

CONSTITUTION OF SOMERSET COUNTY COUNCIL

May 2015

PART 2: CODES AND PROTOCOLS (APPENDICES TO THE CONSTITUTION)

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A – FINANCIAL REGULATIONS

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INTRODUCTION

FINANCIAL REGULATIONS

- 1.1 Somerset County Council has adopted the Leader and Cabinet form of political structure. Details of the Leader and Cabinet arrangements are summarised in Section 5 of Part 1 of the Constitution.
- 1.2 These Regulations reflect the CIPFA / SOLACE Statement on Governance.
- 1.3 Part 1 of the Constitution details:
 - (a) The decision-making responsibilities of the Council, Council Committees and Senior Officers of the Council in relation to Council decisions.
 - (b) The decision-making responsibilities of the Leader, the Cabinet collectively, Cabinet Members, joint executive arrangements and Officers of the Council under the authority of the Leader. Underpinning these arrangements there is the Officers' Scheme of Delegation detailing delegations from Senior Officers to other officers of the Council.
- 1.4 The establishment and the strict adherence to sound financial management policies is an integral part of the Scheme; part of this process is the establishment of both Financial Regulations, which set out the financial policies of the County Council and a series of key controls to ensure that they are adhered to. In exceptional circumstances, approval may be sought to the temporary waiver of the requirements.
- 1.5 CIPFA has produced a model set of Financial Regulations that reflect best practice and provide a practical source of advice to assist the 'modern' County Council. These Financial Regulations are based on that model.
- 1.6 The Financial Regulations provide clarity about the accountabilities of bodies and individuals –particularly:
 - The Leader
 - The Cabinet
 - Members of the Cabinet;
 - Members of a Scrutiny Committee;
 - Members of the Audit Committee;
 - The Chief Executive (as the Head of Paid Service);
 - The Finance & Performance Director (as the Responsible Financial (S.151) Officer);
 - The Strategic Manager – Governance & Risk (as the Monitoring Officer); and
 - The Senior Leadership Team
- 1.7 Each of the Financial Regulations sets out the overarching financial responsibilities, and the County Council itself is required to approve them.

FINANCIAL PROCEDURES

1.8 In addition to the Regulations, the County Council has approved Financial Procedures; which are available on the Finance Intranet site, from The Finance & Performance Director or the Finance Group Managers. Each section of the Financial Procedures follows the format set out below:

- why is this important?
this sets the context for the financial procedures;
- key controls
— this explains the key internal controls which set the framework for ensuring financial regulations are operating effectively;
- responsibilities of The Finance & Performance Director;
- responsibilities of the Senior Leadership Team and
- other Officers.

FINANCIAL GUIDANCE

1.9 The Finance & Performance Director issues advice and guidance to support the Financial Regulations and procedures which Members, Officers and others acting on behalf of the County Council are required to follow. This is available on the Finance intranet site.

OTHER REGULATORY DOCUMENTS

1.10 Beyond the scope of this document, the County Council links the Financial Regulations with other internal regulatory documents forming part of the County Council's Constitution. These identify accountabilities for specific functions, and procedural notes on the conduct of Council and other meetings; on access to information; on contracts; on the acquisition / disposal of land and buildings; and the employment of Officers; as well as the Codes of Conduct for Members; together with various other protocols.

1.11 Services may also attach their own more detailed financial procedures, guidance and instructions.

BACKGROUND

2.1 Somerset County Council is one of the larger local authorities in England. It has a population of approximately 500,000 and an area of some 350,000 hectares. It provides a diverse range of services to its residents. It works in partnership with five district councils, some 260 parish / town councils and other organisations.

2.2 The County Council has an overall responsibility for the well-being of the County and provides the following main services:

- | | |
|--------------------------------------|--|
| • children & young people's services | • trading standards |
| • social care services | • registration of births, deaths and marriages |
| • strategic planning | • street lighting |
| • roads and highways | • public rights of way |
| • traffic and transportation | • museums |
| • subsidised public transport | • countryside management |
| • libraries | • environmental management |
| • waste disposal | • public health |
| • waste recycling | |

STATUS OF FINANCIAL REGULATIONS

3.1 Financial Regulations provide the framework for managing the County Council's financial affairs, and are required to be approved by the County Council itself. They apply to every Member and Officer of the County Council, and anyone acting on behalf of the County Council. Contravention is a serious matter and could lead to disciplinary action being taken. These Regulations reflect the Council's 'executive' arrangements which are the responsibility of the Leader to decide.

3.2 These Regulations identify the financial responsibilities of the County Council; the Leader, the Cabinet collectively, individual Cabinet Members, the Scrutiny Committees, the Audit Committee, the Chief Executive, the Monitoring Officer, the Finance & Performance Director, and the Senior Leadership Team. Delegations from the Senior Leadership Team of Officers are detailed in the Officers' Scheme of Delegation which is maintained by the Monitoring Officer. These regulations apply equally to responsible bodies such as school governors.

3.3 The Finance & Performance Director maintains a continuous review of the Financial Regulations and advises the County Council and / or the Leader of any additions or changes that are required. He or she also reports, where appropriate, breaches of the Financial Regulations to the County Council, or the Leader as appropriate.

3.4 The County Council's detailed Financial Procedures setting out how the Regulations will be implemented are available on the council's intranet site.

3.5 The Finance & Performance Director issues guidance to underpin the Financial Regulations which Members, Officers and others acting on behalf of the authority are required to follow. Contravention could lead to disciplinary proceedings. Guidance on financial matters is available in the finance manual and on procurement issues on the Procurement intranet site.

3.6 The Senior Leadership Team are responsible for ensuring that all Officers in their service areas are aware of their responsibilities under Financial Regulations and other internal regulatory documents, and that they comply with them.

3.7 However, all Members and Officers 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 and provides value for money.

3.8 In exceptional circumstances, the County Council and the Leader (for relevant elements) may approve the temporary waiver of any of the Financial Regulations or Procedures.

FINANCIAL REGULATION A:

FINANCIAL MANAGEMENT

Introduction

A.1 Financial management covers all financial accountabilities in relation to the running of the authority, including the Policy Framework and the Budget.

Overview of financial accountabilities in relation to:

The County Council

A.2 The County Council determines its internal constitutional arrangements, the Policy Framework and Budget within which the Leader and Cabinet decision-making process operates. It sets the level of Council Tax Precept and determines issues relating to the control of its borrowing requirements. It appoints the Leader of the Council. Together with the Leader, the County Council is responsible for monitoring compliance with policies and the framework of accountability and controls. The framework is set out in its Constitution. However, the scrutiny of Key Decisions is undertaken by the Scrutiny Committees.

A.3 Part 1 of the Council's Constitution sets out responsibilities and procedures for the recording and reporting of decisions taken, including Key Decisions as defined under the Local Government Act 2000.

A.4 In addition, the County Council determines the administrative arrangements for the Local Government Pension Scheme; the Scheme is maintained for all its relevant employees and those of other appropriate bodies within its area. The day-to-day administrative arrangements have been delegated to the Finance & Performance Director.

The Leader

A.5 The Leader decides the Cabinet arrangements of the Council. This includes:-

- Deciding the application of 'Key Decision' legislative requirements
- Appointing a Cabinet and a Deputy Leader
- Deciding the functions of the Cabinet and individual members of the Cabinet
- Deciding the Cabinet decision-making arrangements including delegations to officers.

A.6 The Leader has also retained specific functions in relation to the detail of budget processes as outlined later in these Regulations.

The Cabinet

A.7 The Leader has decided that the Cabinet shall be responsible for proposing to the County Council the Policy Framework, Budget and Annual Precept and for delivering services and discharging functions in accordance with the Policy Framework and Budget.

A.8 The Leader has also delegated Cabinet decision-making responsibilities to the Somerset Waste Board, the Traffic Regulation Order Sub-Committee, jointly to two or more Cabinet Members, individual Cabinet members and Officers.

A.9 Together with the County Council, the Cabinet is responsible for monitoring compliance with policies, and the framework of accountability and control.

Cabinet Members

A.10 Cabinet Members, acting under delegated authority from the Leader and in accordance with Financial Regulations and Procedures, can, within the conditions set by the Cabinet Scheme of Delegation, approve decisions in conjunction with the relevant Senior Leadership Team officer to:-

- Spend budgets within the overall cash-limited approvals of the relevant service area.
- Agree virements between service blocks that do not exceed agreed delegated limits (see Appendix A for current thresholds)
- Approve bids for funds from external bodies with no financial limit, provided that suitable on-going revenue provision for the consequences is available where necessary.

This includes the ability for two or more Cabinet Members to take joint Key decisions

Committees:

Scrutiny for Policies and Place Committee & Scrutiny for Policies and People Committee

A.11 These Committees are responsible for scrutinising Key Decisions before or after they have been implemented, and for undertaking on a regular and systematic basis the review of service performance, including the use of financial resources. In addition, the Committees are responsible for responding to requests from Members for the review of specific issues. Arising from their reviews or on request from the Leader, the Cabinet, or a Cabinet Member, the Committees are also responsible for making recommendations on future policy options.

- Audit Committee

A.12 This Committee has overall responsibility for internal audit; however, in turn, it has delegated the day-to-day responsibility for this to The Finance & Performance Director. The Director consults the Committee as necessary on the content of the annual audit plans of both the internal and external auditors. The Committee is responsible for monitoring the delivery of both plans and any additional audit work undertaken during the year; it also reviews the internal auditor's annual report and the external auditor's statutory management letters, and makes recommendations for appropriate further action. In addition, the Committee considers the outcomes of any fraud investigations and the action taken.

A.13 The Committee may also initiate reviews of the adequacy of financial procedures and internal controls, including the adequacy of the audit function, and recommend to the Cabinet future policy options; as part of these reviews, The Senior Leadership Team may be required to account to the Committee for their actions or those of their staff.

A.14 The Committee approves the formal annual Statement of Accounts and considers matters arising from the Accounts Audit.

- Standards Committee

A.15 The Standards Committee promotes and maintains high standards of conduct amongst Members. In particular, it advises the Council on the adoption of the Members' Code of

Conduct, for its operation and its updating. The Committee also investigates complaints made against Members where referred by the Monitoring Officer and has a role in the consideration of the Council's governance framework. The Committee comprises 5 elected members and 5 co-opted non-voting members.

- Pensions Committee

A.16 This Committee discharges the Council's functions as administering authority of the Somerset Pension Fund (the Fund).

- Other Committees

A.17 Regulatory functions, such as planning and licensing, are the responsibility of the Full Council (the Local Government Act 2000 does not allow them to be executive functions) but the Council has delegated these functions to the Regulation Committee and to Officers.

A.18 The HR Policy Committee determines, monitors, reviews and amends staffing policies and practices to secure the best use and development of the council's staff, including the power to deal with all matters relating to staff terms and conditions and to act as the Council's Remuneration Committee for Chief Officers (ie Senior Leadership Team Officers.)

A.19 The Somerset Health and Wellbeing Board is a committee of the Council with responsibility for agreeing the Joint Strategic Health Needs Assessment and the Somerset Health and Wellbeing Strategy. The Board also has responsibility for overseeing the commissioning of public health services in Somerset.

A.20 The Constitution Committee updates individual parts of the Constitution as required and recommends an updated Constitution annually to Council for approval.

The statutory officers:

- Chief Executive

A.21 The Chief Executive is the Head of Paid Service and is responsible for the corporate and overall strategic management of the County Council as a whole. He or she must report to, and provide information for the County Council, the Leader, the Cabinet, Cabinet Members, Scrutiny and other Committees. Also, he or she is responsible for establishing a framework for management direction, style and standards, and for monitoring the performance of the organisation. In addition, he or she is also responsible, together with the Monitoring Officer, for the system of recording Council and executive decisions.

- Responsible Financial (S.151) Officer

A.22 The Finance & Performance Director exercises the statutory duties in relation to the financial administration and stewardship of the County Council. This statutory responsibility cannot be overridden. The statutory duties arise from:

- Section 151 of the Local Government Act 1972;
- Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Accounting and Audit Regulations 1996, and are underpinned by case law and

- The Accounts and Audit Regulations 2003

A.23 He or she is responsible for:

- The proper administration of the County 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;
- Preparing the draft Medium Term Financial Plan which incorporates the annual Revenue Budget and the Capital Investment Programme;
- Advising Council on the requirements to be observed in the setting of the Revenue Budget and the fixing of the Precept;
- Treasury management; and
- Acceptance of Grant Conditions pursuant to Section 151 of the Local Government Act 1972 and has the power to enter into binding financial agreements including, but not limited to, applying for grants or making grant claims and accepting conditional or non-conditional grants and committing the County Council to repay grants in the event that the terms and conditions are not met.

A.24 The Council has appointed the Finance Technical Manager as a formal deputy S.151 Officer to act in his or her stead where necessary in all areas of S.151 responsibility. Further delegated S151 authority is generally given to the Finance Controls and Standards Manager, the Financial Strategy Manager and the Financial Governance Manager to act for him or her in their specific areas of service or function. The S151 officer will also, from time to time, give more formal delegated authority to the aforementioned managers for specific projects and tasks, where they will be the financial lead Officer for the authority in his or her stead.

A.25 Under Section 114 of the Local Government Finance Act 1988, the Finance & Performance Director is required specifically to report to the County Council or the Leader and the external auditor if the County 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, or would result in a loss or deficiency to the County Council; or
- is about to make an unlawful entry in the County Council's accounts.

- Monitoring Officer

A.26 The Monitoring Officer is responsible for promoting and maintaining high standards of overall conduct, and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for the Council's democratic arrangements, Constitution and for

reporting any actual or potential breaches of the law, or instances of maladministration either to the County Council directly or via the Cabinet.

- *Chief Executive's Management Team*
(known as the Senior Leadership Team – SLT)

A27 The Senior Leadership Team is the Senior Officers' body which brings together directors responsible for:

- (a) Commissioning (assessing customer needs, designing and then achieving appropriate outcomes in terms of service delivery whether delivered by the public, private or civil society sectors)
- (b) Support and customer services (to support and developing the business)
- (c) Operations: (responsible for in-house service delivery)

The list of posts that comprise SLT is set out in 'Definitions' in Part 1, Section 1 of the Constitution.

A28 SLT:

- (a) Instigates and develops policy proposals;
- (b) Prepares the Medium Term Financial Plan and the Asset Management Plan;
- (c) Ensures the delivery of the County Plan and Business Plan within approved budgets and for the effective delivery of the Council's services
- (d) Ensures compliance with the Council's approved governance and policy frameworks including Financial Regulations and the Contracts Procedure Rules
- (e) Delegates service area budgets through the Commissioning Directors to the relevant Operations Directors
- (f) Co-ordinates and manages the use of the Council's staff and property resources to ensure optimum deployment and their use to meet the Council's changing business needs
- (g) Directs and monitors the performance of the organisation in applying the approved policies;
- (h) Is responsible for the effective delivery of the services through the Operations Directors within the agreed budget and policy framework
- (i) Refers issues of concern to the Leader / Cabinet / Cabinet Members for determination.

In addition to contracted employees filling the posts detailed above, for decision-making purposes SLT also includes the following interim appointments in the absence of full-time contracted employees in the relevant posts:

- Interim Director of Children's Services
- Interim Deputy Director of Children's Services
- Interim Operations Director of Children's Services.

A29 SLT has regular meetings with the Cabinet to progress key strategic policy issues prior to consideration by the Cabinet. Any specific decision making will be through the Chief Executive in accordance with SCC's governance procedures.

Other financial accountabilities in relation to:

Key spending decisions

A.30 Key Decisions must be publicised in advance. Key Decisions and some Non-Key Decisions and the reasons for them are published on the Council's website.

A.31 The Leader is responsible for the protocols that provide the framework within which 'executive' decisions are taken by members and officers. These protocols are detailed in the relevant parts of Sections 5 and 8 of Part 1 of the Constitution. In exercising delegated authority the individual Member/Officer must take account of both legal and financial liabilities as well as risk management issues which may arise from the decision.

A.32 The Finance & Performance Director, in consultation with SLT Officers, advises the Leader or County Council if the financial implication of a proposal or of a decision already taken under delegated authority is, or is likely to be considered, contrary to, or not wholly in accordance with, the approved Policy Framework or Budget. In this context this may result from a Member or Director:

- initiating a new policy (without prior approval);
- committing expenditure or other resources in future years in excess of the approved plan level;
- agreeing transfers of budget approvals (virements) in excess of the limits within delegated authority; or
- causing the total expenditure financed from County Council tax, grants and corporately held reserves to increase, or to decrease by more than a specified amount.

A.33 The Leader will refer to Council for decision any matter where a Cabinet Member wishes to make a decision which is contrary to or not wholly in accordance with the approved Annual Budget or to any of the Plans or Strategies agreed by the Council, or within any virement limits set by the Council.

A.34 Cabinet Members/SLT Officers are responsible for consulting with the Finance & Performance Director on any matter which is liable to affect the County Council's finances materially either favourably or adversely, before any commitments are incurred, and for advising the Leader accordingly.

A.35 The Monitoring Officer advises the County Council, the Leader, the Cabinet, individual Cabinet Members, and Officers regarding who has the authority within the County Council to take a particular decision regarding financial issues.

Revenue Budget monitoring

A.36 The Finance & Performance Director provides financial information to enable SLT Officers acting as 'summary budget holders', to monitor effectively their cash-limited budgets.

A.37 SLT Officers within their own service areas control income and expenditure against their cash-limited budget and monitor their service delivery and financial performance targets. They must take any action necessary to avoid exceeding their financial allocation; this may, in exceptional circumstances, include the seeking of additional budget allocations.

A.38 The Finance & Performance Director monitors the performance of SLT Officers in controlling income and expenditure against their cash-limited budget allocation and he or she must report details of variances on a regular basis to SLT Officers and, as appropriate, to Members.

Virement and Supplementary Estimates.

A.39 The County Council agrees procedures for the transfer of approvals (virement) between budget headings and approves supplementary estimates.

A.40 The Leader and Cabinet Members take in-year decisions on reallocating resources in order to deliver the Budget Policy Framework within the financial limits set by the County Council.

A.41 In addition, Cabinet Members agree in-year virements which are within delegated limits and in line with the currently approved Policy Framework. Cabinet Members must notify the Finance & Performance Director of all virements which exceed those limits, and he or she will report these initially to SLT for consideration, and onwards to the Cabinet for determination / confirmation.

A.42 There is a presumption that virements in excess of the permitted limits will be confirmed where the effect of the proposal is to maintain the level of service outputs which are in line with the approved Policy Framework.

Treatment of year-end balances

A.43 The County Council agrees procedures for carrying forward under and over-spending on budget headings at the year-end.

A.44 SLT, and, if appropriate, the relevant Scrutiny Committee monitor the impact of the year-end variations on the level of service outputs which had been planned for both the relevant and subsequent year(s).

Accounting policies

A.45 The Finance & Performance Director selects appropriate accounting policies and ensures that they are applied consistently.

Accounting records and returns

A.46 The Finance & Performance Director determines the accounting procedures to be followed and accounting records to be maintained within the authority.

The annual statement of accounts

A.47 The Finance & Performance Director ensures that the annual Statement of Accounts is prepared in accordance with CIPFA's Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (the 'SORP') and other legal requirements, for approval by the Audit Committee.

4 FINANCIAL REGULATION B:

FINANCIAL PLANNING

Introduction

B.1 The County Council is responsible for approving the following as proposed by the Cabinet:

- the Policy Framework;
- the Medium Term Financial Plan, including the Annual Revenue Budget and Capital Investment Programme;

Policy Framework

B.2 The County Council's agreed policy objectives will inform the overall Policy Framework and service plans. The Policy Framework is defined in Part 1, Section 1 of the Constitution.

