



# **Part 3(b) Delegation Scheme**

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## 1. DELEGATIONS TO FULL COUNCIL

**Only the Council** may exercise the following functions:

To adopt and approve the Constitution and governance arrangements including the form of the executive (save for minor amendments authorised in Article 13).

To approve and adopt or amend the Policy Framework.

To approve and adopt the Budget.

To determine the Council's Priorities.

To appoint the Chairman and Vice-Chairman.

To appoint the Council Leader (and where relevant, Deputy Leader).

To appoint Committee Chairmen and Vice-Chairmen.

To appoint members of the Executive (unless this power is exercised by the Leader).

To appoint and to agree or amend the terms of reference for bodies of the Council, to decide on their composition and to make appointments to them.

To appoint representatives to outside bodies (unless the appointment is a function of the Executive or has been delegated by the Council).

To receive for noting at the next Council meeting any amendments to the political composition of the Council.

To adopt the schedule of meetings for the ensuing year.

To approve joint arrangements for the discharge of any of the Council's functions by another local authority.

To authorise or approve Members' duties in connection with Council business for the purposes of their allowances.

To consider the recommendations of the Independent Remuneration Panel and adopt a Scheme for Members' Allowances that can be claimed by Members of the Council in respect of authorised or approved duties.

To make any decisions that would be contrary to the Policy Framework.

To determine matters involving expenditure for which budget provision is not made or is likely to be exceeded.

To determine matters which do not fall within the remit of the Executive or any Committee or body.

## 1. **DELEGATIONS TO FULL COUNCIL (cont'd)**

To appoint the Head of Paid Service and Statutory Officers

To determine matters affecting or likely to affect more than one Council body or where consultation with or approval of more than one Council body is required

To determine any matters referred to it by a Committee in accordance with Procedure Rule 14

To make decisions concerning district boundaries, elections, electoral areas and divisions, wards or polling districts taking account of recommendations from time to time by the Boundary Committee/Commission

To make orders for the grouping of parishes, and make appointments to vacant seats on a parish council where it is not quorate

To make community governance orders.

To direct the Executive to reconsider any draft plan or strategy submitted for the Council's consideration

To approve for public consultation draft proposals for the alteration or replacement of a development plan / joint local plan

To amend any draft plan or strategy submitted for the Council's consideration

To approve for submission to the Secretary of State or any Minister of the Crown a draft plan or strategy

To adopt any draft plan or strategy submitted for the Council's consideration with or without modifications

To maintain a system of internal control that identifies objectives and obligations, the risk to the achievement of these objectives and obligations and controls to mitigate the risks

To approve the Annual Governance Statement and to receive an annual report on the risk management process

To borrow money

To receive statutory reports from the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer

To determine whether or not to accept delegation from another local authority

To approve the Treasury Management Strategy and Investment Strategy

To make, amend, revoke, re-enact or adopt bylaws and to promote or oppose the making of local legislation or private Parliamentary Bills

