures for such meetings as approved by or on behalf of the Council from time to time. The requirement for a site meeting shall be determined by a simple majority vote, whether at the Strategic Planning Committee or a Sub-Area Planning Committee. The current approved procedures for Site Meetings and Site Visits are set out in Annex 1 and Annex 2 to this Guidance.

10. Annual Review

An annual report shall be made to the committees to review planning decisions made by, or on behalf of, the committees, officers and by the Planning Inspectorate on appeal.

11. Complaints

Issues or concerns arising out of this Guidance may be raised through the Council’s formal complaints system.

12. Public Speaking at Planning Committees

There is provision for public speaking at the Planning Committees and there is a note on this topic on the Council’s web site. Where applications are particularly contentious a site meeting and/or public meeting may be held, where the public shall have an opportunity to speak.

The Council has determined that one speaker for, one speaker against and one speaker from the local Council shall be permitted unless it is a major application in which case up to two speakers for, up to two speakers against and up to two from the local Council (i.e. local Council and adjoining local Council) shall be permitted.

13. Member Representations at Planning Committees

All Members of the Council have the right to attend any meeting of a Planning Committee and to make representations on matters being considered. In doing so, Members should have regard to this Guidance, the Code of Conduct and the common law principles of bias and predetermination.

A Member of a Planning Committee is not permitted to participate in the debate on and determination of a planning application for a site within their
Electoral Division other than by addressing the Committee as the Electoral Division Member during the period allocated for public speaking on the Committee Agenda, in accordance with the following provisions.

No time limit is imposed on Members’ speeches during Planning Committees. If a Member is still speaking after five minutes the Chairman is to request the Member to sum up.

All Members are allowed to speak and ask questions at Planning Committees, regardless of whether they are a Member of that Committee or not.
Annex 1 – Planning Committee – Site Meeting Procedure

Purpose of the site meeting

1. To view the site of a planning application in order to gain more information with reference to the site and its setting.
2. To listen to representations from all parties in relation to the proposed development.

When shall a site meeting be held?

A site meeting shall be held after the consideration of a planning application by the Planning Committee.

Who can call for a site meeting?

The Planning Committee may decide to defer an application for a site meeting in their consideration of an item on the committee agenda.

Who can attend a site meeting?

- Planning Officer
- Democratic Officer
- Expert officers as required (eg. Highways, affordable housing)
- Chairman and Vice-Chairman of that Committee
- Members of that Planning Committee
- Divisional Members
- Consultees including the local council
- The applicant and his/her representatives
- All those who at the time of the Planning Committee had made written representations on the application
- Third parties.

Procedure

Those attending shall be given an opportunity to speak. The Chairman has a right to impose a time limit. The usual running order is set out below. The Chairman has the right to change the running order.

The usual running order shall be:
1. Chairman’s introduction
2. Planning Officer’s introduction
3. Applicant’s comments
4. Local Council comments
5. Consultees
6. Local Member
7. Third parties for or against in any order the Chairman decides
8. Members’ questions
9. Planning Officer’s summary
10. Chairman’s closing remarks.

In exceptional circumstances, a public meeting may be arranged. A report of the site meetings shall be made to the next appropriate meeting of the relevant Planning Committee.
Annex 2 – Planning Committee – Site Visits Procedure

Purpose of the site visit

The sole purpose of a site visit is to view the site of a planning application in order to gain more information with reference to the site and its setting.

When is a site visit held?

A site visit shall be held prior to the consideration of a planning application by the Planning Committee.

Who can call for a site visit?

- A Divisional Member
- An officer in consultation with the Chairman and Vice-Chairman.

Who can attend a site visit?

- Planning Officer
- Members of the Planning Committee
- Divisional Members.

Procedure

The Planning Officer shall describe the proposed development and point out any physical features on the site that are relevant to the consideration of the proposals.

A record of when the site visit took place and who attended shall be placed on the planning application file.