B.3 The County Council approves procedures for agreeing variations to approved budgets, plans and strategies which form the Policy Framework.

B.4 The County Council sets the level at which the Leader and Cabinet Members may re-allocate budget funds within the current year's Medium Term Financial Plan, including the Revenue Budget and the Capital Investment Programme. The Leader and Cabinet Members take in-year decisions on resources and priorities in order to deliver the Budget and Policy Framework within the financial limits set by the County Council.

- Preparation of the Policy Framework:

B.5 The Chief Executive, in consultation with SLT Officers, ensures that the Policy Framework is prepared for approval by the County Council and that it is consistently applied.

Budgeting

- Budget format:

B.6 The County Council determines the general content of the Medium Term Financial Plan (MTFP) including the annual Revenue Budget and Capital Investment Programme.

- Budget preparation:

B.7 The Finance & Performance Director ensures that a Medium Term Financial Plan including the annual Revenue Budget and Capital Investment Programme covering a 3 – 5 year period, or as may otherwise be determined, is prepared / updated on an annual basis for consideration initially by SLT and where appropriate with the input of the Scrutiny Committees, the Leader and Cabinet Members, before submission for approval to the County Council by the Cabinet. The County Council may amend the budget or ask the Leader to reconsider it or to re-examine areas of detail within the overall budget set.

B.8 SLT Officers are responsible for ensuring that their elements of the Medium Term Financial Plan reflect agreed service performance plans and their proposals for change, and are available for submission to SLT and the Leader / Cabinet members within the timetable set. SLT Officers must also provide information to the Leader/Cabinet where, in their opinion, the service plan does not meet statutory or central government requirements.

B.9 Proposals on the annual Revenue Budget submitted by the Cabinet to the Council should include details of the allocation of resources to different services and projects, the options for alternative taxation levels, the nature and level of contingency funds and reserves and the requirement to set the Prudential Code limits in particular the statutory borrowing limit under the Local Government Act 2003.

B.10 The Leader, in consultation with the Finance & Performance Director, issues guidance to SLT on service cash limits and the general content of the annual Revenue Budget as soon as possible following its approval by the County Council.

- Guidelines:

B.11 The Leader and Cabinet Members, following consultation with the Finance & Performance Director, are responsible for issuing to SLT guidelines on the preparation of the Medium Term Financial Plan including the annual Revenue Budget and the Capital Investment Programme. The guidelines will take account of:

- legal requirements;
- the approved Policy Framework and service delivery targets;
- medium term financial planning prospects;
- available resources;
- Members' agreed political objectives and targets
 - spending pressures;
 - service performance measures;
 - best value and other relevant Government guidelines;
 - cross-cutting issues (where relevant);
 - the findings of external inspections such as the External Audit Value for Money Assessment; and
 - impact and risk assessments.

- Preparation of the Capital Strategy and Capital Investment Programme:

B.12 The Finance & Performance Director ensures that a Capital Strategy (CS) and a Capital Investment Programme (CIP) covering a 3-5 year period, or as may otherwise be determined, are prepared / updated on an annual basis for consideration initially by SLT and subsequently by the Scrutiny Committees, the Leader and Cabinet Members before their submission for approval to the County Council by the Cabinet.

B.13 The CS sets out the principles to be followed which demonstrate how new capital investment, together with active management of existing assets, contribute to achieving the Council's approved policies, objectives and targets. The CS is supported by detailed asset management plans for each major area of capital investment; these plans include details of individual schemes, and the impact of each on the planned level of service outputs / outcomes, together with the means of financing those proposals. Investment proposals are, as appropriate, summarised in the draft CIP.

B.14 The County Council may amend the proposed CS or CIP, or ask the Leader to reconsider areas of detail within them.

B.15 Schemes are approved within the CIP on an individual basis or at a generic level for a specific activity (e.g. Local Transport Plan) and the approval relates to the total spending on the scheme, irrespective of when the payments are made; virements of approvals are permitted within limits set by the Council.

- Resource allocation:

B.16 The Finance & Performance Director determines the process to identify on an annual basis for consideration and approval by the County Council, the resource constraints which limit the financing and are available to meet the Medium Term Financial Plan including the Annual Revenue Budget and CIP. The process must also identify all opportunities for optimising funding arrangements without impacting adversely on the delivery of the plans.

- Budget monitoring and control:

B.17 The Finance & Performance Director provides financial information to SLT Officers to enable them to monitor and control expenditure against their revenue and capital budget allocations, as well as monitor against service performance targets.

B.18 SLT Officers must provide the Finance & Performance director with details of the progress on their budgets to enable him or her to report through SLT to the Cabinet Member for Resources on a regular basis and provide information to all Members on a quarterly basis. The report will include SLT's proposals for containing spending within their allocations, details of spending pressures in excess of those allocations, and, in respect of the CIP, details of the continued availability of resources to fund the programme; also, the report will seek, where appropriate, approval from the Council to any variations to the Annual Revenue Budget or the CIP where these changes exceed the delegation limits set by the Council, identifying the impact of those variations on the level of planned service outputs.

B.19 Full details of responsibilities for revenue budget monitoring and control are shown in Financial Procedures A.2 – Financial Management – managing and controlling spending, and for capital B.2 – Preparation of Capital Strategies and Capital Investment Programme.

Maintenance of reserves

B.20 The Finance & Performance Director advises the Leader and the County Council on the prudent level of reserves to be maintained for the authority.

B.21 The Finance & Performance Director advises the Leader and the County Council on compliance with the CIPFA Prudential Code (Local Government Act 2003 and associated regulations).

B.22 The establishment of all earmarked reserves require the approval of the Cabinet Member for Resources in consultation with the Finance & Performance Director

B.23 Annually as part of the outturn reporting process, the Cabinet will consider the in-year movements of each earmarked reserve and approve future use of residual balances.

4 FINANCIAL REGULATION C:

RISK MANAGEMENT AND CONTROL OF RESOURCES

Introduction

C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all the County Council's significant operational risks. This should include the proactive participation of all those involved directly or associated with the planning or delivering of services.

Risk management

C.2 The Cabinet, on the recommendation of SLT, approves the County Council's risk management strategy and policy statement and, in addition, for ensuring that proper insurance arrangements are effected where appropriate.

C.3 The Finance & Performance Director prepares the County Council's risk management policy statement, and advises SLT Officers of their responsibilities and monitors their compliance.

C.4 SLT Officers are responsible for complying with the risk management policy statement in respect of their service areas

C.5 The Finance & Performance Director advises initially SLT and subsequently the Cabinet on any non-compliance by an officer with the approved risk management policy statement. He or she is also responsible for providing advice on and effecting the appropriate insurance arrangements.

Internal control

C.6 Internal control is the system of control devised by management to help ensure the County Council's objectives are achieved in a manner which promotes economical, efficient and effective use of resources and that the County Council's assets and interests are safeguarded.

C.7 The Finance & Performance Director advises SLT on effective systems of internal financial control. These arrangements need to ensure that all statutory and corporate requirements and other relevant statements of best practice are met. They should ensure that public funds are properly safeguarded and used economically and efficiently, and in accordance with the statutory and other authorities that govern their use.

C.8 SLT establishes, in line with that guidance, sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness in the use of resources in the delivery of their service and the achievement of their financial performance targets.

Audit requirements

C.9 The Accounts and Audit Regulations 1996 require every local authority to maintain an adequate and effective internal audit.

C.10 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

C.11 The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

Preventing Fraud and Corruption

C.12 The Finance & Performance Director develops and maintains an anti-fraud and anti-corruption policy.

Assets

C.13 SLT Officers ensure that all financial records, physical assets and supporting documentation used in the provision of their services are properly maintained, securely held and, in respect of physical assets, suitably recorded.

C.14 They must also ensure that sound contingency plans for the security of those assets and for the continuity of service provision in the event of a disaster or other major system failure are in place, and that those arrangements are regularly tested.

Treasury Management

C.15 The County Council has adopted CIPFA's 'Code of Practice for Treasury Management in the Public Services'.

C.16 The Council approves the treasury management policy statement setting out the matters as detailed in Section 5 of CIPFA's 'Code of Practice for Treasury Management in the Public Services.' The draft policy statement is prepared on an annual basis by the Finance & Performance Director and proposed to the County Council by the Cabinet.

C.17 All money in the hands of the County Council is monitored and controlled by the Finance & Performance Director acting as the officer designated for the purposes of section 151 of the Local Government Act 1972.

C.18 The Finance & Performance Director has delegated responsibility for implementing and monitoring the treasury management policy statement. All executive decisions on borrowing, investment or financing shall be delegated to him or her, and he or she is required to act in accordance with the policy statement which has regard to CIPFA's Code of Practice for Treasury Management in the Public Services and the Prudential Code.

C.19 The Finance & Performance Director reports to the Cabinet not less than annually on the treasury management activities and on the exercise of his or her delegated treasury management authority.

Staffing

C.20 The Chief Executive, through SLT, is responsible for exercising the overall management of staff.

C.21 The Human Resources and Organisational Development Director determines and monitors adherence to staffing policies and procedures, and ensures that there is proper use of the evaluation, or other agreed system, for determining the remuneration of a job; further details are shown in the Personnel Handbook.

C.22 SLT Officers control their staff numbers by:

- employing staff in accordance with the approved Policy Framework and annual Revenue Budget;
- seeking the approval within the Medium Term Financial Plan to cover the estimated staffing levels required to support the existing and proposed levels of service provision;
- seeking the prior approval of the Cabinet Member responsible for HR to any adjustment to the staffing numbers to meet changing operational needs where the ongoing impact cannot be wholly met from within the approved budget or from within ongoing additional external income, and / or where staffing implications are significant.
- only employing staff on a permanent basis if ongoing and sustainable funding is available.

E FINANCIAL REGULATION D: SYSTEMS AND PROCEDURES

Introduction

D.1 Sound systems and procedures are essential to form an effective framework of accountability and control.

General

D.2 The Finance & Performance Director is responsible for the overall operation and maintenance of the County Council's form of accounts, the accounting and related systems, and all supporting financial records. The Finance & Performance Director with the approval of the Senior Leadership Team and the Cabinet can enforce the use of corporate financial systems where there are financial or other benefits to be gained from doing so.

D.3 SLT Officers ensure the proper operation of approved financial procedures within their own service area.

D.4 SLT Officers must seek the prior approval of the Finance & Performance Director to any proposed changes to the existing financial or related systems or to the establishment of any new financial or related systems which are / will be directly under their control.

D.5 SLT Officers must also seek the prior approval of the Finance & Performance Director, who, if appropriate, will seek the approval initially of SLT and subsequently of the Cabinet, to any proposed changes to the County Council's instructions or procedural notes on financial matters which are required to meet their own specific service needs.

D.6 SLT Officers must ensure that, where financial management arrangements are undertaken within their service areas that their staff receive appropriate financial training and operate to the professional standards set by, and detailed in guidelines issued by the Finance & Performance Director.

D.7 SLT Officers must ensure that, where appropriate, computer and other systems are registered in accordance with Data Protection legislation and that their staff are aware of their responsibilities under the Freedom of Information legislation.

Expenditure and Income

D.8 SLT Officers are responsible for the effective operation of a system for the control of expenditure and income within their area. Where an officer has delegated this responsibility, their records must identify who has been authorised to act on his / her behalf in respect of the placing of orders, the making of payments, or the collection of income, and the limit of their authority.

D.9 The County Council approves procedures for the writing-off of uncollectable debts as part of its overall control framework of accountability and control.

Payments to employees, former employees and members

D.10 The Human Resources and Operational Development Director is responsible for making all payments for salaries and wages to all staff, for pension and other benefit payments to relevant former employees and for the payment of allowances to Members.

Taxation

D.11 The Finance & Performance Director advises SLT Officers on all taxation issues that affect the County Council, in the light of statutory requirements and relevant guidance issued by the appropriate bodies.

D.12 The Finance & Performance Director is responsible for maintaining directly, or where appropriate, ensuring that SLT Officers maintain the County Council's taxation records, and for making all tax payments, receiving tax credits / refunds and for submitting tax returns by their due date as and when appropriate.

Trading Accounts and Business Units

D.13 The Finance & Performance Director advises on the establishment and the operation of suitable accounting records and supporting procedures for trading accounts and business units.

D.14 The establishment of all new trading accounts and activities require the approval of the Cabinet Member for Resources in consultation with the Finance & Performance Director following consideration of an appropriate business case.

5 FINANCIAL REGULATION E:

EXTERNAL ARRANGEMENTS

Introduction

E.1 The County Council provides a distinctive leadership role for the community and is able to bring together the contributions of various participants / stakeholders by participating in various partnership / joint working arrangements; as a result, it is able to achieve the promotion or improvement of the economic, social or environmental wellbeing of its area.

Partnerships

E.2 The Cabinet approves the operational framework for the County Council's participation in all strategic partnerships / joint working arrangements with other local public, private, voluntary and community sector organisations; this includes the arrangements for delegations to Officers and the detailed arrangements for the provision of both financial and physical resources by the County Council.

E.3 Similarly, Cabinet Members approve the operational framework of all other partnerships, joint working arrangements with other local public, private, voluntary and community sector organisations, which affect the service areas for which they have responsibility.

E.4 The Monitoring Officer, Finance & Performance Director and other Senior Leadership Team officers promote and maintain within all partnership / joint working arrangements the same high standards of conduct with regard to the legal, corporate governance and financial affairs which are detailed in these Financial Regulations and Financial Procedures and elsewhere, and which are applied throughout the County Council.

E.5 The Finance & Performance Director:

- advises SLT Officers on the need for, and, if appropriate, for appraising and approving the relevant risk assessment of a proposal before any commitment is made for the County Council to participate in a partnership or joint working arrangement or scheme; and
- specifies the accounting and auditing arrangements to be adopted and approves the overall corporate governance arrangements when, under the approved arrangements, the County Council is to be the lead authority.

E.6 SLT Officers are responsible for:

- ensuring that before committing the County Council's participation in a partnership or joint working arrangement or scheme, or before seeking the approval of the Cabinet or Cabinet Member to such participation, they consult with the Finance & Performance Director on the need to prepare a risk assessment of the proposal, and if appropriate, obtaining his or her approval to it;

- ensuring that the approval of the Cabinet or Cabinet Member is obtained before any negotiations are concluded where the County Council's participation is of a material nature;
- ensuring that all agreements and arrangements, including exit arrangements, are properly documented, including details of the County Council's financial and physical commitment to the arrangements which are to be in accordance with procedures specified by the Finance & Performance Director;
- observing the County Council's standards of conduct whilst having due regard to the partnership or joint working arrangement's governance framework;
- ensuring that the body or person maintaining the accounting and auditing arrangements do so to a standard acceptable by the Finance & Performance Director in those cases where, under the approved arrangements, the County Council is not to be the lead authority but the County Council's participation is of a material nature; and
- providing appropriate information to the Finance & Performance Director to enable him or her to include relevant details in the County Council's Statement of Accounts, and other financial statements and returns.

External funding

E.7 The Finance & Performance Director is responsible for providing specific guidance to SLT Officers to enable them to account properly for funding receivable from external sources.

Work for third parties

E.8 The Finance & Performance Director is responsible for providing specific guidance to SLT Officers in respect of contractual arrangements for the provision of services to third parties or external bodies.

Appendix A - List of Financial Thresholds		
Revenue Virements	Threshold	Responsibility
Transfers between revenue budget headings (*1) can take place provided that they do not involve new policy or policy change and do not involve an increasing commitment in future years that cannot be contained within existing approved budget allocations. <i>Note – (*1) this relates to budget headings at a Senior Leadership Team level and above.</i>	Up to £50,000 Between £50,000 and £250,000 Above £250,000	the relevant Senior Leadership Team Officer the relevant Cabinet member (s) in consultation with relevant Officers and the Finance & Performance Director (unless they are purely technical or structural in nature when there would be no financial limit) the Cabinet Member for Resources in consultation with other relevant Cabinet Members. <i>The decision maker is required to meet any conditions on the exercise of the function set out in Article 14 – para 14.7 – of the Constitution – Cabinet Scheme of Delegation.</i>
Capital Virements Resources may be vired from one capital project or heading to another (*2) provided that such transfers do not result in an overall increased commitment of capital resources and do not involve new policy or policy change: <i>Note – (*2) this relates to individual capital projects or budget headings at Senior Leadership level and above</i>	Up to £50,000 Between £50,000 and £250,000 Above £250,000	The relevant Senior Leadership Team Officer the relevant Cabinet Member in consultation with the relevant Senior Leadership Team Officer and the Finance & Performance Director (unless they are purely technical or structural in nature when there would be no financial limit) the Cabinet Member for Resources in consultation with other relevant Cabinet Members. <i>NB. The decision maker is required to meet any conditions on the exercise of the function set out in Article 14 – para 14.7 – of the Constitution – Cabinet Scheme of Delegation.</i>

B - Contract Standing Orders (Contracting Procedure Rules)

Made under section 135 of the Local Government Act 1972

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Definitions

In these Contract Standing Orders the following words and expressions will have the following meanings assigned to them:

“1972 Act” means the Local Government Act 1972.

“Advertising” means an advertisement placed in the Official Journal of the European Union or such other publication that may be pertinent to a particular procurement exercise.

“Agent” means any external individual or organisation acting on behalf of the Council.

“Senior Leadership Team Officer” means any Senior Leadership Team Officer for the time being of the Council or such officer as they may duly authorise to act on their behalf. Any such delegated authority must be documented by the relevant Council Service and be acknowledged by the relevant Officer in accordance with the Scheme of Delegation.

“Contracting Authority” shall mean Somerset County Council or any entity in which Somerset County Council has effective control over.

“Council” means Somerset County Council.

“Day” means a calendar day unless otherwise specified.

“EU” means the European Union.

“Framework” means a framework agreement within the meaning of Directive 2004/18 EU.

“In-house Provision”: This is considered to be provision over which the Council has a similar level of control over resources as it would do if the Council operated the service directly.

“OJEU” means the Official Journal of the European Union, which publishes all public sector tenders breaching the EU thresholds across the European Union.

“OJEU Tender” means a formal sealed bid procurement process that must comply fully with the requirements of the EU Consolidated Public Procurement Directive because the total aggregated value exceeds the value thresholds detailed within the Directive.

“PPP” means Public/Private Partnership.

“PQQ” means the Pre-Qualification Questionnaire used to assess applications for inclusion in the shortlist of applicants who will be invited to submit a final proposal in every Restricted Procedure.

“Procurement” means the function responsible for acquiring by purchase, lease or other legal means, the goods, works and services used by the Council to discharge its functions in an effective, efficient and economic manner.

The **procurement process** spans the whole life cycle of the procured goods, works or services – from the initial concept and definition of business needs, through to the end of the useful life of an asset or the end of a service contract.

“Procurement Directive” means the EU Consolidated Public Procurement Directive.

“The Regulations” means the Public Contracts Regulations 2006, as amended.

“Relevant Contract” means a contract to which these Contract Standing Orders apply.

“Remedies Directive” means the EU Remedies Directive.

“RFQ” means a Request for Quotation, where potential suppliers, providers or contractors submit legally binding proposals for Supplies, Services or Works without the need to complete a formal, sealed bid tender exercise.

“Services” means Services as defined in the EU Consolidated Public Procurement Directive

“Commercial and Procurement Team” (“CPT”) are for the purposes of these Contract Standing Orders automatically an agent of the Council. CPT undertakes procurement activity on behalf of the Council subject to their contractual obligations.