**1. DELEGATIONS TO FULL COUNCIL (cont'd)**

To change the name of the District

To confer the title of Honorary Alderman

To consider all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive

To consider any matter required by law to be considered by the Council

## Terms of Reference for Committees and Council bodies

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

## 2. DELEGATIONS TO THE EXECUTIVE

### Responsibilities:

- 2.1. The Executive is responsible for determining and arranging for the carrying out of all and any functions except those which—
  - i. are on the list of matters reserved for full Council, or
  - ii. are specifically delegated to another Council body or an officer, or
  - iii. the Executive is prevented by law from doing.
- 2.2 Certain functions are as a matter of local choice carried out by the Executive and for clarity these are listed below.
- 2.3 The list of matters reserved to full Council is set out above in this Part of this constitution.
- 2.4 The matters delegated to another Council body or to an officer are listed below in this part of the Constitution.
- 2.5 The matters which the Executive is prevented by law from doing are these:
  - a. Functions relating to town and country planning and development control, the protection of trees and hedgerows and complaints about high hedges which are delegated to the Development Management Committee and the Community of Practice Lead Specialist for Development Management.
  - b. Functions relating to licensing and regulation of liquor sales and entertainments, gambling, taxis and other miscellaneous activities and trades, health and safety at work and smoke-free premises, all of which are delegated to the Licensing Committee and the Community of Practice Lead (Environmental Health).
  - c. Power to make, amend, revoke, or re-enact byelaws which remains with the Council or to enforce byelaws which is delegated to the relevant Senior Officer.
  - d. Miscellaneous functions which mostly remain with the Council, namely:
    - making standing orders to regulate procedures and governance of contracts and procurement;
    - designation of the Head of Paid Service, the Monitoring Officer, and provision of their staff;

## 2. DELEGATIONS TO THE EXECUTIVE (cont'd)

### d. Miscellaneous functions which mostly remain with the Council, namely: (cont'd)

- making arrangements for proper administration of financial affairs including the appointment of the Section 151 Officer;
- approving the Council's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts – although the Executive will consider and recommend approval;
- approving the Members' Allowances Scheme;
- making arrangements for the discharge of functions by a committee or officer, or by another local authority, making appointments to committees and delineating the voting rights of co-opted members or scrutiny panels;
- making requests for electoral schemes or making community governance orders;
- making payments or providing other benefits in cases of maladministration etc. which are delegated to the head of paid service;
- appointing staff, and determining the terms and conditions on which they hold office (including procedures for their dismissal) which are delegated to the Head of Paid Service;
- appointing "proper officers" which is delegated to the Head of Paid Service and Group Managers.

### 2.6 Where the Executive is prohibited from carrying out particular functions it is also prohibited from:

- a imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration or determining any other terms to which any such approval, consent, licence, permission or registration is subject, or
- b amending, modifying, varying or revoking any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or
- c determining whether, and in what manner, to enforce against any failure to comply with an approval, consent, licence, permission or registration or any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject, or other contravention or
- d determining whether to make a charge for any approval, consent, licence, permit or registration and the amount of any such charge.

## 2. DELEGATIONS TO THE EXECUTIVE (cont'd)

2.7 As a matter of local choice, the Executive will carry out the following functions:

- i. Any functions under any local Act except for the Pier and Harbour Order (Salcombe) Confirmation Act 1954.
- ii. Determination of appeals from any decisions made by the authority.
- iii. Functions relating to drafting, submitting, revising and publishing local area agreements.

2.8 The following "local choice" functions will be delegated to officers:

- review of council tax and housing benefit applications;
- functions relating to contaminated land, control of pollution, or air quality;
- inspection, detection and service of an abatement notice for statutory nuisance;
- the obtaining of information and particulars about persons interested in land.

2.9 The following "local choice" functions are reserved to Council:

2.9.1 The appointment of any individual:

- a) to any office other than an office in which s/he is employed by the authority;
- b) to anybody other than:
  - the authority;
  - a joint committee of two or more authorities; or
  - to any committee or sub-committee of such a body, and
- c) the revocation of any such appointment.

2.9.2 The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities

2.9.3 The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area

2.10 In discharging the functions of preparing for adoption a plan or strategy listed below, the Executive may consider and make a recommendation about them to Council:

- Control of borrowing, investments, capital expenditure or determining the authority's minimum revenue provision;
- Licensing Authority Policy Statement;



## 2. DELEGATIONS TO THE EXECUTIVE (cont'd)

2.11 In the following circumstances, the Executive may not exercise the functions described below:

- a When the decision to approve any plan or strategy other than those listed above has been reserved to itself by Council;
- b When an individual member of the Executive or the Executive as a body is minded to determine a matter relating to the authority's budget, borrowing or capital expenditure in a manner that is either:
  - not in accordance with the budget or any current capital investment plan, or
  - not authorised by the authority's executive arrangements, financial regulations, standing orders or other rules or procedures in the intended terms;
- c When an individual member of the Executive or the Executive as a body is minded to determine a matter which is the Executive's responsibility in a manner that is not in accordance with a plan or strategy that has been approved by Council.