“Standstill Period” means the minimum 10 day period between the notification date of unsuccessful tenderers and the date of contract award.

“Supplies” means Supplies as defined in the EU Consolidated Public Procurement Directive

“Tender” means a candidate's proposal submitted in response to an Invitation to Tender

“Third Party Funding Source” means an organisation or entity which provides funding to the Council for the purposes of the delivery of a given object.

“Threshold” means the total aggregated value limits as defined within:

- The EU Consolidated Public Procurement Directive in the first instance;
- Somerset Council Contract Standing Orders, where the EU Consolidated Public Procurement Directive does not apply as a result of OJEU thresholds not being exceeded.

“Total Aggregated Value” means the total value of a purchased good, works or service over the duration of a contract.

“Works” means Works as defined in the EU Consolidated Public Procurement Directive

SECTION A - GENERAL INFORMATION

1. Contracting Authority

Somerset County Council is the Contracting Authority. This means that all contracts are let on behalf of the Council as a whole and that no Service, Team, Unit or other part of the Council has the legal capacity to enter independently into any contract.

Somerset County Council remains the Contracting Authority when entering into collaborative contracts where the Council procures goods, services or works jointly with other public sector organisations but may not complete the procurement process.

The Leader of the Council, the Cabinet, the Pensions Committee and the Chief Executive are responsible for putting in place appropriate Schemes of Delegation to enable tenders to be accepted and contracts to be awarded.

The administration, monitoring and ensuring compliance of these Standing Orders shall be the responsibility of the Business Development Director.

2. Date of Commencement

These Contract Standing Orders define the rules and procedures to be adopted when undertaking any procurement activity on behalf of the Council and are effective from 30 October 2013. All procurement processes commencing from that date will observe the rules contained within these Contract Standing Orders.

3. Extent and Application of Contract Standing Orders

These Contract Standing Orders are made under Section 135 of the Local Government Act 1972.

These Contract Standing Orders will apply to all contracts for the procurement of all goods, services and works by the Council, including, ad hoc, one-off requirements, and they will be applied by any employee or agent of Somerset County Council undertaking any procurement activity on behalf of the Council.

For the purpose of clarification the definition of contract shall include any legally binding arrangement made by or on behalf of the Council, including by any LEA maintained school, with an external contractor for the carrying out of works or the supply or disposal of goods or materials or the provision of services.

The Contract Standing Orders apply to all public procurement expenditure by the Council irrespective of the funding source (except where there are specific terms and conditions attached by a Third Party Funding Source which determine the method in which the contract is to be let) and includes expenditure that has been devolved in any way.

Compliance with Standing Orders is vital to demonstrate probity in the procurement process. Equally important is the delivery of economy, efficiency and effectiveness through competition and the avoidance of practices that may restrict, distort or prevent competition. The Standing Orders set out minimum standards.

The only exemptions to these Contract Standing Orders are those detailed in 4 below, Exemptions from the Application of Contract Standing Orders.

4. Exemptions from the Application of Contract Standing Orders

- Any contract of direct employment
- Any contract relating to the disposal or lease of land and / or buildings where offers have been sought and a closing date fixed.
- Any contract declared to be exempt because the exemption is justified by special and exceptional circumstances.
- An immediate need is created by a sudden, unforeseen, real and demonstrable emergency that requires immediate action to protect the interests of the Council.
- Pension Fund administration and governance arrangements are separate from main Council affairs and consequently not all of the Contract Standing Order requirements to apply to the fund. Exclusions will in the main only apply to approvals and reporting whilst all other principals surrounding the Contract Standing Orders and statutory requirements will remain. Where exemptions apply, these will be stated in the Pension Fund Scheme of Delegation and updated and approved periodically, concurrent with these Contract Standing Orders.

Such exemptions are not necessarily exempt from the application of the specific requirements of the EU Consolidated Public Procurement Directive and Public Contracts Regulations 2006, as amended, where they apply.

Lack of sufficient planning and / or internal process delays will not constitute special, exceptional or emergency circumstances.

5. Reporting on Exemptions from the Application of Contract Standing Orders

Advice on any proposed exemption from Contract Standing Orders should be sought from the Business Development Director.

The appropriate Senior Leadership Team officer shall apply to the Business Development Director and the Monitoring Officer before taking any action that binds the Council. Any such exception must be reported and recorded by the Business Development Director, including the reasons that fully justify the exception.

The appropriate Senior Leadership Team officer will normally be the officer that holds the budget for the requirement. Where there is a technical or competency issue, the appropriate Senior Leadership Team officer will be the one with responsibility for the professional aspects of the requirement.

In such an event, the requirement to comply with the EU Consolidated Public Procurement Directive and the Public Contracts Regulations 2006, as amended, remains.

6. Best Value

The Council has a duty to secure best value. Effective procurement is one of the tools available to deliver best value.

Best value in procurement is the optimum combination of price and quality identified through the Most Economically Advantageous Tender (MEAT).

In this context, price means the whole life cost or total acquisition cost of any requirement, not simply the price paid on acquisition. The Price may include the purchase price and the costs of the purchase to pay process, operation, maintenance and disposal.

In this context, quality means the measurable qualities of a proposal, and need not refer to a subjective view of high or low quality, but simply the quality that is right for the Council.

Every procurement requirement will be awarded on the basis of the Most Economically Advantageous Tender. No procurement requirement will be awarded solely on the basis of price.

Advice on the application of whole life cost and / or total acquisition cost should be sought from CPT.

7. Authority to Undertake Procurement Activity

All employees whose role involves any procurement activity will complete a Procurement Skills Analysis Questionnaire, available from the Business Development Director. The Questionnaire identifies appropriate training requirements. All such employees will undertake appropriate training in, as minimum standard, compliant and best practice procurement. Additional and specialist training will be required in more specialist procurement roles.

Once the appropriate training has been completed, employees undertaking procurement activity as part of their job role will be:

- Certified as a “procurement officer”
- Approved to complete specific procurement activities
- Included on the Procurement Officer Authority List
- Required to sign a certificate indicating that they have read and understood Contract Standing Orders and accepted the requirement to comply with the Contract Standing Orders at all times

Employees who have not undertaken training, are not certified procurement officers and are not included on the Procurement Officer Authority List are not permitted to undertake procurement activity.

8. Collaborative Procurement

Collaborative procurement arrangements are encouraged where these can demonstrate best value to the Council. Collaboration can take place through established consortia or through collaboration on one-off requirements.

Where the Council takes the lead procurement role in such arrangements, these Contract Standing Orders will apply to each procurement process carried out under the collaborative arrangement.

Where another public sector organisation takes the lead procurement role, its Contract Standing Orders, or equivalent, will apply.

All procurement activity carried out in collaboration is required to meet the demands of the EU Consolidated Public Procurement Directive.

8.1 Formal Collaborative Arrangements

Where the Council enters into formal joint buying or consortia purchasing arrangements, the related agreement and procurement strategy must protect the Council to a level proportionate to the risk involved, whilst at the same time providing the basis for a partnering approach and delivery of best value.

As a minimum, the agreement should clearly state:

- the nature and extent of the arrangement
- legal responsibilities
- arrangements for governance, accountability and dispute resolution
- the exit strategy
- the auditing arrangements
- the process for the induction of new partners.

8.2 Informal Collaborative Arrangements

Where the Council enters into informal and ad-hoc joint buying or consortia purchasing arrangements where no strategic agreement exists, the Council must be protected to a level proportionate to the risk involved, whilst at the same time providing for flexibility and delivery of best value. As a minimum this will typically be compliance to all procurement legislation and regulation such as the EU Consolidated Public Procurement Directive and the ability to demonstrate delivery of best value.

8.3 Council Requirements

Where Somerset County Council is not leading the procurement process, the lead authority / agency is required to comply with all relevant procurement legislation and with its own internal rules in undertake the procurement exercise.

The appropriate Officer within Somerset County Council who is dealing with the contract is required to satisfy themselves, as far as it is feasible to do so, that this requirement is met.

In addition, where Somerset County Council is not leading the procurement process, Officers are required to ensure that the following clauses of Somerset Council's Contract Standing Orders are applied.

- Contract Monitoring and Reporting – Proposed Procurement Requirement
- Contract Monitoring and Reporting – Contract Award

Where the Council seeks to join an existing Framework then a due diligence exercise should be undertaken to ensure that the Framework has been properly procured in accordance with the relevant legislation and with particular reference to the ability of the Council to join the Framework under the terms of the original Advertisement.

9. Part B Services

Part B services, as defined in Schedule 3 of the Public Contract Regulation 2006 are not subject to all of the requirements of the EU Consolidated Public Procurement Directive.

The procurement of Part B services excluding care placements and general care related agreements are not exempt from Contract Standing Orders and therefore must demonstrate competition and best value.

Social Care

Social Care contracts must be procured in accordance with EU public procurement directives and UK regulations but are otherwise exempt from CSO 21 save for the requirement to demonstrate obtaining value for money and for the requirement to consider the EC Treaty principles where such an opportunity would be of potential interest to economic operators in other Member States. In such cases a proportionate level of advertising should be conducted

10. Council Policy Objectives

Best practice and compliant procurement are some of the drivers to achieving Council policy objectives. As a result, the objectives will be considered in every procurement process and, where appropriate, incorporated into the contract strategy, evaluation model and terms and conditions of contract.

11. Sustainable Procurement

Sustainable Procurement incorporates the achievement of environmental, economic and social outcomes through procurement processes.

Sustainable Procurement outcomes, where relevant to the subject of the contract, should be incorporated into every procurement process.

Such outcomes should be incorporated in a way which does not result in the inappropriate exclusion of potential suppliers, or in anti-competitive behaviour on the part of the Council.

Sustainable outcomes are not used as the sole criteria for award of contract.

12. Freedom of Information Act 2000

There is a presumption that contractual information should be made available for disclosure if requested. However, officers should be aware of the potentially anti- competitive implications of disclosing detailed contractual information in the period around a procurement process taking place.

Guidance and advice is available from the Information Compliance Officer, Legal Services and the Business Development Director.

13. Community Right to Challenge

The Community Right to Challenge (CRTC) means community organisations can submit to Local Authorities an Expression of Interest to run local services. This right is granted under the Localism Act. If an Expression Of Interest is accepted by Somerset County Council this will trigger a procurement exercise.

More information, guidance and templates can be obtained from: www.somerset.gov.uk/crtc

14. Appointment of Agents to Act on Behalf of the Council

It is a condition of appointment that any consultant, architect, surveyor, engineer or any other external agent appointed to act on behalf of the Council and / or who is responsible for completion of a procurement process and / or the supervision of a contract on the Council's behalf will:

- Comply in full with the requirements of the EU Consolidated Public Procurement Directive, Public Contracts Regulations 2006, Somerset Council's Contract Standing Orders, all relevant legislation and all Council policies.
- Provide evidence that they are trained in and competent in public procurement.
- Ensure that any modification to the procedure for opening tenders is approved in advance by the Business Development Director in consultation with the Monitoring Officer.

- Produce to the appropriate Senior Leadership Team officer or nominated Council Officer on request all relevant records and documentation related to the contracted service and / or contract being supervised on behalf of the Council.

On completion of the contract service and / or contract, provide to the appropriate Senior Leadership Team officer all relevant records and documentation related to the contracted service and / or contract supervised on behalf of the Council.

Every appointment of a consultant, architect, surveyor, engineer or any other external agent to act in any capacity on behalf of the Council is required to have a contract condition that ensures that copyright in respect of anything created or completed by that external agent in relation to the appointment will be the property of the Council.

Where issues arise in respect of copyright, Officers are required to seek guidance and advice from Legal Services.

15 Breach of Contract Standing Orders

15.1 Reporting and Disciplinary Action

Any non-compliance to or breach of Contract Standing Orders will be reported immediately on discovery to the Business Development Director, the Monitoring Officer and the Section 151 Officer.

Failure to report any known non-compliance or breach may result in disciplinary action being taken against the employee who failed to report the non-compliance or breach.

The Section 151 Officer will undertake an investigation where deemed necessary. The investigation findings will be reported to the Business Development Director, the relevant Senior Leadership Team officer, the Monitoring Officer, the Section 151 Officer, the Chief Executive, the Leader of Council, Cabinet Members and Cabinet as appropriate.

The Senior Leadership Team officer and / or Section 151 Officer / Chief Executive will refer the investigation findings to the Human Resources and Organisational Development Director in order that the appropriate disciplinary action can be taken where a serious or repeated breach of Contract Standing Orders is identified.

15.2 Contractual Implications

Any non-compliance or breach of Contract Standing Orders can seriously impact upon the legal standing of the contract and can increase the ability of unsuccessful bidders / tenderers to seek redress through the courts.

16. Review of Contract Standing Orders

Contract Standing Orders will be reviewed and updated as required by changes to procurement legislation and regulation or on an annual basis where there has been no change to procurement legislation and regulation.

The Business Development Director is responsible undertaking any review and reporting proposed changes, in consultation with the Section 151 Officer and Monitoring Officer, to the County Council for approval.

Contract Standing Orders may be varied or revoked by the Council at any time following a resolution passed upon notice duly given in terms of those Standing Orders (not Contract Standing Orders) that regulate the meetings and proceedings of the Council.

SECTION B – LEGAL FRAMEWORK

17. Compliance with Legislation and Contract Standing Orders

The Council's Contract Standing Orders comply fully with the requirements of the EU Consolidated Procurement Directive, which takes precedence over national and local procurement legislation and regulation.

The Council's Contract Standing Orders comply fully with the Public Contracts Regulations 2006, as amended, which take precedence over local procurement regulations.

Every contract entered into or order placed by or on behalf of the Council will comply fully with the requirements of the EU Consolidated Public Procurement Directive, the Public Contracts Regulations 2006, as amended and these Contract Standing Orders.

The EU legislation identifies specific thresholds of spend to which the full processes detailed within the Directive apply. These thresholds are revised every two years. Aspects of the EU legislation apply to every procurement process, not simply those which breach the thresholds.

Therefore every procurement process undertaken on behalf of Somerset County Council will comply with the requirements of the EU procurement legislation where such requirements apply.

These Contract Standing Orders comply in full with the requirements of the EU Directive, EU Law, EU Public Procurement Law, United Kingdom legislation and the Public Contracts Regulations 2006, as amended.

18. EU Directives

Any failure to comply in full with the requirements of the Directives can result in the Council becoming subject to Court action and / or enforcement action by the European Union. Failure to comply can adversely affect access to EU funds available to the Council and can result in the repayment of funds previously allocated.

The EU Remedies Directive allows for additional penalties in the event of the Council being found to have failed to comply with the Procurement Directive. These penalties now include:

- Prohibition from entering into a contract
- Shortening of contract terms

- Fines when a complaint is upheld
- Contract termination

In addition, whenever legal proceedings relating to a contract award decision are commenced by aggrieved tenderer, tender processes are required to be suspended.

19. Case Law

There is a growing body of case law relating to public procurement, as public policy and regulation has eased access to legal remedies for unsuccessful applicants for public contracts. Some of this case law has had a significant impact on procurement procedure.

All available model contract documentation held by the CPT, will be updated to meet new legal requirements arising from case law. Therefore any Officer undertaking procurement activity is required to use only the current version of the model documents, as available on Pro Contract.

SECTION C - PLANNING A PROCUREMENT PROCESS

Detailed advice is available from CPT, Procurement Handbook and within Pro Contract.

20. Contract Value and Aggregation

Contract value is calculated as the Total Aggregated Value of the requirement across the Council over the contract term, exclusive of VAT.

Officers are required to consider and include the value of similar requirements in other parts of the Council when calculating a contract value.

There are no exceptions to the application of the aggregation rule.

21. Thresholds

See the table below for the processes to be adopted according to the value of the contract:

Procurement Requirement	Value	Procurement Process
All requirements	less than or = £10,000	Section H, CSO applies.
	greater than £10,000	As above plus requirement to liaise with Strategic Manager – People/Place or Business (depending on spend area)
Goods and Services ¹	Between £25,000 and £130,000	RFQ process

Procurement Requirement	Value	Procurement Process
Goods and Services	Above £130,000	OJEU tender process is required.
Works	From £25,000 and up to £130,000	RFQ process is required.
Works	Above £130,000 to £3,750,000	Tender process without OJEU Notice is required
Works	Above £3,750,000	OJEU tender process is required

22. Timescales

All Tender timescales are required to respect the timescales set out in the Procurement Directive.

The timescale from advertising an RFQ opportunity to the deadline for the receipt of completed proposals should not be less than 21 calendar days. Bidders must receive sufficient time to complete their bids, and therefore, for more complex requirement, this minimum 21 day period should be extended.

23. Framework Agreements

Framework Agreements are most suited to contracts where:

- The Council can benefit from on-going competition throughout the contract term
- The quantity to be purchased is variable and / or unknown over the contract period
- There is a significant and competitive market to provide the required good, services or works

Framework Agreements may be awarded to a sole supplier or to 3 or more suppliers. Where multiple suppliers are awarded a contract, the process of selecting one supplier at the point of purchase should be clearly stated in the RFQ / Tender documentation.

Framework Agreements are generally limited to a maximum contract period of four years. Further guidance is available from CPT and in the Procurement Handbook.

SECTION D - UNDERTAKING A PROCUREMENT PROCESS

24. Contract Monitoring and Reporting – Proposed Procurement Requirement

All proposed procurement requirements with a value of over £25,000 will be reported through using a Non Key Decision Report

No procurement process for requirements with a value of over £25,000 will commence before the requirement has been countersigned by the appropriately empowered officer (or higher) as set out in the Council's Scheme of Delegation.

25. Advertising

All contract opportunities valued at over £10,000 are required to be advertised by the Commercial and Procurement Team through the Council's e-Procurement tool Pro Contract, unless prior recommendation or agreement is obtained from either the Head of Commercial and Procurement or the Strategic Manager Procurement.

All Relevant Contract opportunities are required to be advertised in OJEU.

Contract opportunities below £25,000 in value should be considered for Advertising where this will support the Council's policy objectives and the exercise can demonstrate best value.

26. Confidentiality of Tender and RFQ Proposals

During the period between the opening of proposals and / or tenders and the award of contract, all details of the proposals submitted must remain secret and be treated as confidential. It is the responsibility of those involved in the process to ensure complete confidentiality during this period.

The requirement for confidentiality during this period applies to any external agent acting on behalf of the Council.

Failure to meet the confidentiality requirements will be reported to the Section 151 Officer, Internal Auditor, the Business Development Director, and the Monitoring Officer and may result in disciplinary action.

27. Information and Data

Officers must take all reasonable steps, including incorporation of clauses into agreements with suppliers, to ensure that the Authorities obligations and risks in respect of Information and Data are considered, and indemnities are sought where appropriate. More information and guidance can be obtained from the guidance notes to these Contract Standing Orders or the Information and Governance Manager

28. Evaluation of Proposals

Evaluation of proposals must be based on quality and whole life cost or total acquisition cost, not price alone.

Evaluation of proposals must be completed using the Price / Quality weighting and individual evaluation criteria and scorings agreed during the planning stage completed prior to the commencement of the process and detailed in contract advertisements and documentation.

All criteria, sub-criteria and scoring must be detailed individually so that all bidders / applicants know what scores are attached to each criteria area.

Weighting and criteria must not be changed once agreed and published and must be applied consistently across all proposals

Records are to be kept of positive and negative reasons for scores, and a record made of the characteristics of each bid, as agreed by the Evaluation Panel. This information will be sent to rejected bidders / tenderers once a contract has been awarded.