2.12 For the avoidance of doubt:

- a The Executive will manage all the Council's land and property;
- b The Executive will, having regard to the views of the Overview & Scrutiny Panel, keep under review and recommend to Council the fees and charges for the Council's services (other than those within the remit of the Development Management Committee and the Licensing Committee) where
  - i. statutory authority exists for the levying of such charges, and
  - ii. where, in the opinion of the Section 151 Officer the levying of such charges will not give rise to a material adverse impact on the overall budget of the Council.
- c The Executive will be responsible for approval of Delivery Plans which are subordinate to the Plans listed in paragraph 10 above.

### 3. DELEGATIONS TO COMMITTEES

#### 3.1 AUDIT COMMITTEE

##### **General Function:**

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

##### **Responsibilities**

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

##### **Internal Audit**

- To consider and approve (but not direct) the Internal Audit Terms of Reference (Charter), Strategy and Audit Plans .

To consider:

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

- Internal control, including commissioning work from internal audit in association with the Section 151 officer and monitor audit performance;
- To make any necessary recommendations to the relevant Committee / Executive or Council in respect of the above.

### **3. DELEGATIONS TO COMMITTEES**

#### **3.1 AUDIT COMMITTEE Responsibilities (cont'd)**

##### **External Audit**

To consider:

The External Auditor's Annual Governance Report and other relevant external audit reports;

External Audit work to ensure that it gives value for money;

The External Audit plans;

Reports dealing with the management and performance of the external audit service providers; and

Commission work and other specific reports from external audit as agreed with the External Auditor in association with the Section 151 officer.

To liaise with the Audit Commission (or relevant government body) over the appointment of the Council's External Auditor.

##### **Accounts**

To review and approve the Annual Statement of Accounts and to consider whether appropriate accounting policies have been followed;

To consider the External Auditor's report on the annual audit of accounts;

To make any necessary recommendations to the relevant Committee / Executive or Council in respect of the above.

##### **Regulatory Framework**

To Maintain an overview of the Council's Constitution; Recommend to Council the adoption of:

- A Code of Corporate Governance
- Antifraud, Corruption and Bribery Strategy
- Anti Money Laundering Policy
- Risk Management Policies

To Oversee the System of Internal Control and the process for producing the Annual Governance Statement (AGS) and approve the AGS on behalf of the Council with the Annual Statement of Accounts;

To Monitor Value for money (including benchmarking);

To Make any necessary recommendations to the relevant Committee /Executive or Council in respect of the above.

### **3. DELEGATIONS TO COMMITTEES AUDIT COMMITTEE Responsibilities (cont'd)**

#### **Review and Scrutiny of Strategies**

To monitor:

Risk Management Strategy

The Assurance Framework (including System of Internal Control) Code of Corporate Governance  
Antifraud, Corruption and Bribery Strategy

Anti Money Laundering Policy

Whistle-blowing Policy

Treasury Management

And to make any necessary recommendations to the relevant Committee, Executive or Council in respect of the above

#### **Review:**

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

### **3. DELEGATIONS TO COMMITTEES**

#### **3.2 DEVELOPMENT MANAGEMENT COMMITTEE**

##### **Responsibilities**

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

##### **PLANNING**

###### **3.2.1 Development Management and Control**

Advertisement Control.

Agreements regulating the development or use of land. Applications by Local Planning Authorities.

Authority to determine whether planning permission required.

Certificate of Appropriate Alternative Development. (Land Compensation Act)

Certificates of Lawful Use or Development.

Consultations by Crown and Duchy.

Discontinuance of use or alteration or removal of buildings or works.

Electricity Supply Acts Consultations.

Enforcement Control (including Planning Contravention Notices, Requisitions, Breach of Condition Notices, Stop Notices (including temporary stop notices) etc)

General Planning Control including the determination of planning applications

Land adversely affecting the amenity of the neighbourhood.

Authorising Prosecutions

Provisions as to compensation and provisions enabling an owner to require the purchase of an interest.

Responding to Dartmoor National Park, and other neighbouring authority consultations.

Responding to Statutory and other consultees

Revocation or modification of planning permission.

### **3.2.1 Development Management and Control (cont'd)**

Telecommunication Mast Applications.

To extinguish/divert public rights of way under the Town and Country Planning Acts and to make representations to other Authorities in relation to their exercise of these powers under that or other legislation.

### **3.2.2 Conservation - Historic Buildings**

Building Preservation Notices.

Compulsory acquisition of buildings in need of repair and related powers.

Historic Building Grants

Listed Building Consents and Conservation Area Consents.

Listed Building Enforcement.

Revocation or modification of Listed Building Consent.

Urgent repairs or works

### **3.2.3 Community Landscaping**

High Hedges

Hedgerows

To comment on consultations by the Forestry Commission.

To offer grant aid for tree surgery to trees of public amenity importance within the financial limits set down in the Council's estimates.

Tree Preservation Orders and related control and enforcement.

### **Relevant Statutory Powers**

Town and Country Planning Act 1990

Planning (Listed Buildings and Conservation Areas) Act 1990

Planning (Hazardous Substances) Act 1990

Planning (Consequential Provisions) Act 1990

Planning and Compensation Act 1991

Planning Act 2008

Planning and Energy Act 2008

## **Relevant Statutory Powers (cont'd)**

Localism Act 2011

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

### **3.2.4 Local Land Charges**

To provide and administer a comprehensive Land Charges system.

#### **Fees**

To keep under review the fees and charges for the Committee's services where statutory authority exists for the levying of such charges and to levy the same where, in the opinion of the Section 151 Officer, the levying of such charges will not give rise to a material adverse impact on the overall budget of the Council.

### 3. DELEGATIONS TO COMMITTEES (cont'd)

#### 3.3 LICENSING COMMITTEE

##### Responsibilities

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

- To review and recommend to Council:
  - the Licensing Statement of Policy
  - the Gambling Statement of principles
  - the Policy not to permit casinos
- To review and be responsible for all other Licensing Policies
- To determine whether to refuse to grant a licence for the following licensing functions;
  - Street Trading Licence (South Hams)
  - Zoo Licensing
  - Sex Establishments
  - Houses in Multiple Occupation
- To determine such other applications as referred to the Licensing Committee by the Community of Practice Lead for Environmental Health.

##### LICENSING SUB COMMITTEES

- a) To determine to revoke or suspend Hackney Carriage / Private Hire Driver or Private Hire Operator Licenses
- b) Licensing sub-committees have the following responsibilities in relation to functions under the **Licensing Act 2003**:
  - Applications for personal licences - if there is a police objection
  - Applications for personal licences with unspent convictions – all cases
  - Review of personal licences – if there is a police objection
  - Applications for premises licence / club premises certificate – if a relevant representation is made
  - Applications for provisional statement – if a relevant representation is made
  - Application to vary premises licence/club premises certificate - if a relevant representation is made
  - Applications to vary designated premises supervisor – if police objection made
  - Applications for transfer of premises licence – if police objection
  - Applications for interim authorities – if a police objection
  - Applications to review premises licence/club premises certificate – all cases
  - Decision to object when Council is a consultee and not relevant authority - all cases
  - Determination of a police or Environmental Health objection to a temporary event notice - all cases