The model used to evaluate proposals must be a Prior Overall Weighting (POW)(1) model or equivalent evaluation tool to ensure transparency and accountability in the event of a challenge or complaint.

Where Pre-Qualification is required, the evaluation criteria used to pre-qualify applicants must not be used again in the final evaluation of proposals, as evaluation criteria can only be used once in any procurement process.

For the evaluation of construction and civil engineering proposals, in addition to the above, the appropriate discipline principles, guidance and industry good practice in force at the time of the requirement must be used for the examination and evaluation of proposals.

29. Waivers

Whilst the requirements of these Standing Orders are intended to be followed in respect of all Relevant Contracts, subject to the paragraphs below, the requirement to undertake a competitive tendering / procurement process may be waived by the Business Development Director in the following highly exceptional circumstances:

- (a) in the case of a proposed contract where reasonably it appears to the Senior Leadership Team officer that there is only one supplier and where no reasonably satisfactory alternative is available;
- (b) in the case of a proposed contract where the Senior Leadership Team officer is satisfied that specialised materials or plant are required for which there is only a single source of supply;
- (c) in the case of a proposed contract for the extension of an existing contract where in the opinion of the Senior Leadership Team officer this can most satisfactorily be performed by the original contractor, provided that the existing contract contains a provision to the effect that it may be extended and that the extension is limited to a period proportionate to the original contract term, see Contract Standing Order 44;

- (d) in the case of a proposed contract for the supply of goods or services which are required as a matter of urgency to meet the operational needs of the Council where the Senior Leadership Team officer is satisfied that the normal tender process would prevent the supply of the required goods, services or materials within the timescale necessary to avoid harming the interests of the Council or people residing (temporarily or permanently) or conducting business in Somerset;
- (e) in the case of a proposed contract for residential care, nursing care or other care which is being entered into in exercise of the client's right of choice of service provider, or where a contract is being entered into for any other matter where the Council is legally required to allow the client the right of choice of service provider.

All contracts let in accordance with Standing Order 27 (Waivers) shall be recorded by the Business Development Director in the Disclosure Register, which shall show the relevant reason under Standing Order 27 which the waiver has been granted, contain a written statement of the reasons for the waiver and details of the evidence (including, if appropriate, market testing) upon which the conclusion of the Senior Leadership Team officer is based and be signed and dated personally by the Business Development Director.

Before a contract is let in any of the circumstances described under Standing Order 27 (Waivers), the Business Development Director must certify that the advantages and disadvantages of proceeding with a single supplier have been examined and recorded and any evidence relied upon has been retained on the procurement file.

Before a contract is let in accordance with Standing Order 27, the value of which exceeds £50,000, the Business Development Director must consult with and obtain the agreement of the Section 151 Officer. Where the value of such contract exceeds £100,000 the Business Development Director must also involve the appropriate Cabinet Member in accordance with the requirements of the Cabinet Scheme of Delegation.

No contract may be let in accordance with Standing Order 27 to which the EU Procedure applies, regardless of whether, in the case of a contract for the provision of services, it is in respect of Part A or Part B services.

30. Approval to Accept

Approval to accept a proposal or Tender can only be given as follows:

Total Aggregated Contract Value	Approval to Accept
£5,000,000 or greater	Cabinet or, in case of urgent business need, the Leader.
£500,001 - £4,999,999	Relevant SLT officer(s) or Cabinet Member(s).
£250,001– £500,000	Officer Scale 6 or above
£25,001 – £250,000	Officer Scale 8 or above
£10,000 – £25,000	Officer Scale 13 or above
Less than £10,000	All officers

No contract can be awarded before approval to accept has been sought and obtained, as outlined above.

Prior to award - in addition to simply reporting the contract, if there is a variance of greater than 20% between the estimated value as previously reported under CSO 24 and the actual tendered sum then the reasons for the difference must be explained at the same time as reporting the award of the contract

31. Award of Contract

Every Contract shall be signed on behalf of the Council by 2 officers one of whom shall be the Authorised Officer or any senior lawyer in the employment of the Council who is duly authorised by the Council for the purposes of this Standing Order under the Scheme of Delegation for Officers.

Every works Contract which exceeds £250,000 in value shall be sealed with the Common Seal of the Council.

32. Mandatory Standstill Period

A Standstill Period must be applied to all contract award procedures for all tenders and RFQs with a Total Aggregated contract Value of more than £130,000 for Goods and Services, and £3,750,000 for Works.

A Standstill Period should be considered for all contract awards (Public Contract Regulations 2006).

The minimum period between the date that unsuccessful bidders receive notification that their bid has not been accepted and the date that the contract is to commence shall be that prescribed by the regulations.

Rejection Letters are required to contain the following specific information:

- Full details of the contract award criteria, mirroring the details contained in the tender documentation
- The name of the winning bidder / tenderer(s)
- The total scores that the winning bidder / tenderer and the rejected bidder / tenderer received
- A statement on the reasons for the contract award decision, which must include the characteristics and relative advantages of the winning tender / bid
- A Precise Statement on either:
 - When the Mandatory Standstill Period will end (which will be at midnight on the 10th day after unsuccessful bidders / tenderers receive rejection letters and will be a working day)
 - Or the date before which the Council will not enter into a contract (the formal contract award date)

If appropriate, Rejection Letters are also required to include the details of any reasons why the rejected bidder / tenderer did not meet the technical specifications

A full debrief will be offered to any bidder / tenderer and if requested will be provided within the prescribed timescales.

Contract cannot commence within the Standstill Period.

33. Contract Monitoring and Reporting - Contract Award

Once the Approval to Accept has been received and the contract has been awarded, the contract will be reported to the Business Development Director using the Contract Monitoring and Reporting Form.

34. Tender File

On completion of the RFQ or Tender process, all related documentation will be filed in a master file and retained for a period appropriate to the contract.

For standard goods and services the retention period will typically be the contract period plus one year, or the period of warranty cover, whichever is the greater.

For more complex goods and services contracts and for works contracts, the retention period may be significantly longer in order to deal with any long term contractual issues

SECTION E - TENDER AND RFQ DOCUMENTATION

35. The Use of Standard Documents

Standard documents for the procurement of goods and services are maintained and updated by the Business Development Director. These are available for certified procurement officers and held on Pro Contract.

Officers are required to use the current versions of standard documents available on the Intranet for each procurement process undertaken.

Not all of the Contract Terms and Conditions contained within the standard documents may be appropriate to the contract requirement and some may therefore be deleted. This is subject to Clause 37 below and subject to consultation with Legal Services and the Business Development Director.

The Contract Terms and Conditions contained within the standard documents may be insufficient to the contract requirement and may be added to or developed further, subject to consultation with Legal Services and the Business Development Director.

Guidance and advice on the appropriateness of the standard Contract Terms and Conditions should be sought from Legal Services and / or the Business Development Director prior to any amendment being made.

Where a variation is needed to a standard document then consultation should take place with the appropriate Legal Officer or if none is available with appointed external legal advisers.

36. Pre-Qualification Questionnaires (PQQs)

Where a Restricted process is being applied, the Standard PQQ, available on Pro Contract, should be used as a basis for the issued PQQ.

37. Standard RFQ Documentation – Goods and Services

Any RFQ Pack is required to include:

- SCC Contract Terms and Conditions
- Specification Schedules
- Pricing Schedules
- Commercially Confidential Information Schedules
- Quotation Completion Details

38. Standard Tender Documentation – Goods and Services

Any Tender Pack is required to include:

- Instructions to Tenderers
- SCC Terms and Conditions
- Form of Tender
- Certificate of Non-Collusion
- Method Statements
- Delivery Schedules
- Specification Schedules
- Specification Compliance Schedules
- Pricing Schedules
- Commercially Confidential Information Schedules
- Returned Documentation Checklist

Where an Open Procedure is being conducted, a Tender Questionnaire is also to be included in the Tender Pack.

39. Mandatory Clauses

The following clauses from the standard Contract Terms and Conditions may not be deleted from the documents, and are to be included in all contracts for goods and services and all works contracts:

- No assignation of the contract without the written consent of the Council.
- No sub-contracting of the contract without the written consent of the Council.
- Cancellation in the event that gratuities, inducements or any other type of consideration in relation to the contract are offered to an employee or member or agent of the Council.
- Compliance with all relevant legislation, including:
 - The Equalities Act 2010
 - Any Act, rule, etc, etc amending or replacing the above Acts
 - Any other statute, statutory instrument, etc, etc to prevent unlawful discrimination

- Compliance to Health & Safety regulations
- Termination
- Indemnity and Insurance
- Confidentiality and the Freedom of Information Act 2002
- Disputes procedure
- Authorised Users
- Governing Law
- Employee Vetting, typically Enhanced Disclosure, where appropriate

Where any contract provides for the appointment of a nominated sub-contractor, the responsible Council Officer or agent must ensure that the contract also includes for the following:

- The main contractor is subject to the same payment terms as the Council, thereby assisting in the elimination or minimisation of sub-contractor SME cash flow problems.
- The main contractor is responsible for ensuring that the nominated sub-contractor is subject to and meets the same requirements as the main contractor, including:
- The mandatory clauses identified in these Contract Standing Orders
- Supporting the local economy and promotion of local employment.
- Vetting to Enhanced Disclosure level where required.

40. Tender Documentation - Works Contracts

Guidance and advice on works documentation must be sought from Assets, Property and Facilities Management (Construction) or Roads Improvement (Civils) before any procurement process commences.

41. Supplier Contract Terms and Conditions

Officers are not permitted to enter into contracts on the Supplier's Contract Terms and Conditions and should take care that they do not inadvertently enter into a contract on the Supplier's Contract Terms and Conditions.

In the rare event that a Supplier refuses to accept the Council's Contract Terms and Conditions, the Supplier's Contract Terms and Conditions are to be referred to Legal Services for review and possible approval.

SECTION F - CONTRACT MANAGEMENT

42. Contracts Register

A Council Contracts Register (Pro Contract) will be maintained by the Business Development Director that provides a central point for contract information.

All contracts awarded on behalf of the Council that have a total aggregated value in excess of £25,000 will be recorded in the Council Contracts Register, using information contained in the Contract Reporting and Monitoring Form.

Services and the member of staff responsible for completion of the RFQ or tender will be responsible for ensuring recording and submission to the Business Development Director of the final actual contract cost compared to the original estimated contract cost, detailing the reasons and justification for any overspend or underspend.

43. Contract Monitoring and Management

Contracts awarded by or on behalf of the Council must be monitored and managed throughout the contract term to ensure delivery of the contracted goods, services or works in accordance with the contract requirement and standard.

Contract monitoring and management arrangements agreed during the procurement process will be determined by the complexity and risk associated with the contract, conditions in the relevant market and must consider both financial and quality aspects.

Senior Leadership Team officers are empowered to investigate and negotiate potential variations to a contract after contract award, subject to the provisions of the Public Contracts Regulations 2006. However, any variations or changes that are agreed will need to comply with the Council and Cabinet decision making arrangements and these Contract Standing Orders.

44. Contract Extensions

44.1 Users

Contracts awarded on behalf of the Council can be used by all Council Services.

The “Authorised Users” clause allows use of the contract to be extended beyond the Council, subject to the written consent and approval of the Council. The “Authorised Users” clause can only be exercised if it has been included in the original RFQ / Tender document.

44.2 Period

Contract periods can only be extended where the option to do so has been incorporated into the advertisement and contract documentation returned by bidders / tenderers.

44.3 Value

Contracts cannot be extended beyond the value incorporated and detailed in the advertisement and contract documentation returned by bidders / tenderers. Once the advertised value has been reached, the requirement is subject to further competition.

44.4 Additional Work – Goods Contracts

Where there is potential for additional work to be carried out subsequent to the completion of a contract, then that additional work is to be incorporated into the original contract. If additional work is not included in the original contract, the scope of that contract cannot be extended.

44.5 Additional Work – Services and Works Contracts

Additional works or services up to a maximum of 50% of the original estimated value may be purchased, but only where the original contract notice stated that additional works or services may be awarded. The additional 50% can relate to the contract scope, the contract value or the contract term.

45. Contract Variations

During the course of a contract, factors may arise that may result in a significant overspend or underspend on the contract.

In these circumstances, Officers are required to report the variation in accordance with 45.1 below, and may also be required to commence a new procurement process in accordance with 45.2 below.

45.1 Reporting and Authorisation

The factors and projected financial impact must be reported to the Senior Leadership Team officer, who must then report same to the:

- Section 151 Officer
- Business Development Director
- Internal Audit
- Chief Executive
- Leader of Council or relevant Cabinet Member

Where during the course of a contract additional contract costs in excess of 10% of the original contract value, other than variations authorised within the contract, are identified, details of the additional costs must be reported to the Section 151 Officer and:

- Where the additional costs exceed 10% of the original contract value, to the Chief Executive and Business Development Director.
- Where the additional costs exceed 20% of the original contract value, to Internal Audit, the Chief Executive, the Business Development Director and to the Leader of Council or relevant Cabinet Member.

Subject to the provisions of the contract, every extra or variation will be evidenced and authorised in writing by the Council Officer responsible for the contract or the agent acting on behalf of the Council.

Every extra or variation must be reported to the Senior Leadership Team officer and Business Development Director if the cumulative effect of the extras or variations result in an increase or decrease to the original contract price of 10% or £25,000, whichever is the greater.

On completion of the contract, a final summary of the extras or variations is to be recorded by completion and submission of an updated Stage 2 of the Contract Monitoring and Reporting form.

The final summary of the extras or variations will then be reported in the Council Information Bulletin and contract information updated in the Contract Register, on the Intranet and on the Council's public website.

45.2 Requirement to Commence a New Procurement Process

A material amendment to the contract requires that a new procurement process be undertaken. A material amendment is one which:

- Introduces conditions, which, if they had been part of the initial award procedure, would have altered the outcome of that procedure
- Extends the scope of the original contract to encompass goods, services or works not initially covered
- Changes the economic balance of the contract in favour of the contractor in a manner not provided for in the terms of the original contract

46. Termination of contracts

All written contracts shall contain a clause enabling the Council to cancel the contract.

Contracts up to £100,000 may be terminated early by agreement of the parties prior to the expiry date or in accordance with the termination provisions set out in the contract.

Approval to terminate a contract can only be given as follows:

Total Aggregated Contract Value	Approval
£5,000,000 or greater	Cabinet or, in case of urgent business need, the Leader of the Council.
£500,001 - £4,999,999	Relevant SLT officer(s) or Cabinet Member(s).
£250,001– £500,000	Officer Scale 6 or above
£25,001 – £250,000	Officer Scale 8 or above
£10,000 – £25,000	Officer Scale 13 or above
Less than £10,000	All officers

The Business Development Director, Section 151 Officer and Monitoring Officer must be consulted on any proposed termination of a contract over £100,000 in value.

SECTION G – BIDS FOR EXTERNAL CONTRACTS

47. Authorisation

Where a Service within the Council wishes to submit a bid to provide Supplies, Services or Works to a third party and the proposal:

- Has a Total Aggregated Value in excess of £100,000
- and / or
- will utilise in excess of 10% of the total staff resources within that Service

Before any bid can be submitted to a third party

- Approval to proceed must be sought from the Business Development Director, Section 151 Officer and Monitoring Officer
- Any conditions attached by the third party to the submission of bids are required to be referred to and approved by Legal Services.

All such proposals submitted to Third Parties are required to follow any and all relevant industry good practice and adhere to guidance issued by the appropriate Senior Leadership Team officer or by the Business Development Director.

SECTION H - PROCUREMENTS UNDER £25,000

Procurement Stage	Evidence of Compliance
Authority to procure (includes both setting up new vendors or when existing vendor(s) are used but the type of spending is 'new'. Does not apply to current vendors where the spend is unchanged.)	<ul style="list-style-type: none">• Email from the procuring officer to the appropriate Certified Procurement Officer (CPO) empowered under CSO requesting authority to proceed and giving the following details:-<ol style="list-style-type: none">1. Reason for the procurement2. Options considered (or waiver)3. Recommendation• Email confirmation from the CPO authorising the procurement• Confirmation that budget approval has been given to proceed with the procurement.
Waiver (should be by exception)	<ul style="list-style-type: none">• Contact the CPT to get advice about the correct process to follow and get approval to enter the waiver process from a Strategic Manager. Email strategicprocurement@somerset.gov.uk.• If approval is given complete the relevant waiver application form attaching all evidence for audit and record keeping purposes (where relevant).• Present completed form and evidence in the form of a business case to the CPT. This will be presented to the Commissioning Board to assess and make a recommendation for the Business Development Director to make a final decision.• If final sign-off is received from the Business Development Director the CPT will notify you that you can proceed with your order.
Competitive Quote Exercise	<p>Procuring officer to maintain records that show the following:-</p> <ul style="list-style-type: none">• Details of three prospective suppliers and selection criteria• Three competitive quotes and supporting documentation

Procurement Stage	Evidence of Compliance
	<ul style="list-style-type: none"> • Details of the pre-determined award criteria • Assessment of quotes and correspondence.
Authority to Award	<ul style="list-style-type: none"> • Email from the procuring officer to the relevant officer under Scheme of Delegation seeking authority to award the contract and including the following:- <ul style="list-style-type: none"> ○ Assessment criteria for competitive quotes ○ Report on competitive quotes (including evidence of best value) ○ Recommendation <p>Email from the relevant officer under Scheme of Delegation to the procurement officer authorising the award of the contract.</p>

C - CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

INTRODUCTION AND INTERPRETATION

As a member and representative of this Council it is your responsibility to comply with this Code when you undertake or claim to be undertaking Council business or give the impression that you are undertaking Council business.

As a representative of this Council your actions impact on how the Council as a whole is viewed by the public. It is important, therefore, that you do not do anything when undertaking Council business which you could not justify to the public. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.

This Code is based upon the seven principles of public life which are set out at Appendix A1. You shall have regard to those principles when fulfilling your role.

An explanation of the terms used in this Code can be found in Appendix A2.

1. GENERAL OBLIGATIONS

When undertaking Council business you must:

- 1.1 treat others with respect;
- 1.2 not use or attempt to use your position as a member improperly to give yourself or any other person, an advantage or disadvantage;
- 1.3 when reaching decisions on any matter, consider any relevant advice provided to you by—
 - (a) the Council's Chief Finance Officer (Section 151 Officer)
 - (b) the Council's Monitoring Officerin accordance with his or her statutory duties;
- 1.4 give reasons for decisions in accordance with any statutory requirements and the Constitution of the Council;
- 1.5 act in accordance with the Council's Constitution and the policies contained within it and any other relevant Council policies;
- 1.6 not use Council's resources improperly (including for political purposes);
- 1.7 avoid doing anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);
- 1.8 not bully any person;
- 1.9 not intimidate or attempt to intimidate any person who is or is likely to be—
 - (a) a complainant,
 - (b) a witness,

- (c) involved in the administration of any investigation or proceedings, or
 - (d) any other person carrying out the functions of the Council,
- in relation to an allegation that a member (including yourself) has failed to comply with the Council's code of conduct;

- 1.10 avoid doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;
- 1.11 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—
 - (a) you have the consent of a person authorised to give it;
 - (b) you are required by law to do so;
 - (c) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (d) the disclosure is—
 - i. reasonable and in the public interest; and
 - ii. made in good faith and in compliance with the reasonable requirements of the Council; and
 - iii. you have consulted the Monitoring Officer prior to its release;
- 1.12 not prevent another person from gaining access to information to which that person is entitled by law; and
- 1.13 not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

2. INTERESTS

Disclosable Pecuniary Interests

- 2.1 You must register and declare any Disclosable Pecuniary Interests that relate to your public duties as required by this Code, and set out in Appendix A3.
- 2.2 You must, within 28 days of this Code being adopted by the Council or your taking office as a member or co-opted member, register any Disclosable Pecuniary Interests with the Council's Monitoring Officer, where the Disclosable Pecuniary Interest is yours, your spouse's or civil partner's, or is the Disclosable Pecuniary Interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. Disclosable Pecuniary Interests will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at: www.somerset.gov.uk.
- 2.3 Within 28 days of becoming aware of any new Disclosable Pecuniary Interest or change to any such interest already registered, you must register details of that new interest or change in writing to the Council's monitoring officer.
- 2.4 Where any business of the Council, relates to or affects a Disclosable Pecuniary Interest whether registered under 2.2 or 2.3 above or not, and you attend any

meeting of the Council, its Cabinet/Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered, you must:

- (a) not seek to influence a decision about that business
- (b) disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you. The exception to the requirement to disclose an interest is if the matter is a sensitive interest under paragraph 2.10
- (c) withdraw from the meeting room or chamber as soon as it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from the Council's Monitoring Officer or the Standards Committee.