### 3 DELEGATIONS TO COMMITTEES

#### LICENSING SUB COMMITTEES (cont'd)

- c) Licensing sub-committees have the following responsibilities in relation to the **Gambling Act 2005**:
- Application for premises licence: if a relevant representation has been made and not withdrawn
  - Application for a variation to a licence: if a representation has been made and not withdrawn
  - Application for a transfer of a licence: where representations have been received from the Gambling Commission
  - Application for a provisional statement: if a representation has been made and not withdrawn
  - Review of a premises licence
  - Application for club gaming/club machine permits: where objections have been made and not withdrawn, or where refusal proposed
  - Temporary use notice: Decision to give a counter notice, or where objection notice received
  - Fees

#### **The Head of Practice for Environmental Health**

Shall have the delegated authority:

- To determine whether to refuse to grant an application for Hackney Carriage or Private Hire Vehicle Licence.
- To determine in consultation with the Chair and Vice-chair of the Licensing Committee whether to revoke a Hackney Carriage or Driver licence in situations of urgency ('urgency' to be determined by the Community of Practice Lead for Environmental Health).
- To refer such applications which, in the opinion of the Community of Practice Lead for Environmental Health, should be determined by the Licensing Committee.
- To determine applications for Licences under the following areas of work not previously delegated to other committees or individuals;
  - Public Health (e.g. Animal Boarding Establishments, Dangerous Wild Animals, Pet Shop, Riding Establishments, Skin Piercing and other special treatments).
  - Public Safety (e.g. Alcohol and entertainment licences, personal licences, club premises certificates, Hypnotism licences, Gambling licences etc.)

## The Head of Practice for Environmental Health (cont'd)

- Housing (e.g. Selective licensing of residential accommodation, Licensing of houses in multiple occupation, Licensing of camping sites, Licensing of caravan sites)
- Environmental (e.g. Environmental Permits, Licensing of scrap metal dealers)
- To investigate complaints relating to licensed and licensable activities with the relevant powers of entry in order to undertake these investigation.
- To instigate informal or formal action in order to resolve complaints or unlicensed activities and take appropriate action or remedy.
- To undertake formal consultations on amendments to policy, (or fares in accordance with the Maximum Chargeable Fare setting policy South Hams only)
- Authority **to suspend licences** in situations of urgency where there are reasonable grounds to do so (where urgency is determined by the Community of Practice Lead for Environmental Health)

STATUTE
Local Government (Miscellaneous Provisions) Act 1976
Town Police Clauses Acts 1847 & 1889
Public Health Act 1875
Equalities Act 2010
Road Safety Act 2006
Local Government (Miscellaneous Provisions) Act 1976 as amended by Section 52 of the Road Safety Act 2006
Transport Acts 1980 & 1985
House to House Collections Act 1939
Local Government (Miscellaneous Provisions) Act 1982 – Schedule 3
Scrap Metal Dealers Act 1964 & 2013
Police, Factories etc (Miscellaneous Provisions) Act 1916
Vehicle (Crime) Act 2001 and Motor Salvage Operators Regulations 2002
Public Health Acts Amendment Act 1907 (Boats and Boatman)

## **Planning Delegation – Development Management and Enforcement**

### **Definitions:**

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

### **1. General Planning Delegation to Officers**

1.1 Subject to paragraph 1.2 below, the HoP Lead has delegated authority for all functions assigned to the DM Committee under the Town and Country Planning Acts, Orders, and Regulations (as set out in Part 3 of the Council's Constitution and as amended from time to time) except those:

- a) Planning Applications
- b) Listed Building Consents
- c) Advertisement Consents
- d) TPO final confirmations (excluding emergency TPOs), and
- e) Works to TPO trees

Which:

- i. relate to the Council's own land
- ii .is an application submitted by a Councillor, (or an immediate family member), (including Councillor as agent or professional advisor) or an Officer (or an immediate family member)

Or which in the opinion of the HoP Lead:

- 1 are of sub-regional or district-wide significance
2. ought to be determined by the DM Committee

1.2 In the case of planning, listed building, advertisement applications and TPO applications and confirmations, where any written representations are received, including those from a Parish or Town Council, which are contrary to the CoP Lead's recommendations and where the representations are considered material and relevant planning issues. The HoP Lead shall have delegated authority to determine these only where:

- a) agreement to issuing a delegated decision has been sought in writing from the Ward Member(s) and Chairman of DM Committee and,
- b) no written request (supported by material planning reasons) to call the application to Committee has been received from the Ward Member(s) or

Chairman within the notification period. The notification period is defined as **three working days**, unless a Ward Member requests an extension of time (of up to 48 hours, and giving good reason for doing so). The notification period commences when the Ward Member has been notified of the request that a delegated decision be made.

## **2. Ward Members/Chairman of DM Committee**

2.1 Ward Members/Chairman of DM Committee can call to Committee, with material planning reasons,

- a any Planning Applications
- b Listed Building Consents
- c Advertisement Consents
- d TPO final confirmations (excluding emergency TPOs), and
- e Works to TPO trees

with no contrary comment, by notifying the HoP Lead prior to the expiry of the public consultation period.

2.2 For the avoidance of doubt all Members in a multi-Member ward shall be notified /consulted by the HoP Lead

2.3 Unless a Ward Member/Chairman of DM Committee requests an extension of time of up to 48 hours for a response, s/he must advise the HoP Lead of his/her views within **three working days** of being notified.

2.4 In the absence of a Ward Member consultation response within the permitted time frames, the HoP Lead shall determine the matter in accordance with the officer recommendation, without the Member's views.

2.5 Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then s/he should nominate an alternative member to carry out this role and notify Member Services accordingly in writing. If the Chairman of DM Committee is unavailable, the Vice Chairman should be contacted in his/her place.

## **3. Action on decisions of the DM Committee**

3.1 Where the Committee **approves** an application, the HoP Lead will issue the Approval Notice including such conditions as are reasonably required to give effect to the Committee's decision

3.2 Where the Committee **refuses** an application which the HoP Lead recommended should be approved, it shall give the reasons for the decision but the HoP Lead shall determine the precise wording of the reasons for refusal

## **4. Delegation in respect of Enforcement Action**

4.1 The HoP Lead has delegated authority to:

- a) decide that no breach has been found

#### **4. Delegation in respect of Enforcement Action (cont'd)**

- b) decide that it is not expedient to take enforcement action (in accordance with the Council's Enforcement Policy), unless notified by the Ward Member otherwise
- c) invite regularising Planning Applications where appropriate
- d) carry out all enforcement action (including but not limited to) issuing and serving Planning Contravention Notices, Untidy Site Notices, Stop Notices, Breach of Condition Notices and Building Preservation Notices, providing the relevant Ward Members are notified prior to such notices being issued or served
- e) issue Enforcement Notices in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the DM Committee for decision and no such request has been received
- f) take Prosecutions and Injunctions in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the DM Committee for decision and no such request has been received

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

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

#### **5 Section 106 Agreements**

The HoP Lead may:

- a) authorise the execution of a section 106 agreement where required in advance of the grant of planning permission
- b) in consultation with the Ward Member(s) and Chairman of DM Committee, vary the terms of a section 106 agreement (or take such other action as necessary) to secure the objectives of the Committee which agreed the 106 agreement

### 3. DELEGATIONS TO COMMITTEES (cont'd)

#### 3.4 OVERVIEW & SCRUTINY PANEL

##### 1 Terms of Reference

The Council will appoint one **Overview & Scrutiny Panel** with the following functions.