- 2.5 Following any disclosure at a meeting or as part of a decision record, of a Disclosable Pecuniary Interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of the disclosure at the meeting or in the decision record in order for the interest to be included in the register.
- 2.6 Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a Disclosable Pecuniary Interest. Additionally you must observe the restrictions the Council places on your involvement in matters where you have a Disclosable Pecuniary Interest as defined by the Council and set out in this Code.

Other Interests

Note: It is conceivable that an interest could be categorised as both a Disclosable Pecuniary Interest and a personal or a personal and prejudicial interest. If so you must treat it as a Disclosable Pecuniary Interest and comply with the requirements set out in paragraphs 2.1 – 2.6 inclusive.

- 2.7 (1) In addition to the Disclosable Pecuniary Interests notifiable under the Localism Act 2011, you must, within 28 days of—
- (a) this Code being adopted by or applied to the Council; or
 - (b) your election or appointment to office (where that is later),
- give written notification to the Monitoring Officer of the details of your other personal interests, as defined in 2.8(1)(a)(i) and (ii) below, for inclusion in the register of interests. The exception to this requirement is if the detail of the personal or prejudicial interest is classified as sensitive – see paragraph 2.10.
- (2) You must, within 28 days of becoming aware of any new personal interest or change to any such registered interest, notify the Monitoring Officer of the details of that new interest or change.

Personal Interests

- 2.8 (1) You have a personal interest in any business of the Council where:
- (a) it relates to or is likely to affect—
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
 - (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) established for charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
 - (b) where a decision in relation to any business of the Council might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a significant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division, as the case may be, affected by the decision;
- (2) Subject to sub-paragraphs (3) to (5) below, where you are aware of a personal interest described in paragraph (1) above in any business of the Council, and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the start of the consideration of that business, or when the interest becomes apparent to you.
- (3) Where you have a personal interest in any business of the Council which relates to or is likely to affect you or a significant person, or a body described in paragraph 2.8(1)(a)(ii), you need only disclose to the meeting the existence and nature of that interest if and when you address the meeting on that business.
- (4) Where you have a personal interest but the interest is not detailed in the Council's register of members' interests because of the sensitive nature of the interest, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (5) Where you have a personal interest in any business of the Council and you have made an individual decision (as a Cabinet/Executive member) in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest subject to (4) above.
- (6) Any personal interests notified to the Monitoring Officer will be included in the register of interests.
- (7) A copy of the register will be available for public inspection and will be published on the Council's website.
- Note: Members may opt out of having personal interests published on the Council's website, whereas the Council is required to publish disclosable pecuniary interests registered by members on the website.

Prejudicial Interests

- 2.9 (1) Where you have a personal interest in any business of your Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard

as so significant that it is likely to prejudice your judgement of the public interest and where that business—

(a) affects your financial position or the financial position of a significant person or a body described in paragraph 2.8(1)(a)(ii) (other than another town, parish, or district council of which you are also a member).

(b) relates to determining any approval, consent, licence, permission or registration in relation to you or any significant person or a body described in paragraph 2.8(1)(a)(ii) (other than another town, parish, or district council of which you are also a member).

(2) Subject to paragraph (3) and (4), where you have a prejudicial interest in any business of your Council—

(a) You may not participate in any discussion of the matter at a meeting.

(b) You may not participate in any vote taken on the matter at a meeting.

(c) You must disclose the existence and nature of the interest to the meeting and leave the room where the meeting is held while any discussion or voting takes place on the matter. The exception to the requirement to disclose the detail of the interest is if the matter is a sensitive interest under paragraph 2.10. In these circumstances you need only state that you have a prejudicial interest, that the details are withheld because of the sensitive information involved and then leave the room where the meeting is held which any discussions or voting takes place on the issue.

(3) Where you have a prejudicial interest in any business of your Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and you leave the meeting room immediately after making representations, answering questions or giving evidence.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your Council in respect of—

(a) housing, where you are a tenant of your Council provided that those functions do not relate particularly to your tenancy or lease;

(b) 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;

(c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(d) an allowance, payment or indemnity given to members;

(e) any ceremonial honour given to members; and

(f) setting council tax or a precept under the Local Government Finance Act 1992.

(5) Where, as a Cabinet/Executive member, you may take an individual decision, and you become aware of a prejudicial interest in the matter which is the subject of the proposed decision you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek to influence a decision about the matter.

Overview and Scrutiny

(6) In relation to any business before an overview and scrutiny committee of the Council (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your Council's Cabinet/Executive or another of your Council's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the Cabinet/Executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph a) and you were present when that decision was made or action was taken;

or

(c) that business relates to a decision made (whether implemented or not) or action taken by you (whether by virtue of the Council's constitution or under delegated authority from the Leader);

you may attend a meeting of the overview and scrutiny committee or sub-committee of the Council but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Sensitive Interests

2.10 If you have a Disclosable Pecuniary Interest or a Personal or Personal and Prejudicial Interest but you consider that disclosure of the interest could lead to you or a person connected with you being subject to violence or intimidation and the Monitoring Officer agrees with that assessment then instead of disclosing the interest you need only disclose that you have a Disclosable Pecuniary Interest or Personal or Personal and Prejudicial Interest (as the case may be). In such instances any published version of the register of interests will exclude details of the interest but may state that you have an interest, the details of which are withheld.

3. Receipts of gifts and hospitality

3.1 (1) You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a member from any person or body other than the Council.

(2) The Monitoring Officer will place your notification on a public register of gifts and hospitality.

APPENDIX A1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

Preamble: The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public services. The principles also have application to all those in other sectors delivering public services.

SELFLESSNESS

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

INTEGRITY

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

OBJECTIVITY

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

ACCOUNTABILITY

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

OPENNESS

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

HONESTY

Holders of public office should be truthful.

LEADERSHIP

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

APPENDIX A2

COUNCIL'S CODE OF CONDUCT - INTERPRETATION

In the Council's Code of Conduct the following words shall have the following meanings ascribed to them—

- “the Act” means the Localism Act 2011;
- “Disclosable Pecuniary Interest” is as defined in Appendix A3
- “meeting” means any meeting of—
 - (a) the Council;
 - (b) the Cabinet/Executive of the Council;
 - (c) any of the Council's or its Cabinet's/Executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;whether or not the press and public are excluded from the meeting in question by a resolution of members
- “member” includes a co-opted member and an elected member.
- “sensitive information” means information relating to a member's interests that the monitoring officer has determined need not be included in the member's registration of an interest or any change to that interest, by virtue of the fact that its availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation
- “bullying” means offensive, intimidating, malicious, insulting or humiliating behaviour based on abuse or misuse of power or Council which attempts to undermine
- “disrepute” means a lack of good reputation or respectability which can be reasonably regarded as reducing the public's confidence in that member being able to fulfil their role or adversely affecting the reputation of members generally in being able to fulfil their role
- “significant person” in relation to personal and personal and prejudicial Interests means
 - (a) a member of your family or any person with whom you have a close association;
or
 - (b) any body
 - (1) of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
 - (2) exercising functions of a public nature;
 - (3) established for charitable purposes; or
 - (4) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management

- “wellbeing” means a condition of contentedness, healthiness and happiness. Anything that could be said to affect a person’s quality of life, either positively or negatively, is likely to affect their well-being. It is not restricted to matters affecting a person’s financial position.
- “close association” means someone that you are in regular contact with over a period of time who is more than an acquaintance or colleague. It may be a friend, a business associate or someone you know through general social contacts. It is someone who a reasonable member of the public might think that you would be prepared to favour or disadvantage when discussing a matter that affects them.
- “member of the family” means partner i.e someone you are married to, your civil partner, or someone you live with in a similar capacity, a parent, parent-in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people.

APPENDIX A3

DISCLOSABLE PECUNIARY INTERESTS

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

They came into force on 1 July 2012

1. Notification of disclosable pecuniary interests

Within 28 days of becoming a member or co-opted member, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners) within the following descriptions:

<i>Interest</i>	<i>Description</i>
Employment, office, trade, profession or vacation	An employment, office trade profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contract	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council – (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

Corporate tenancies	Any tenancy where (to M's knowledge) – (a) the landlord is the Council; and (b) the tenant is body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where – (a) that body (to M/s knowledge) has a place of business or land in the area of the Council; and (b) either – (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions;

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” 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;

“director” includes a member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or 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;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the Council of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) of the Act;

“relevant person” in relation to disclosable pecuniary interests means M or M's spouse or civil partner or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners;

securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

2. Dispensations

The Standards Committee or Monitoring Officer may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

3. Offences

It is a criminal offence to

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest
- As a Cabinet/Executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

APPENDIX A4

Guidance on Bias and Predetermination

This is not part of the code of conduct

- (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you may participate in a decision on the issue in your political role as a member. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- (2) When making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken.

D - Scheme of Members' Allowances – 2016/17

1. INTRODUCTION

1.1 The County Council's Scheme provides for payment of:

- a Basic Allowance (BA), a flat rate payable to each County Councillor;
- a Special Responsibility Allowance (SRA) for Members undertaking 'special duties', as defined by the Council;
- a Carers Allowance (CA) to reimburse expenditure incurred by Members (a) in providing child care arrangements and (b) on professional care for elderly, sick or dependent relatives to enable them to undertake approved duties; and
- Travel Allowances and Subsistence Allowances for Members undertaking 'approved duties'.

2. GENERAL POINTS

2.1 The term "Member" in these notes means a Somerset County Councillor.

2.2 Members have the option of not claiming all or part of an allowance. The Finance & Performance Director must be notified in writing if a Member wishes to pursue this option.

2.3.1 Where the Member's term of office or appointment to a post qualifying for SRA begins or ends during the financial year, he/she is entitled to the appropriate proportion of the annual payment.

2.4 In the case of a Council election year, all positions / posts held by Members on the Council (including posts qualifying for SRA) remain valid until the day of the Annual Meeting of the Council (the first meeting of the new Council following the election) and therefore Members holding those posts will continue to receive allowances. This is until a replacement is appointed, unless the post-holder ceases to be a Member of the County Council in which case any appointment is invalid from that point and any associated allowance payment will cease.

2.5 All enquiries relating to members allowances should be made to Rebecca Dunstan in the Community Governance Group on 01823 359039 or 357628.

3. BASIC ALLOWANCE (BA)

3.1 A **BA of £10,582 per annum**, has been approved for 2016/17 and will be paid to all Members in monthly instalments.

3.2 **Definition of BA:** BA recompenses Members for time devoted to their work as a councillor, and is intended to cover:-

- constituency and community duties, including use of the Members home;
- dealing with correspondence;
- single Member duties;
- attendance at single party/political meetings;
- attendance at formal meetings of the Council (including travelling time to and from meetings);
- attendance at seminars, conferences and training sessions;
- attendance on 'outside bodies' as a County Council representative; and
- other incidental costs, for which no other specific provision is made.

3.3 The annual sum is based on an appropriate spinal point on the Officers pay scale and discounted by a third to reflect the voluntary element of the work. The daily rate is then multiplied by the equivalent of 4 days a week (the average time that Members spend on Council business) to give the final calculation.

4. **SPECIAL RESPONSIBILITY ALLOWANCE (SRA)**

4.1 **SRA** is:

- paid to Members who have significant additional responsibilities
 - allocated on the basis of degree of responsibility and upon a perceived call on Members time, as agreed by the Council;
- paid in addition to the BA which the Member continues to receive; and
- paid in monthly instalments for as long as the Member has the responsibility.

4.2 **SRA** payments cover:-

- meetings with Officers;
- attendance at County Hall and other Council premises to undertake official Council business;
- meetings with fellow Chairmen or decision-makers and other single party meetings;
- dealing with correspondence;
- visits directly connected to the performance of an SRA duty e.g.
 - . headteacher interviews
 - . official openings
 - . familiarisation / fact findings visits;
- press meetings;
- any other official Council business carried out by the Member in the role.

4.3 The Council has adopted multiples of the BA as the base for the calculation of the SRA bandings contained within this Scheme. The top banding of SRA which applies to the post of Leader of Council reflects the importance and responsibility of this role. The Leader's Allowance is based on a multiple of 3 x the BA.

4.4.1 Other SRAs are banded below the Leader's Allowance reflecting levels of responsibility associated with those specific roles.

4.4.2 A full list of the posts approved for SRAs is attached at **Appendix 1**. This Appendix includes the bandings and payments for 2016/17.

4.4.3 The number of Shadow Cabinet Members receiving SRAs shall total no more than the number of Cabinet Members receiving SRAs at that time. The maximum

number of Cabinet Members who can receive SRA is 10 – in accordance with the legislation which prescribes a maximum of 10 members for a local authority ‘executive’.

4.4.4 An individual Member may only receive one SRA at any one time.

5. **CARERS ALLOWANCE (CA)**

5.1 The Scheme provides for the payment (by way of reimbursement) of expenditure incurred by Members (a) in arranging child-care and (b) on professional care for elderly, sick or dependant relatives to enable them to undertake approved duties. This is paid in accordance with the following;

[Please note that these payments are not covered by any special exemptions for taxation purposes. They are treated as emoluments (remuneration) of the ‘office’ and are taxed accordingly].

Child-care

5.2 Expenditure on child-care is reimbursed in accordance with the following requirements:

- that payment is made to someone other than a close relation;
- that payments for the care of the under 8’s are restricted to payments to registered childminders and other statutory approved child care providers;
- that payments are restricted to the care of children up to their 14th birthday who normally reside with the Member;
- that no payments are made in respect of the care of children of compulsory school age during school hours except where the child is absent from school due to illness.

Care of Dependants

5.3 The reimbursement of expenditure on professional care for an elderly, sick or disabled dependant relative normally residing with the Member and requiring constant care, to enable the Member to undertake approved duties, is subject to payments being restricted to agencies or persons qualified to provide the care, other than close relations.

General Conditions

5.4 The following conditions apply to both types of allowance:

- that payments are made on the basis of the reimbursement of actual expenditure incurred up to a maximum of an hourly rate of the national minimum wage at the time of the claim subject to a maximum of 8x the national minimum wage figure;
- that Members self-certify their claims confirming that they have incurred expenditure in accordance with the scheme;

- that qualifying meetings be restricted to those that qualify as an “approved duty” for the Member concerned;
- that neither the Member nor the person being cared for receives an allowance for care from any other source.

6. **TRAVEL ALLOWANCE (TA)**

6.1 **TA:**

can only be claimed for an approved duty, or for any duty covered by a special responsibility payment and for ‘normal allowable journeys’.

- is claimed monthly on the Members claim form (except for ‘low claimers’ see para 10.1 below) and receipts, including fuel VAT receipts, should be submitted to support expenditure.
- is payable at the rates shown in **Appendix 2**.

6.2 **List of 'Approved Duties'**

The list of approved duties is set out in **Appendix 3**.

6.3 **Definition of ‘normal allowable journey’**

The **normal allowable journey** (for which mileage can be reimbursed) is from a member’s home to council offices and then back again. ‘Council offices’ will often be County Hall but could relate to any building where a member is undertaking an ‘approved duty’ under the Scheme, including, for example, attending a parish meeting.

The mileage that members can claim for is the **actual additional mileage** as a result of council business that the member incurs on any journey. The **maximum** the member can claim for is the normal allowable journey mileage.

6.4 **TA - additional information**

Train Fares are reimbursed at 2nd Class rate.

NB - Members who are aged over 60 and who regularly use the train for Council business may reclaim the cost of a Senior Rail Card.

The car mileage rate may be claimed for any journey, providing the following criteria can both be met:

- travel by car represented the best option in order to undertake the approved duty
- travel by car could be justified on cost grounds

In all other cases, payment will be made at the public transport rate.

Wherever possible all claims should be supported by a valid VAT receipt. Fuel receipts submitted should pre-date the first date claimed for on the relevant claim form. It is also acceptable for a single fuel receipt to cover more than one month’s claim as long as the value of the receipt is equivalent to expenditure of at least 10p

per mile claimed;

The relevant Group Leader, or his or her Deputy Leader, is required to approve travel to a destination outside Somerset or the surrounding counties, prior to the journey being undertaken.

A cycle allowance is payable to Members who use a bicycle to attend an approved duty.

- It is essential that Members minimise the need for travel wherever possible by combining trips, sharing transport, undertaking business by 'phone, including by conference calls or by email.

Members should not make excessive claims

- A Member who is claiming mileage should always bear in mind the need to be able to demonstrate that the journey was wholly and necessarily in relation to his/her role as a Member.

Additional payments of 5p per person per mile are payable for passengers carried.

- Reimbursement of taxi fares may be made in exceptional circumstances.
- Reimbursement may be claimed for expenditure on tolls, ferries, parking fees etc.

7. SUBSISTENCE ALLOWANCES (SA)

7.1 SA is

- paid at the same rates as those paid for Officers;
- claimable for any approved duty exceeding 4 hours which spans the agreed meal time periods (specified in **Appendix 2**);
- claimable for the actual cost of the meal or the overnight expenses up to the maximum allowed;
- claimed monthly via the Members claim form; receipts should be submitted to support expenditure;
- only claimable for meals or overnight expenses for approved duties / SRA duties undertaken **outside** Somerset.
- not claimable if a meal is provided free of charge;
- only claimable for a members own meal. There is no provision in the scheme for reimbursing claims for hospitality for other people.
- reimbursed at the rates shown in **Appendix 2**.

8. NON CLAIMABLE DUTIES

8.1 For the avoidance of doubt, the following duties are **not approved for the purpose of claiming Travel Allowances and Subsistence Allowances:-**

- single Member duties except where the Scheme provides otherwise

- attendance at single party meetings e.g. group meetings except where the Scheme provides otherwise
- constituency meetings and duties.
- duties relating to outside organisations that are not Board, committee, sub committee or working group meetings. e.g. book launches, openings etc.
- attendance at party political conferences
- social functions including religious meetings / church services
- acting as governors of primary or secondary schools; and
- where an outside body to which the member has been appointed itself pays members expenses.
- where the member attends an outside body but in circumstances where they have not been appointed as an official representative of the Council, ie appointed either by the Council or the Leader of the Council.