- (a) the ability to hold the Executive to account;
- (b) to review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (c) to make reports and evidence-based recommendations to the full Council, the Executive and other bodies of the Council including those established under Joint Arrangements in connection with the discharge of any functions;
- (d) to make reports and evidence-based recommendations to the full Council on any matters of broad local concern or importance within their remit;
- (e) to conduct reviews and carry out community and other consultation in the analysis of policy issues and possible options;
- (f) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive or an Executive Portfolio Holder or key decisions made but not yet implemented by officers;
- (g) to be able to appoint such time limited Task & Finish groups as it considers appropriate to fulfil its functions;
- (h) approve its own work programme;
- (i) to review the system of referrals from Scrutiny to the Executive to ensure that these are managed efficiently and do not exceed reasonable time limits as set out in this Constitution;
- (j) to respond to reasonable requests from the Executive to develop or review policy;
- (k) in the event of reports to the Executive exceeding reasonable time limits, or if the volume of such reports creates difficulty for the management of Executive business or jeopardises the efficient running of Council business, at the request of the Executive, to make decisions about the priority of referrals made;
- (l) encourage and enhance community participation in the development of policy options and general decision making by openness and transparency.

### **3. DELEGATIONS TO COMMITTEES**

#### **3.4 OVERVIEW & SCRUTINY PANEL (cont'd)**

##### **2 Scrutiny: Specific Functions**

The Overview & Scrutiny Panel will:

- (a) review and scrutinise the decisions made by and performance of the Executive or council officers both in relation to individual decisions and decisions made over time and may question Members of the Executive and officers whether generally or in relation to specific decisions, initiatives or projects;
- (b) scrutinise the need for and the appropriateness of the Council's policies and the effectiveness of the outputs of the delivery systems in achieving the outcomes of those policies;
- (c) review and scrutinise the performance of the Council in relation to its budget, policy objectives, performance targets or particular service areas, and assist in the development of the budget and policy framework by in-depth analysis of the current provision, performance and policy issues;
- (d) make recommendations to the Executive and Council arising from the outcome of the scrutiny process and its reviews;
- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address a Scrutiny Panel and local people about their activities and performance; and
- (f) question and gather evidence from any person with relevant knowledge, expertise or responsibility (with their consent).
- (g) instigate research, community and other consultation in the analysis of policy issues, possible options and the development of policy;
- (h) regularly involve Members of the Executive and occasionally Members of other bodies of the Council and officers to find out their views or advice on issues, proposals and policy affecting the area;
- (i) consider reports or questions from any individual Councillor on matters relevant to the terms of reference of the Group to enable the views of constituents and other organisations to be taken into account; and
- (j) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (k) to be responsible for all matters relating to Member learning and development

### 3 Standards Matters

#### Roles and Functions:

- (a) to provide and maintain high standards of conduct by Councillors (and co-opted members if appointed);
- (b) to assist Councillors (and co-opted members) of the Council to observe the Council's Code of Conduct;
- (c) to advise the Council on the adoption or revision of the Members' Code of Conduct and on matters relating to the ethical conduct of the Council and its Members;
- (d) to advise and train Councillors (and co-opted members) on matters relating to the Code of Conduct;
- (e) to grant dispensations to District Councillors (and where relevant, co-opted members of the District Council) on requirements relating to Disclosable Pecuniary Interests in the following circumstances:
  - i. where many Members of the decision-making body have a Disclosable Pecuniary Interest, which would result in the political balance being affected;
  - ii. it is in the interests of the inhabitants that a dispensation be granted; or iii. it is appropriate to grant a dispensation.

In addition, (and when it is not expedient to wait until the next scheduled Panel meeting) dispensations can also be granted by:

- An Overview & Scrutiny Code Standards Panel, or
  - the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Overview & Scrutiny Panel.
- (f) to consult the Independent Person(s) in accordance with the 'Dealing with Complaints Policy';
  - (g) to consider complaints alleging a breach of the Code of Conduct by District Councillors (and any co-opted members where relevant) and those members of town and parish councils in the District of South Hams; and

### 4 Overview & Scrutiny Standards Panel – Standards Matters

#### Roles and Functions:

- (a) to consider complaints alleging a breach of the Members' Code of Conduct as referred by the Council's Monitoring Officer; and



#### **4 Overview & Scrutiny Standards Panel – Standards Matters (cont'd)**

- (b) to receive investigation reports and to carry out Hearings (including sanctions) in respect of allegations of misconduct for District Councillors (and co-opted Members where relevant) and town and parish council members, and to recommend sanctions or other recommendations / actions.

#### **5 Officers**

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

#### **6 Annual Report**

The Overview & Scrutiny Panel must report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

### 3.5 SALCOMBE HARBOUR BOARD

#### **Consultation is required before embarking on a review of the Harbour's governance**

##### **Specific Board functions:**

- (i) That Salcombe Harbour will conduct operations in accordance with the powers granted to the **Council as a Harbour Authority** by the Salcombe Harbour Order 1954 (The Pier and Harbour Order (Salcombe) Confirmation Act 1954) and any other enabling legislation and, insofar as it falls within the scope of these powers, the policy of the Council in relation to the Harbour as expressed through:-
  - The Harbour Policy Document;  
The Strategy Business Plan
  - Estuary and Environmental Management Plans;
  - Any byelaws approved and adopted in respect of the Harbour;
  - Safety Management Systems in Compliance with the Port Marine Safety Code;
  - Other Council decisions from time to time.
- (ii) That the Harbour is self-financing and that it maintains commercial accounts in conjunction with the accounts as required by the Authority to demonstrate the Harbour's commercial viability;
- (iii) That a three year strategic business plan for the Harbour is produced, approved by Council and reviewed annually;
- (iv) That decisions relating to the Harbour are based on advice from officers who have a clear understanding of the special requirements of the Harbour;
- (v) That they adopt and maintain transparent, speedy and informative communication with relevant Members of the Council's Executive for consultation and reporting purposes;
- (vi) That they have due regard for the interests of the local community and user groups, attending community forums seeking views to gain a balanced picture of the effects of policy and decisions;
- (vii) That the existing systems for the delegation of functions be kept under review;
- (viii) That any matter which is beyond delegated authority is recommended to the Council by the Board;
- (ix) That charges and subsidies be recommended by the Board for approval by the Council on a yearly basis;
- (x) That they monitor and review all matters relating to the Harbour land and property in accordance with policies which may be laid down by the Council from time to time, for which financial and other provision has been expressly

made by the Council. The Harbour's asset base is laid out in the associated plan;

- (xi) That they oversee the running of services to contract and/or to business plan on commercial lines by advising on business direction in the context of the Council's budget and policy framework;
- (xii) They monitor and analyse performance against budget, other indicators and performance plans;
- (xiii) That issues of concern are raised with officers of the Council.

### **3. DELEGATIONS TO COMMITTEES (cont'd)**

#### **3.6 OTHER COUNCIL BODIES**

##### **COUNCIL TAX SETTING PANEL**

The Council Tax Setting Panel has the following functions:

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

##### **DEVON BUILDING CONTROL PARTNERSHIP**

The responsibilities of the Partnership are:

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

##### **POLITICAL STRUCTURES WORKING GROUP**

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

##### **PUBLIC SPACES WORKING GROUP**

The Public Spaces Working Group has the following terms of reference:

Advising officers in relation to the allocation of funding for public open space proposals from S106 payments and external grants

Monitoring the quality and timing of investment in public open space utilising the funding streams identified above

Promoting the coordination of actions between grounds maintenance activity in Environment Services and the public open space 'client' role in Assets.

Providing support to the Portfolio Holders for Assets and Environment Services

To investigate and promote opportunities to work with local communities

Liaising with the 2015 Localism Programme Board regarding opportunities for the localisation of public open space services and asset management

Providing Member input on reviews and future development of policy or strategy which will affect public open spaces

The Working Group will have no decision-making powers and therefore will make recommendations to the Overview & Scrutiny Panel for subsequent consideration by the Executive