9. CLAIMS

9.1 How to Claim

- BA and SRA are paid automatically after completion of initial details.
- CA, SA and TA must be claimed on the Members Claim Form for allowances.
- Claims must be submitted monthly to the authorising officer by 8th of the month in order to payroll deadlines.
- All claims and fixed entitlements are paid together on the last working day of that month.
- Late claims will result in late payment unless notification is given in advance. Claims older than 2 months will be referred for approval to pay to the Finance & Performance Director, in consultation with the Leader and appropriate Cabinet Member, and payment may be delayed or refused unless there is good cause for the lateness. Claims older than 3 months will not be reimbursed.
- A supply of claim forms can be obtained from Rebecca Dunstan in the Community Governance Group on 01823 359039 or 357628 respectively.
- Allowances must not be claimed where the member is entitled to receive payment from another body.
- Members who are both County Councillors and District Councillors may claim Travel Allowances, if applicable, from both Authorities, if attending approved duties for both on the same day. However, a Travel Allowance cannot be claimed from both Authorities for a joint meeting. In this case, the Member should claim from one of the Authorities.
- To cater for changes in circumstances that occur during the year and to ensure that no individual cases of exceptional hardship are experienced, the Finance & Performance Director, in consultation with the appropriate Cabinet Member, can temporarily agree SRAs for individual Members as considered necessary.

Note: The exception to the requirement to submit monthly claims relates to low claimers. 'Low claimers' have the option of only having to submit claims once every three months.

The following rules apply to 'low claimers':

- Low claimers are defined as members submitting claims under a likely value of £100 over the 3 month period. If a member thinks that they are likely to fall into this category they should inform Rebecca Dunstan in the Community Governance Group.
- Low claimers are now only required to submit 1 claim for every 3 months, 4 in total for the year **BUT** all claims for a particular financial year must be submitted by the end of that financial year.
- Any claims over 3 months old will be rejected.

9.2 **Payment of Claims**

- Payments are made through the council's computerised salaries and wages system to assist with the deduction of income tax and national insurance.
- An advice slip is provided giving details of allowances paid.
- Payment will be made direct to a bank or building society account.

9.3 **Tax and National Insurance**

- BA, SRAs and CA are taxable and are subject to national insurance.
- Members can request a PAYE code from the Inland Revenue for the taxing of payments. If no other tax code is supplied, members will be taxed at basic rate.
- Details of meals paid for are given to the Inland Revenue. The IR may adjust individual personal tax codes.
- Mileage rates are in accordance with limits set within the Inland Revenue Fixed Profit Scheme.
- Some Members may be able to obtain an exemption card for national insurance from the Department of Social Security, if they are over 65 (men) or 60 (women).
- Some female Members may be able to obtain a reduced rate certificate (married women or widows).
- For further information please contact Rebecca Dunstan in the Community Governance Group on 01823 359039 or 357628.

9.4 **Members Allowances and Benefits**

- Members who are incapable of work, who are unemployed, who have a low income or who are retired may find that being paid allowances will offset their entitlement to Social Security benefits. The exact way the entitlements may be changed depends on the individual benefit being received.
- In general terms members' allowances are taken into account in calculating benefits payable. Members claiming benefits are advised to keep their local DSS office informed timely of the amount of members allowance being received (for Housing or Council Tax benefits the local District Council should be notified, and for the Job Seekers allowance the local Employment Service Job Centre).
- Members are advised to contact these offices to obtain more details of their entitlements to the following benefits –

Benefit	Office to be contacted
Jobseekers Allowance	Local Employment Service/Job centre
Income Support	Local Job Centre
Housing Benefit	Local District Council
Council Tax Credit	Local District Council
Family Credit	Working Tax Credit Office I. R. 0845 300 3900
Incapacity Benefit	Local Job Centre
Severe Disability Allowance	Local Job Centre
Disability Working Allowance	Disability Working Allowance Office 0845 605 5858
Children's Tax Credit	Inland Revenue 0845-300-3900
Working Tax Credit	Inland Revenue 0845-300-3900

9.5 **Statutory Sick Pay**

Members who pay National Insurance on their allowances may be entitled to receive Statutory Sick Pay in respect of absence in excess of 3 consecutive days. To pursue a claim please promptly notify the Finance & Performance Director of the sickness absence.

9.6 **Statutory Maternity Pay (SMP) and Maternity Allowance**

Female members can claim SMP if their average earning exceeds the National Insurance contributions lower limit and they have been a member for 26 weeks prior to the 15th week before the baby is due. Again please notify the Finance and Performance Director once the pregnancy has been confirmed by your doctor.

9.7 **Backdating of Allowances**

Where there is an amendment made to the Scheme of Allowances, that amendment may be applied retrospectively by the Council to the beginning of the financial year.

Where a Member takes on duties entitling them to a different level of allowances, the new entitlement may be applied retrospectively to the date the changes were effective from.

10. **CO-OPTED MEMBERS**

Co-opted Members of the Standards Committee receive a Co-opted Members Allowance as indicated in Appendix 1. Other co-opted members of committees do not receive a Co-opted Members Allowance.

SCC's appointments to the Joint Independent Members Remuneration Panel also receive the Co-opted Members Allowance.

All co-opted members may claim travel and subsistence for approved duties at the same rate as elected Members, as may non-elected representatives appointed to outside bodies by the County Council.

A Financial Loss allowance (FLA) may be paid to co-opted members (and to non elected representatives appointed to outside bodies) for loss of earnings and

expenses incurred by them in the performance of any approved duty. Such loss of earnings would normally be supported by a certificate supplied by the employer or such other evidence as to enable the loss of earnings to be determined.

11. **PENSION ENTITLEMENT**

After 31 March 2014, Members are no longer permitted to join the Local Government Pension Scheme. Members who are already scheme members on 31 March 2014 will be able to retain their membership and contribute to the scheme while they continue to hold their current office. Membership will cease at the next election even if re-elected. The Local Government Pension Scheme and Discretionary Compensation (Local Authority Members in England) Regulations 2003 apply to Members who elected to join the LGPS.

A Member already in the LGPS can choose to opt out of the scheme before the next election, and must leave the scheme before age 75.

APPENDIX 1

SRA BANDING SYSTEM - Total banded Allowances 2016/17

Member Role	Rate of Allowance from 1/4/14, updated to include 2.2% pay rise (effective from 1/1/15)		
	Basic £	SRA £	Total £
BA x 0.1 Deputy Leader (L/D) Vice-Chairman of Scrutiny for Policies and Place Committee Vice-Chairman of Scrutiny for Policies, Adults and Health Committee Vice-Chairman of Scrutiny for Policies, Children and Families Committee Vice-Chairman of County Council Vice-Chairman of Regulation Committee Vice-Chairman of Audit Committee Group Leader (Labour, UKIP and Independent Groups) Opposition Group Spokespersons	10,582	1,058	11,639
BA x 0.2 Chairman of Pensions Committee Chairman of Standards Committee Chairman of Constitution Committee Chairman of the Somerset Health and Wellbeing Board	10,582	2,117	12,698
BA x 0.5 Chair of Regulation Committee Chairman of Audit Committee Chairman of Scrutiny for Policies and Place Committee Chairman of Scrutiny for Policies, Adults & Health Committee Chairman of Scrutiny for Policies, Children & Families Committee	10,582	5,291	15,872
BA x 0.9: Opposition Leader (L/D) Chairman of Council	10,582	9,523	20,104
BA x 1.6 Cabinet member (*Deputy Leader receives additional SRA payment of £2000 pa = £18,930)	10,582	16,930*	27,511
BA x 3: Council Leader	10,582	31,743	42,324

In addition, co-opted members of the Standards Committee receive a Co-opted Members Allowance of £529 pa, which equates to Basic Allowance x 0.05.

SUMMARY OF RATES OF ALLOWANCES FOR MEMBERS

1	TRAVELLING ALLOWANCE	Pence per mile	
	Mileage rate - up to 10,000 miles	45.00	
	Over 10,000 miles	25.00	
	Passenger supplement (5p per person per mile)		
	Motor Cycle	24.00	
	Bicycle Allowance	20.00	
2	SUBSISTENCE ALLOWANCE		
	<ul style="list-style-type: none"> • Breakfast allowance (more than 4 hours away from the normal place of residence before 11 am) – up to a maximum of £6.72; • Lunch allowance (more than 4 hours away from normal place of residence, including the lunchtime period between 12 noon and 2 pm) – up to a maximum of £9.24; • Tea allowance (more than 4 hours away from normal place of residence, including the period 3 pm to 6 pm) – up to a maximum of £3.64; • Evening meal allowance (more than 4 hours away from the normal place of residence, ending after 7 pm) – up to a maximum of £11.44. 		
	These payments only apply to duties undertaken outside of Somerset. Subsistence cannot be claimed for duties undertaken in Somerset.		
3	OVERNIGHT ABSENCE	£	
	maximum	106.40	
			£
4	Co-opted Members Financial Loss		
		up to 4 hours	27.65
	(evidence based)	over 4 hours	55.31

APPENDIX 3

LIST OF APPROVED DUTIES

1. Attendance:-
 - a) at formal meetings of the Council including Committees, the Cabinet, Committees, and Sub-Committees, and any other authorised meeting of these bodies or organised by these bodies
 - b) at ad-hoc formally constituted Working Groups / Panels (eg scrutiny task and finish groups), where named members of the body or formally invited to participate.
 - c) at County Hall or other County Council establishment for a meeting with either a member in receipt of an SRA or an Officer for the purpose of discussing matters relating to Council business in which it is reasonable to expect the member to have an interest.
 - d) as the Council's named representative on bodies to which the Council makes appointments except where the body itself pays allowances to the Council's representative. The approval relates to meetings of the body itself, its standing committees / sub-committees but not to other activities of the body.
 - e) at a meeting of any body that the Council is required to, or has agreed to, provide Council attendance at, acting as the Council's nominee or representative.
 - f) at local briefing meetings at the invitation of an Officer of the Council provided that the members of at least two political groups have been invited.
 - g) at a formal meeting of a District or Parish Council – where not a member of that Council:-
 - where formally invited to attend or where the Member has a specific interest in any/ all of the business on the agenda
 - h) at conferences where the Council has agreed to meet the conference fees or where the Member agrees to meet the conference fees
 - i) at Member induction, learning and development events / sessions organised by the Council
 - j) at up to 12 single party officer briefing / training events per annum
 - k) at open days, sports days and similar events at County Council establishments by formal or official invitation where the Member is performing a specific function.
2. Duties authorised by Council or Leader of the Council, including briefing meetings, site visits, meetings with outside bodies or individuals, tours of inspection, and general information visits, visits to County Council premises.
3. Duties carried out arising out of a Member holding an office:-

- a) to which a SRA applies or such a duty carried out by their nominee,
- b) as a named Member Champion,

including attendance at County Hall or other County Council establishments for any purpose which he/she considers necessary.

- 4. The undertaking of any duty associated with the Council where invited by or on behalf of the Scrutiny Committee.
- 5. Any other attendance for which prior approval has been given by the Service Director for Finance & Property after consultation with the Cabinet Member for Resources.

Note 1:

The term 'Council' covers Council, Committee, Sub-Committee and Cabinet business unless otherwise indicated.

Note 2:

A duty cannot be approved, in retrospect, for the purpose of paying allowances.

E - CODE OF PRACTICE: COMMONS REGISTRATION, PLANNING CONTROL, AND RIGHTS OF WAY

MAY 2016

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Introduction

- 1.1 This Code of Practice sets out the practices and procedures that Members and Officers of Somerset County Council should follow when dealing with planning applications, modifications to the rights of way definitive map, public path orders and applications for the registration of common land (which includes town and village greens).
- 1.2 This document provides guidance on the conduct of Members and Officers, and a description of the procedures which are followed, so that decisions are made – and can be seen to have been made – in a proper and consistent manner. This document covers both the pre-application stages as well as the actual determination of applications.
- 1.3 Each section provides general principles, and then specific reference to commons registration, planning control and rights of way as appropriate.

2. General Basic Principles

- 2.1 **The County Council is committed to open and transparent decision-making.**
- 2.2 **Members have a duty to represent their constituents, but an overriding duty to the wider community.** Whilst Regulation Committee Members may take account of the opinions of others and may express opinions before a decision is taken, they must approach the decision making process with an open mind, listen to the evidence and reach a decision on the basis of the evidence presented. Decisions must not discriminate in favour of any individual, group, company or locality, nor appear to do so. Members who are not members of the Committee are free to represent their communities as they see fit subject to the requirements of the Code of Conduct.
- 2.3 Decisions taken by members and officers (under delegated powers) should only take account of relevant considerations – policy, legislation, guidance, evidence and any other relevant matters as appropriate. **Decisions must be impartial and made for proper reasons** in a clear and open manner which can be easily understood and which promotes public confidence in the process. Decisions should not be taken on the basis of political allegiance or in line with any prior agreement by any party or political group.
- 2.4 The Council's Scheme of Delegation provides for decisions to be made by Regulation Committee unless delegated to the Economic and Community Infrastructure Operations Director who may authorise other officers to act on his/her behalf. Details of delegated powers available to nominated officers are set out in the "Chief Executive and Senior Leadership Team's Scheme of Delegation to Officers". The Regulation Committee itself may also delegate decisions or related actions (e.g. minor technical editing of conditions) to officers.
- 2.5 In all cases a Case Officer will be appointed – a Rights of Way Officer for matters relating to public path orders, the Definitive Map and to common land/town & village greens, and a Planning Officer for planning matters. The Case Officer's role is to advise and assist Members of the Committee by providing impartial and

professional advice in a clear and objective report. They will ensure that all the necessary information for a decision to be made is provided including a recommendation supported by reasons. Members of the Committee should take the report and recommendation (supported by any presentation at the Committee meeting) made by Officers as their primary reference.

- 2.6 Members of the Committee may raise at any stage in the decision-making process with Officers any issues they consider to be relevant to the decision to be made. However, Members should not otherwise seek to influence Officer recommendations.
- 2.8 Members and Officers will act in accordance with the County Council's "Protocol on Member/Officer Relations". Members and Officers will treat each other with respect at all times, and not engage in personal criticism of each other in the course of any meeting. Any concerns about Officer conduct should be addressed to the Economic and Community Infrastructure Operations Director or Group Manager (Environmental and Community Services). Concerns about the conduct of Members should be addressed to the Chief Executive or Monitoring Officer. The County Council has a Whistleblowing Policy which allows for those with serious concerns to come forward confidentially (this is available on the Intranet or from the HR service).
- 2.9 Should any application be submitted in circumstances in which an Officer believes they may have or be seen to have a personal interest, the officer should inform the Economic and Community Infrastructure Operations Director or Group Manager (Environmental and Community Services) and take no further part in the processing or determination of the application.
- 2.10 All Members must observe the Members' Code of Conduct at all times when undertaking County Council business.

Basic Principles - Commons Registration (including Town and Village Greens)

- 2.11 The County Council is a Commons Registration Authority, and has a statutory duty to consider applications to amend the register and add areas of commons, town or village greens to the Register. Anyone may apply to register land as a town or village green under section 15 (1) of the **Commons Act 2006**. This Act introduces a new statutory framework for the maintenance of the Commons Register and is being brought into force in stages at present. Applications have to be made in accordance with the relevant regulations which set out the procedure that the Commons Registration Authority should follow in determining applications. Applicants must demonstrate that the land has been used for lawful sports or pastimes 'as of right' without secrecy, force or permission for at least 20 years. Applicants need to submit all the evidence they rely on to support the application, so that the registration authority can consider the evidence and whether or not the land qualifies for registration. Evidence can include witness statements, witness forms of evidence and photographs. Neither the Act nor regulations made under it prescribe the way in which the Commons Registration Authority should reach its decision.
- 2.12 Town and village green applications can raise difficult issues of both fact and law, which may sometimes prompt the need to hear witnesses and evaluate the

evidence in a quasi-judicial manner. Commons registration is an area which attracts significant attention from the local communities affected. Due to the impact upon landowners and communities of having unresolved applications there is often pressure on the County Council to determine cases expediently, and a new Town/Village Green Priority System was put in place in September 2012 to provide a transparent and fair mechanism for prioritising applications.

- 2.13 It is important that the Regulation Committee are in full possession of the facts when making a decision on applications and it is considered that where the evidence does not at the outset clearly indicate a particular course of action a non-statutory public inquiry should normally be held to determine the facts of the case prior to consideration by the Regulation Committee (the Court of Appeal has stated that in determining applications where there is a dispute, the registration authority should consider convening such a hearing).

Basic Principles - Planning Control

- 2.14 The planning system regulates the use and development of land and seeks to balance the wider public interest against private interests. The County Council deals with “county matter” applications which are those relating to minerals and waste development, and its own development proposals (e.g. a new length of highway, park and ride, school buildings). The exercise by the Council of its planning function is often contentious because planning decisions affect private interests. It is important for public confidence in the planning process that Officers and Members act in a way that is fair and objective and are seen to be doing so. Planning decisions should always be made impartially and for proper planning reasons.
- 2.15 Section 38(6) of the **Planning and Compulsory Purchase Act 2004** states that all applications are to be determined in accordance with the development plan (i.e. the adopted policy framework) unless material considerations indicate otherwise. This involves the exercise of planning judgement, deciding the weight to be given to relevant considerations balancing these and taking a view on conflicting factors. Account needs to be taken of responses by interested parties and members of the public to consultation on applications prior to a decision being taken.
- 2.16 Following the Nolan Committee report on “Standard of Conduct in Local Government”, and advice given by the Local Government Association, Local Planning Authorities are required to adopt a code of planning practice to show how national guidance notes on conduct are to be applied locally.
- 2.17 Somerset County Council endorses the Royal Town Planning Institute (RTPI) Code of Conduct, and in particular that RTPI Members shall not make or subscribe to statements or reports which are contrary to their own professional opinion. All Officers within Somerset County Council providing planning advice are expected to act in accordance with the RTPI Code whether or not they are RTPI members.
- 2.18 Planning applications submitted by the County Council for its own development (known as “Regulation 3” applications) are determined by the Council and decisions on those applications should be made in exactly the same way as other

applications, taking account of the same relevant considerations and demonstrating an impartial, objective and transparent process.

Basic Principles – Rights of Way

- 2.19 Section 53 (3) of the **Wildlife and Countryside Act 1981** places a statutory duty on the County Council to keep the Definitive Map and Statement under continuous review. It is necessary to exercise judgment on the issues, in some instances balancing conflicting elements, including taking into account responses to consultations with interested parties and the public dealing with those issues. **Members of the Committee must consider all the relevant evidence available to them and the advice of Officers on the correct application of the law to that evidence.**
- 2.20 The Council also makes Orders to add, divert and extinguish public rights of way. The statutory criteria for making such Orders have to be followed in deciding whether or not an Order is appropriate.
- 2.21 Public Rights of Way generally run over privately owned land so that proposed changes to the network often prove to be very contentious and may attract significant opposition both from owners and occupiers and those who feel that their rights are being eroded. The successful management of the Definitive Map process relies on Officers and Members of the Committee acting in a way that is not only objective and fair, but also clearly seen to be so. This applies equally to the determination of applications for public path orders for the diversion or extinguishment of public rights of way.
- 2.22 The Institute of Public Rights of Way Officers (IPROW) is the Professional association representing Rights of Way Officers and promotes good practice. Somerset County Council supports membership of IPROW by its Officers. All Officers within Somerset County Council providing rights of way advice are expected to act appropriately and in accordance with the principles of the professional association whether or not they are members of IPROW.
- 2.23 Proposals for the making or confirmation of public path orders or for the modification of the Definitive Map by the County Council in respect of its own land are treated in the same way as those submitted by private individuals, both in terms of procedure and the assessment of material rights of way considerations or of evidence and the application of statutory criteria.

3. Pre-application discussions - General

- 3.1 Pre-application discussions between potential applicants and a suitable Officer can be of considerable benefit to both parties and are encouraged. Such discussions will help to clarify what information should accompany an application, and can often reduce the time taken to make a decision.
- 3.2 It must be clear however that pre-application discussions do not bind the Officer to make a particular recommendation or the County Council to make a particular decision.

- 3.3 Members of the Regulation Committee may take part in pre-application discussions but must demonstrably approach the subsequent decision-making with an open mind.
- 3.4 **If the Member of the Committee has any doubt about the public perception of their position in respect of an item to be debated because of any prior involvement in the item, then they should make a public statement at the meeting confirming that they will approach the decision making with an open mind prior to the debate if he/she wishes to participate in the decision-making process.**

Pre-application discussions – Planning Control

- 3.5 Planning Control has adopted a “Pre-Application Advice Protocol” which provides comprehensive guidance on this important part of the planning process. The Protocol sets out what Somerset County Council can do for applicants, the applicable charges, and what applicants themselves need to do to make sure the process is as worthwhile and efficient as possible.

Pre-application discussions – Rights of Way

- 3.6 Pre-application discussion can be particularly useful when dealing with modification applications, as they need to be accompanied by all the evidence being relied upon in proving the case.
- 3.7 To encourage applicants to undertake research themselves (which in turn will improve the quality of their modification applications), and to assist them in sourcing the relevant documents, a “pre-application guidance pack” has been prepared. This guidance sets out what applicants themselves need to do to ensure their application complies with the legislation as clarified by the Courts.

4. Consultation and information - General

- 4.1 **The County Council is committed to appropriate consultation and the provision of quality information on planning, commons registration and rights of way matters. The potential impact of these issues on landowners is recognised and as such their engagement in the process is very important.**
- 4.2 All publicity relating to applications will be accompanied by information on how to make representations to the County Council.
- 4.3 The Local Member will be informed of any application(s)/proposal(s) that are to be determined by the County Council as soon as practicable following receipt.
- 4.4 The County Council is committed to transparency and relevant documents are available in County Hall for public inspection during normal office hours. Normally 24 hours notice is required to ensure the relevant documents are available at the appropriate time. The County Council is committed to equality and is aware that some members of the public may be unable to submit their comments in writing. The Council provides alternative ways for the public to make representations other than in writing – see the following link to the County Council website which provides information about accessing documents in other ways:

Consultation and Information - Commons Registration (including Town and Village Greens)

- 4.5 The procedure for applications for towns and village greens is set out in Section 15 (1) of the Commons Act 2006. The procedure for dealing with these applications is set out in regulations. Copies of the application form and associated guidance are available on the County Council's web site. Once an application is formally acknowledged and accepted the application is published in a local paper, and notices will be posted on site. The Landowner, Parish and District Councils, Local Member and any other person with an interest in the land will be consulted on the application. Copies of the application and supporting evidence are also lodged with the Parish and District Councils. There is a 6 week period for objections/comments.
- 4.6 Any objections to the application will be sent to the applicant for their consideration and comments. There is no set timescale to consider applications for registration. However, it is considered good practice to issue a decision within 3 months subject to no objections being received. Should the matter be complex and objections received then the process will often be subject to an informal hearing, and can therefore take considerably longer.

Consultation and Information - Planning Control

- 4.7 The County Council must publicise all planning applications and scoping requests (relating to the Environmental Impact Assessment Regulations) it receives. The type of publicity varies depending upon the nature of the development proposed and will be carried out in accordance with the **relevant Order in force at the time**. The County Council will publicise applications using notice(s) on the boundary of the site, letters to the nearest neighbours, a newspaper advert to publicise an application, or a combination of the three as appropriate.
- 4.8 The Local Member will be advised of the Case Officer processing the application and the intended determination date. If it is likely the matter will need to be determined by the Regulation Committee the likely date for reporting will be provided. The SCC website contains brief details of all applications received by the County Council.
- 4.9 The County Council will endeavour to determine as many applications as possible within their target time period, unless a Planning Performance Agreement is in place that may set a different timescale for determination.
- 4.10 If amendments are submitted during the period when a valid application is being processed, in most cases, where it is possible to determine the application within its target time period, further consultation will be carried out with relevant consultees and any members of the public who have previously made representations. In some cases – for example where amendments are so significant that they constitute a fundamental change to the application – applicants/agents may be requested to consider submitting a fresh revised application.
- 4.11 Planning applications, subsequent amendments, relevant correspondence from consultees, any letters of representation, planning decisions, conditions, reasons for

refusal and any completed planning obligation will be available for public inspection at County Hall during normal office hours. Copies of certain documents will also be available for public inspection at the relevant District Council offices during normal office hours, and on the County Council website.

Consultation and Information – Rights of Way

- 4.12 When consulted the Local Member will be advised of the estimated time the application will take to determine.
- 4.13 Due to the complexity of many Definitive Map modification proposals all relevant documents will be placed in the Members Room at least one week prior to the date of the Regulation Committee, to enable all Members to be fully appraised on all aspects of a proposal and to assist them to make the right decision. “All relevant documents” includes:-
- The Officer’s complete report;
 - Copies of all Rights of Way User Forms (as received) with an indication mark by the Officer where the user has been interviewed;
 - All letters of support and opposition received;
 - Submitted plans and applicant’s presentations; and
 - All other relevant documentation pertinent to the case.
- 4.14 The County Council will endeavour to determine as many modification applications proposals in accordance with its stated performance target. The adopted Statement of Priorities establishes the criteria for identifying the priority to be given to Definitive Map modification proposals.
- 4.15 Applications for making public path orders, subsequent amendments, relevant correspondence, including consultation responses and letters of representation, will be available for public inspection at County Hall during normal office hours.

5 Lobbying and Bias or Predetermination

- 5.1. Lobbying is a normal and legitimate part of the political process. Lobbying can be oral or by the circulation of letters or other documents. Those who may be affected by a proposal will often seek to influence the decision by an approach to their local Member or to Members of the Regulation Committee. Members of the Committee should bear in mind that information provided by lobbyists may represent a selective and incomplete picture of the relevant considerations and in some cases misleading or incorrect information may be given.
- 5.2 Members of the Committee should err on the side of caution when lobbied on an issue. Expressing support or opposition prior to an application being formally considered doesn’t rule a Member of the Committee out from participating in the decision making process but where a Member considers that there may be a perception that they have demonstrated a bias or predetermination then they should only take part as a member of the Committee in the debate and vote on the application where they can demonstrate in the event of challenge that they considered and participated in the decision making process with an open mind and exercised their vote on the basis of the evidence presented to them. **If there is any doubt the Member should make a public statement to this effect at the**

meeting about their position prior to the debate if he/she wishes to participate in the decision-making process.

- 5.3 Members are free to listen to any point of view about a proposal and to provide general guidance to members of the public about procedures such as the rights of members of the public to address the Regulation Committee, or how to make representations in respect of an application. Any member can comment on a proposal in advance of a decision being made but should consider the contents of para 5.1 and 5.2 above before taking part as a decision maker in the decision making process on the item. Members of the Committee should not give any indication that the Council has reached a final decision before an item has been considered by the Regulation Committee.
- 5.4 The fact that a member of the Regulation Committee may also be the local Member for the area of the application site does not debar the Member from taking part in the decision on the application provided the member has not already made up their mind on the matter and does not have a disclosable pecuniary interest or a personal and prejudicial interest. A Local Member who is also a member of the Committee may pass on the views of a particular body of local opinion to the Committee, making it clear that he/she has come to the debate with an open mind (also see point 5.5 below).
- 5.5 It is important that the County Council is seen to be conducting its decision making transparently, impartially and to maintain public trust in the process. Decisions of the Regulation Committee may be challenged in a number of ways either under statute or by way of Judicial Review.
- 5.6 Copies of relevant letters or other correspondence received by Members that are relevant to a particular case should be passed to the Group Manager (Environmental and Community Services) to ensure the contents are taken into account during the processing of the application, and the drafting of any report to the Regulation Committee. Copies of letters or other correspondence received by Members prior to the Regulation Committee but after the production of the report should always be drawn to Officer's attention to ensure they can take the contents into account and to advise Members accordingly.
- 5.7 Members of the Committee should not place themselves in a position that could lead to the public thinking they are seeking preferential treatment for themselves, a family member, any person with whom they have a close association, or any firm or body with which they are personally connected (see the Code of Conduct for further advice).
- 5.8 Membership of a District, Parish or Town Council which has expressed a view on an application does not prevent a Regulation Committee Member taking part when it comes to be considered by the County Council as the decision making body. The Member must approach the matter afresh. Where an application or other matter for determination comes before Regulation Committee on more than one occasion Members should approach the decision-making process afresh on each occasion. **If there is any doubt, the Member should make a public statement to this effect at the meeting about their position prior to the debate if he/she wishes to participate in the decision-making process.**

- 5.9 Members of the Committee who are concerned about their position in relation to a particular application, should seek the advice of the Council's Monitoring Officer or County Solicitor or their representatives before the meeting of the Regulation Committee at which the application is to be considered.

6. Visual Presentations and Site Visits

- 6.1. Presentations – The Case Officer or other Senior Officer will present a summary of the key issues for each proposal before members debate the matter at the Regulation Committee meeting. Visual aids may be used as part of this presentation to assist with an understanding of the site, its surroundings and the relevant issues. This may include the use of video, photographs, maps, plans, policy statements, and any other information which Officers feel will help Members to reach a fully informed decision.
- 6.2. Site Visits – Planning: In some cases, in order to understand the issues involved in a particular proposal, a formal site visit by Members of the Regulation Committee may be organised. Normally this will take place when the matter is contentious or complex, and/or the impact is difficult to visualise or assess from plans, photographs, video(s) or other supporting information. The decision to hold a site visit will be made by the Regulation Committee or by the Chairman and Vice Chairman in consultation with the Group Manager (Environmental and Community Services). The Local Member will be informed of the site visit, and whilst they have the opportunity to attend they cannot lobby Members of the Committee at the visit. Where an adjoining division is also potentially significantly affected by a proposal, that Local Member will also be invited to attend the visit. The visit will take place before Committee considers the matter.
- 6.3. The purpose of a Members' site visit is to view the site and its surroundings. Site visits are fact-finding exercises and there should be no discussion on the merits of the proposal nor should any decision be taken.
- 6.4. Committee Members and accompanying Officers will arrive at the site as close as practicable to the scheduled time and will assemble at an agreed location. The Chairman will firstly explain the purpose of the site visit and the procedure to be followed. The Members will then be guided by the Case Officer or another Senior Officer. The Officer will provide a short summary of the proposal, refer to relevant aspects of the site and other matters which are relevant in the determination of the application. Other specialist officers may advise on particular aspects of the proposal. Members have the opportunity to ask questions and to seek clarification of any issues that become apparent during the visit.
- 6.5. If access to private land is necessary, prior agreement will be required. Access to the site should be provided in accordance with good health and safety practice.
- 6.6 Applicants, owners, agents, objectors and other interested parties are able to attend site visits and observe but there should be no lobbying of Committee members.

- 6.7 If no formal visit is being arranged, Members of the Committee may still wish to visit a site on their own. They will need the permission of the owner if they wish to go onto the land and should inform the Group Manager (Environmental and Community Services) and the Chairman of Regulation Committee of their intention. **Members are encouraged to attend the formal site visit whenever possible, and if they are visiting a site on their own they should ensure that all the guidance above (including that in Section 5) is observed.**

Site Visits – Rights of Way

- 6.8 When a site visit relates to an existing public right of way, prior permission to access the land is not necessary but, as a matter of courtesy, owners and occupiers of the land will be notified prior to the visit. If a proposal includes the addition of a new route Officers will try to seek the agreement of the landowner(s) affected prior to the visit taking place. If this is not possible the route will be viewed from the nearest public viewpoint(s).

7. Public Meetings

- 7.1 In **exceptional** and appropriate circumstances the County Council may arrange a public meeting if a matter is very contentious and has resulted in a significant number of representations from local residents or groups. Such a meeting will not constitute a meeting of the Regulation Committee.
- 7.2 Public meetings will be given wide publicity. The applicant, landowner (if different) and all interested parties, including the Parish or Town Council, the Local Member and those making representations on an application will be individually notified of the meeting.
- 7.3 The chairman of the meeting will begin the public meeting by explaining the purpose and procedures so that all those attending are aware that it provides an opportunity for the application to be explained and for the public to ask questions and make their views known. It will be made clear that no decision will be made at the public meeting and those attending will be informed when the application is likely to be determined by the Committee.
- 7.4 For commons registration matters, the non-statutory public inquiry is the mechanism for holding a public meeting about a proposal, and these will be conducted by an Inspector/independent advisor.
- 7.5 Members may be invited to attend other public meetings, for example, those organised by parish councils, local action groups and by the applicant, regarding a particular planning application. When attending such meetings, members should be mindful of the advice in section 5 of this Code.

8. Delegated Decisions - General

- 8.1 The Council's Scheme of Delegation provides that the Economic and Community Infrastructure Operations Director takes decisions on all planning applications where no significant objection has been raised. If the Director or Group Manager (Environmental and Community Services) considers that an objection is significant, the application is referred to Regulation Committee for determination. The Constitution provides that the Director may authorise other officers to exercise their

delegated powers. Details of those authorisations are set out in the “Chief Executive and Senior Leadership Team’s Scheme of Delegation to Officers”.

Delegated Decisions – Commons Registration (including Town and Village Greens)

- 8.2 Due to the potential impact of registration on the landowner and the community, and the potential for legal challenge, Regulation Committee will determine applications to register a town/village green on behalf of the County Council as Commons Registration Authority. The order of determining applications is led by a Priority System (see paragraph 2.12).

Delegated Decisions – Planning Control

- 8.3 Uncontentious applications which have not attracted a significant planning objection are determined under delegated powers. The same level of professionalism, care and attention is given to these applications, including full reasons for decision. The officer assessment of the proposal is set out in a report in the same way as a report to Committee, identifying relevant planning policy and any other material considerations. There is a recommendation supported by reasons and suggested conditions in the case of a recommendation for approval. The report is signed by the officer exercising the delegated power if the recommendation is to be followed.
- 8.4 If an objection to an application is received and it is not considered to be significant, the application can be determined by the Group Manager (Environmental and Community Services) under their delegated power with the agreement of the Local Member, Chairman and Vice Chairman of Regulation Committee. The Case Officer will write to them summarising the objection and reasons why it is not considered to be significant. A copy of the Officer’s delegated report and any copies of plans or photographs will be also be provided in order to assist the Members come to a view. If any one of the Members does not agree the application will be referred to the Regulation Committee for determination.
- 8.5 If the Officer recommendation is to refuse planning permission, the application will not normally be dealt with under delegated powers, even if there have been no objections. There are potential appeal and cost implications of a decision to refuse and as such it is good and established practice to refer the application to the Regulation Committee for determination.
- 8.6 The Group Manager (Environmental and Community Services) has delegated powers to take some decisions relating to the Town and Country Planning (Environmental Impact Assessment) Regulations, to approve details or schemes in accordance with conditions, applications for Certificates of Lawfulness of an existing or proposed use, and other areas of planning control.

Delegated Decisions – Rights of Way

- 8.7 The Regulation Committee will normally determine only those applications which are considered particularly contentious or complex or are to be taken out of turn. Proposals which are determined under delegated powers are normally uncontentious, to which either there has been limited response to consultation or, in the case of Definitive Map proposals, the evidence is clear as to the course of action the County Council as Highway Authority responsible for the Definitive Map and Statement should take.

Statement of Priorities

- 8.8 In the interests of fairness and consistency, modification applications will be dealt with in accordance with the adopted Statement of Priorities. Occasionally an applicant will request their application is taken out of turn and given priority above other applications. Applications will only be taken out of turn in **exceptional** circumstances and the Regulation Committee, having had regard to the Statement of Priorities, will make the decisions on such requests.

9. Regulation Committee Decisions

Committee Papers and Minutes - General

- 9.1 Regulation Committee papers will normally be available at least five working days before the Meeting.
- 9.2 All applications submitted to the Committee will have a full written report from Officers which will include the following:-
- the name and contact details of the Case Officer, local member, reference number and grid reference;
 - a description of the site and the proposal, including reference to any amendments submitted;
 - summary of the history of the site;
 - an accurate summary of the responses to consultation and other representations received;
 - reference to relevant policies and other material considerations and whether the proposal constitutes a departure from the Development Plan;
 - details of the Environmental Impact Assessment (for planning proposals that require them);
 - a logical analysis and assessment of the proposal; and
 - the recommendation together with reasons whether it is for approval or refusal. For planning applications reference will be made to planning policies and any other relevant material considerations, and if the recommendation is to grant planning permission any proposed conditions and whether there is the need for the completion of a planning obligation before the grant of permission. If the report's recommendation is contrary to the provisions of the Development Plan, the material considerations that justify this will be set out and the reasons for decision given. For rights of way and town/village green reports clear reasons for the recommendation will be provided, and information about what happens after the decision is made.
- 9.3 Late Papers - It is important that Members and Officers have a suitable opportunity to consider late comments made, therefore any late papers that are to be submitted for the consideration of the Regulation Committee following the publication of the agenda/reports should be sent to the Group Manager (Environmental and Community Services) – not sent directly to the Members – and should be received no less than 48 hours before the meeting. This includes late representations received from applicants and members of the public.

Committee Minutes

- 9.4 The minutes of the Committee meeting will summarise the main points of discussion, provide accurate details of the decision made and refer to the information on which this was based. Any new matters raised in late papers or oral presentations to the Committee will be minuted. A summary of the decisions made at the meeting is published in advance of the minutes of the meeting on the Council's website normally within 2 working days of the meeting.

Decision contrary to Officer's recommendation - General

- 9.5 The Officer's report to the Regulation Committee will contain a recommendation but the Committee makes the decision. The Officer's report will have described the relevant issues/evidence, and the reasons for the Officer's recommendation. There will be cases when a majority of Members of the Committee do not agree with the Officer's recommendation and in such an event the Committee should formulate clear reasons for their decision. In some cases it may be more appropriate to defer the determination of an application for further information to be obtained and presented to a later meeting of the Committee. This includes where Members are minded to make a decision contrary to the Officer's recommendation.

Decision contrary to Officer's recommendation – Commons Registration (and Town and Village Greens)

- 9.6 If an application to register a town/village green has been the subject of a non-statutory public inquiry the recommendation of the independent Inspector/advisor appointed will be included in the Officer's report for Regulation Committee to consider.
- 9.7 There is no statutory right of appeal against decisions by the Commons Registration Authority but the High Court can order the amendment of the Commons Register in some circumstances. Decisions can be subject to legal challenge and therefore it is important that Members clearly articulate their reasons for any decision.

Decision contrary to Officer's recommendation – Planning Control

- 9.8 The reasons for the Committee's decision will be the basis of the decision notice, and it must give clear reasons for the decision to the applicant. Advice can be given on the formulation of reasons for a decision if necessary, and if the decision is to grant planning permission, on appropriate conditions and any need for a planning obligation. This will be minuted.
- 9.9 Decisions must be made solely on planning grounds. It is essential, therefore, that the reasons for a decision can be substantiated by reference to the development plan, national planning policy and any other material planning considerations. If an application is refused and the applicant appeals, there is a real risk that the Council would be found to have acted unreasonably and have a costs award made against it if it cannot demonstrate this.

Decision contrary to Officer's recommendation – Rights of Way

- 9.10 Members will need to give clear reasons for making a decision contrary to an Officer's recommendation because it must be demonstrated that the decision is supported by appropriate evidence, and the reasons why the Committee considers that the statutory criteria are, or are not, met need to be clear. Members should

bear in mind that amenity issues such as security, privacy, impact on land management and suitability are not relevant to decisions on Definitive Map applications and should not be taken into account nor given as reasons. Members will be given guidance on the consequences of any potential decision.

- 9.11 In rights of way modification applications, there is the right at different stages of the process for objections or an appeal, as appropriate, to be made by the applicant, the landowner or at a later stage by any member of the public. In the event that an Inquiry is held and the Council is unable to demonstrate its decision was supported by adequate evidence, there may be a successful application by another party for an order that the Council should pay their costs. Individual members could potentially be liable to costs being awarded against them if one of the parties to the order makes an accusation that a particular member has acted 'unreasonably, vexatiously or frivolously' or has been openly prejudiced, and unnecessary expense have been incurred.

Declarations of Interest by Members

- 9.12 The Code of Conduct sets out requirements and guidance for Members on declaring disclosable pecuniary interests, personal and prejudicial interests and the consequences of having such an interest. The Code must be observed and Members should be alert to any changes in their personal circumstances which might affect their interests. Members should act with propriety and should also take care to avoid behaving in a way which might give the appearance of or grounds for suspicion of improper behaviour.
- 9.13 Where a Member decides that they have a disclosable pecuniary interest (dpi) in a particular matter, whether registered in advance of the meeting with the Monitoring Officer or not, they must disclose that interest and unless they have received a dispensation in advance from the Monitoring Officer, leave the meeting room while the matter is considered and ensure that they take no part in the discussion or decision on the matter. If the dpi has not been registered in advance then the Member must register that interest with the Monitoring Officer as soon as possible after the meeting.
- 9.14 If a Member decides that they have a personal interest in respect of a particular matter they must disclose the existence and nature of that interest in the meeting. If a Member decides that their interest in the matter is also a prejudicial interest, then, unless they have received a dispensation in advance within the Code or from the Monitoring Officer, they should leave the meeting room while the item is considered. A Member with a personal and prejudicial interest in a particular matter may make representations under the provisions for public speaking at meetings of Regulation Committee of this Code but must leave the meeting room when public speaking has ended and before a vote is taken on the particular issue. The responsibility for deciding whether they have a prejudicial interest in a particular case rests with each Member. **Advice can be obtained from the Monitoring Officer or the County Solicitor (or their representative), if required, in advance of a Committee meeting.**

Requests by Members for information

- 9.15 Whenever possible Members should give notice in advance of the meeting of additional information which they consider is needed in order to determine the application or matters which they intend to challenge. This enables Officers to assist with the information before Committee and may avoid a deferral of the matter. At least 24 hours' notice gives officers the chance to respond fully.

Public Speaking at Regulation Committee on an application

- 9.16 Applicants, owners, occupiers, agents, Local Members and others who have made representations will be notified of the date and time of the Regulation Committee meeting considering the application or proposal.
- 9.17 At the Chairman's invitation, members of the public may ask questions and/or make statements in respect of any matter on the Committee's agenda. Petitions may also be presented on any matter within the Committee's remit.
- 9.18 Members of the public wishing to speak at the Committee meeting must register their intention to the Committee Administrator by 12 noon on the last working day before that meeting.
- 9.19 A slot for Public Question Time is set aside near the beginning of the meeting, after the minutes of the previous meeting have been signed. However, questions or statements about the matters on the agenda for this meeting will be taken at the time when that matter is considered.
- 9.20 Speakers should address comments to the Chairman. Members of the public may only speak during their allocated time and may not take part in the debate. The Chairman can invite Officers to respond to any matters which are raised.
- 9.21 The amount of time speakers will have to address the Committee will normally be restricted to three minutes. If an item on the agenda is contentious, with a large number of people wishing to speak, the Chairman may encourage them to elect a spokesperson(s) who may be allowed to speak for longer. Due to data considerations, access to County Council ICT systems and time constraints presenters are not able to use the IT equipment for their presentation.
- 9.22 The Chairman will decide when the public speaking will end. Speakers will be encouraged to avoid repetition of points made by earlier speakers. The Chairman has discretion on issues relating to the making of oral representations at Committee.
- 9.23 If Members of the public interrupt the meeting or attempt to intervene, the Chairman may adjourn the meeting until the atmosphere is calmer.

Rights of local county councillors to address the Committee

- 9.24 County Councillors can address the Committee, without any advance notification ahead of the meeting, in order to speak regarding a matter on the agenda that relates to their electoral division.

Member Attendance & Decision Making

9.25 Prior to each Committee meeting, Committee Members (and substitutes where in attendance) will sign to confirm that they have received appropriate training to consider the business to be determined by the Committee and that they have read the papers for the meeting ahead of taking any decision, in addition to confirming their attendance.

9.26 It is important that the Members' decision takes into account all relevant issues, not solely those in the Officers report but also those which may be presented orally or otherwise during the meeting. Therefore, any Member absent from any part of the meeting during consideration of an application should not vote on that application. This does not apply to site visits, which are not part of the formal process of determination.

10. Issuing Decisions following Regulation Committee

10.1 The decision of the Committee will normally be sent to the applicant within 10 working days of the date of the Committee Meeting.

10.2 Members of the public who have made representations on an application will be informed of the County Council's decision, and specific consultees such as the District and Town/Parish Councils will be sent copies of the decision notice. The Regulation Committee newsletter contains details of all decision notices issued.

10.2 Where an application is refused the written notification will include details of how and where to appeal (if available), together with details of all documents that must be submitted with the appeal.

10.3 Rights of appeal (where available) will be set out in the relevant statute.

Action taken following the Decision – Commons Registration (and Town and Village Greens)

10.4 Once a decision has been made to register a town or village green the details are added to the Register of Commons that is held by Legal Services and can be inspected during office hours. Any amendments to the Register have to be made in the form and content prescribed by the relevant Regulations. Copies of the Register are available on request.

Action taken following the Decision – Planning Control

10.5 Most planning permissions are granted subject to conditions. Details submitted in respect of satisfying any condition may be forwarded to specialist officers/bodies for their views but they are not subject to further public consultation. Once the development has been commenced it will be monitored to ensure it proceeds in accordance with the conditions imposed and the approved details. Where a Section 106 planning obligation is required, this will have to be completed before permission is granted.

Action taken following the Decision – Rights of Way

10.6 Where the decision is to make an Order, the legal proceedings will be commenced as soon as practicable following the completion of statutory consultations. Copies of

Orders made can be sent to members of the public if requested (on payment of an appropriate sum).

- 10.7 Should any complaint regarding the order making process be made direct to a Member, the Member should inform the Rights of Way Team Manager. The Team Manager will ensure that the Member is kept informed as to how the County Council proceeds with the matter.

11. Member Training - General

- 11.1 The need for all Members of the Regulation Committee to receive appropriate training is stressed in the advice issued by the Committee on Standards in Public Life, the Local Government Association and the Royal Town Planning Institute. Proper training ensures quality decisions are made which are defensible if challenged, and as such is an important part of being a Member of the Committee.
- 11.2 All Members of Regulation Committee must have received the appropriate training before sitting on the Committee and taking part in decision making. Only Members who have received this training are eligible to act as substitute Members on the Committee. All Committee and substitute Members will also receive further training as and when considered necessary and are required to attend. Other Members should also consider attending this training as useful background to their constituency role. The training will aim to be as accessible as possible to members and will offer review, updates and sessions on specific topics e.g. town/village green case law developments.

Member Training – Planning Control

- 11.3 As part of their training Members of the Committee are encouraged to attend arranged visits to development sites in respect of which the Committee decided planning permission should be granted and where the permission has been implemented. It is hoped that this will be helpful in maintaining the quality and consistency of decision-making and will inform reviews of planning policy. Review site visits are open to members of the Regulation Committee, substitutes, the relevant local member and appropriate Officers. The landowner/applicant may be present if access to the site is required, and may take part in any discussion.

Member Training – Rights of Way

- 11.4 It is considered good practice for Members of the Committee to visit a sample of implemented public path orders to view the outcomes of the decisions. Appropriate visits will be arranged, and the Group Manager will also provide training sessions as and when required to update Members on rights of way issues.

F - Protocol on Members' Access to Information and other Confidentiality Issues

1. Introduction

- 1.1 The Council agreed at its meeting on 12 December 2012 to adopt revised Access to Information in relation to Decision-making Rules for Part 2 of the Constitution to meet revised legal requirements contained within The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 1.2 The purpose of this Protocol is to detail Members' wider access rights to information held by the Council and complements the Rules mentioned above. The Protocol is a key background governance document of the Council and forms part of Part 3 of the Council's Constitution. The contents reflect the Council's policy of adopting the legal position in relation to Members' access to information.
- 1.3 Rights of access for Members to Council information comprise a complex interaction of various pieces of legislation, regulations and the common law. The general public - including all Members - have rights of access to information under the Freedom of Information Act, the Data Protection Act, the Environmental Information Regulations and the Local Government Act 1972. Members have additional rights, although the extent is not always clear. All Members have a common law right to inspect documents which relate to their role as an elected representative and which they have a "need to know", although improper motive may be a bar to their entitlement. Similarly, regulations give all Members additional rights of access to information (such as some documents in the possession of the Cabinet), and additional rights to Members of the Scrutiny Committees.
- 1.2 It is not always clear when information is or is not confidential. The law of confidentiality, privacy, and public rights to information is constantly developing in a piecemeal fashion and there is no such thing as a quick guide to all the law on confidentiality.
- 1.3 There are two basic requirements in order for information to benefit from the protection of confidentiality. Firstly, information which is already widely and publicly available is unlikely to benefit from the protection of rules relating to confidentiality. Secondly, the information must be of a nature for which the protection of the confidentiality laws may be appropriate, eg personal data, commercially sensitive data, military secrets and the like. In many areas of law such as Data Protection and Freedom of Information the categories of information for which confidentiality may be claimed are set out relatively clearly. Under the general law the position is far less clear. Often there also has to be a legitimate expectation of confidentiality. There are no hard and fast rules as to what is confidential, however, simply writing "confidential" at the top of a document will not provide legal protection, nor is it "confidential" merely because its disclosure may be embarrassing or inconvenient to someone.

- 1.4 Usually, the issue of confidentiality arises because somebody or organisation such as the Council claims confidentiality for information that they hold, and want to stop other people having access to it. In the public sector anyone wishing to claim protection at law for confidential information is increasingly likely to have to justify that claim.
- 1.5 Members and Officers should note that if they come into the possession of confidential information by fair means or foul, the information is still likely to have the protection of confidentiality and they must not pass the information on to anyone else without proper authority, eg, without the consent of a person properly authorised to give it. To do otherwise could lead to legal action (against either the individual personally and/or the Authority). In the case of an elected Member it may also constitute a breach of the Members' Code of Conduct. In the case of an Officer, it may also result in disciplinary action being taken by the Authority. You are strongly advised to obtain and have due regard to appropriate professional advice before passing on to any person any confidential information (or information which you suspect, or ought to suspect, is confidential). If in doubt consult the Monitoring Officer or the County Solicitor.
- 1.6 If a Member or Officer passes on confidential information with legal justification or permission they must make it clear to the recipient of the information, whether Member, Officer or other third party, that the information is confidential and must not be disclosed. Without an appropriate assurance from the recipient that the confidentiality will be properly respected, the information must not be passed on.

2. Confidentiality in the Context of Decision-Making

- 2.1 Somerset County Council will conduct its decision-making in accordance with legal requirements concerning openness, transparency and public access.
- 2.2 In accordance with general legal requirements, decisions will be made public together with any supporting documentation such as reports unless the matter concerns confidential or exempt information. This exception will only apply if the content contains information relating to the following categories:

Confidential Information

- a) Information furnished to the Council by a Government Department on terms which forbid the disclosure of the information to the public.
- b) Information the disclosure of which to the public is prohibited by or under any law or by the Order of a court

Exempt Information

- c) Information relating to any individual.
- d) Information which is likely to reveal the identity of an individual.
- e) Information relating to the financial or business affairs of any particular person (including the authority).
- f) Information relating to any consultations or negotiations, or contemplated consultations and negotiations, in connection with any labour relations matter arising between the Authority, or a minister of the Crown and the employees of, or office holders under, the Authority.

- g) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
 - h) Information which reveals that the Authority proposes-
 - to give under any enactment notice under or by virtue of which requirements are imposed on a person; or
 - to make an order or direction under any enactment.
 - i) Information relating to action taken or to be taken in connection with the prevention investigation or prosecution of crime.
- N.B. – there are an additional 3 exemptions available to Standards Committee.

- 2.3 Categories (a) and (b) above which are classified as ‘confidential’ business are absolute in that the public will be excluded from accessing papers and discussions on such matters and members access is limited by statute. The application of the remaining categories (‘exempt’ business) is discretionary and rests with the decision-maker, on the advice of officers, to decide whether or to make the information publicly available. It should also be noted that information which falls within paragraphs c) to i) can only be kept confidential for 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.
- 2.4 Where it is necessary to consider a report in private, Officers will usually, where practicable, provide the confidential information as a confidential annex to a report that is otherwise publicly available. If this is not practicable or otherwise reasonable, Officers will produce a public summary of the confidential report and/or an information sheet, so that as much information as possible is publicly available. The same approach is taken to decision records or the minutes of the meeting dealing with confidential business.
- 2.5 Confidential reports will be provided to all members of the relevant decision-making body with the agenda for the meeting. This does not prevent consultation with, for example, opposition group spokespersons in advance of the report being considered. The entitlement of other Members to see confidential reports circulated with agendas, at common law, depends upon such Members being able to demonstrate a “need to know” to carry out their functions as a councillor effectively and having a proper motive. Members are not allowed a roving commission through Council documents. However, Members may have other statutory rights to see some such reports, for example, members of the Scrutiny Committee (see below “Access to papers relating to executive business by Scrutiny Committee Members”).
- 2.6 Any query about the continuing extent of confidentiality once a decision has been made should be addressed, in the first instance, to the Lead Officer for the report in question. If necessary, the Lead Officer will consult with, and have proper regard to, the advice of the Monitoring Officer.
- 2.7 Generally, if a Member is entitled (at either common law or under statute) to see a confidential report, they may also have access to relevant background documents which relate to it. However, the Members must maintain the confidentiality of those background papers.

Access to papers relating to executive business by a Councillor who is not a Member of the Cabinet

- 2.8 Members have certain statutory rights to documents relating to executive business which are as follows and are contained in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012. These rights are outlined below:
- 2.8.1 Members of local authorities can inspect any document (including background papers) in the possession or control of the Cabinet which contains material relating to any business to be transacted at a meeting and this shall be available five clear days before the meeting. If the meeting is convened or an item added to an agenda at shorter notice, then relevant documents must be available for inspection by any Member of the local authority from the time this occurs. Subject to 2.8.2 below, the right to inspect also extends to any document in support of and a decision made by:
- (a) a Cabinet Member under delegated powers, or
 - (b) an Officer as a key decision or under a delegation from the Cabinet or a Cabinet Member.
- 2.8.2 With regard to confidential or exempt information transacted in a meeting or in relation to decisions by an individual Member or Officer under 2.8.1 above, the right of access is limited – see para 2.8.3 below. A document which can be inspected can only be viewed after the meeting and / or the decision is made and must be available on request within 24 hours of the conclusion of the meeting or the decision being made.
- 2.8.3 The rights of access for Members to exempt information under 2.8.1 above only applies to documents (1) that fall under paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 ie information relating to the financial and business affairs of any particular person [including the authority]) except for information relating to terms proposed or to be proposed in negotiations for a contract) and (2) paragraph 6 ie information which reveals 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 directions under any enactment.
- 2.8.4 For clarification, a Member is bound by the confidentiality of any document they access which contains confidential or exempt information.
- 2.8.5 If, following a request, a Member is refused access to information and is dissatisfied with this response, he or she may take the matter up with the appropriate Senior Leadership Team Officer (or Chief Executive for corporate or cross-cutting issues) who, if necessary, will consult with the Leader of the relevant group, the relevant Cabinet Member or opposition group spokesperson and the Monitoring Officer before responding.

Access to papers relating to executive business by Scrutiny Committee Members

- 2.9 A member of the Council's Scrutiny Committees can inspect any document in the

possession or under the control of the executive and contains material relating to:

- (a) any business that has been transacted at a meeting of a decision monitoring body of the authority, or
- (b) any decision made by a Cabinet Member under delegated powers, or
- (c) any key decision made by an Officer or any Officer decision made under a delegation from the Cabinet or a Cabinet Member

- 2.10 The right to inspect as set out in 2.9 above does not extend to confidential or exempt information, unless that information is relevant to:
- (a) an action or decision that the member is reviewing or scrutinising, or
 - (b) any review contained in any programme of work of the Scrutiny Committee.
- 2.11 For clarification, a Member of the Council's Scrutiny Committees is bound by the confidentiality of any document they access which contains confidential or exempt information.
- 2.12 The Cabinet may determine that the Scrutiny Member(s) do not have a right to the information requested but if they make such a determination, they must provide the relevant Scrutiny Committee with a written statement of its reasons for the decision.

3 Confidentially in the Context of the Members' Code of Conduct

- 3.1 The Council's Code of Conduct requires members:-

- (1) Not to disclose information given in confidence by anyone, or information acquired by the member which he/she believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (a) the Member has the consent of a person authorised to give it;
 - (b) the Member is required by law to do so;
 - (c) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - (d) the disclosure is:
 - i. reasonable and in the public interest; and
 - ii. made in good faith and in compliance with the reasonable requirements of the Council; and
 - iii. the Member has consulted the Monitoring Officer prior to its release.
- (2) Not to prevent another person from gaining access to information to which that person is entitled by law; and
- (3) Not to conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.

- 3.2 The exceptions set out above are fairly self-explanatory. However, (1) (d) is more complex than it may at first appear. If a member is considering disclosing confidential information, particularly if they intend to rely on (d), they are very strongly advised to obtain appropriate legal advice, preferably from the Monitoring Officer, before so doing and, if appropriate, to discuss their concerns with the Chief Executive or appropriate Senior Leadership Team Officer.

- 3.3 In order for disclosure to be in the “public interest”, the information should involve one or more of the following matter(s), or something of comparable seriousness:
- a) a criminal offence;
 - b) failure to comply with a legal obligation;
 - c) a miscarriage of justice;
 - d) serious health or safety issue
 - e) potential damage to the environment
 - f) deliberate concealment of any of the above matters;
- 3.4 For the disclosure to be in “good faith”, a Member should not be acting with an ulterior motive, eg to achieve a party political advantage or to settle a score with a political opponent or some other person.
- 3.5 In order to comply with a “reasonable requirement to the Authority”, a Member must comply with the Council’s policy or protocols on matters such as whistle blowing, confidential information and any other specific requirements which the Council may reasonably make. The Member must first raise his or her concerns through the appropriate channels set out in such policies or protocols.
- 3.6 The Council’s Whistle Blowing Policy provides an opportunity for allegations of improper conduct on the part of the Authority to be investigated. Issues may be raised with the Chief Executive or Monitoring Officer or directed through the Leaders of political groups.

4 Interpretation

- 4.1 For clarification, in this Protocol “information” means information, including any document, report or background paper other than in a draft form. In excluding drafts from the definition, the Protocol reflects the requirements of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012.
- 4.2 In the event of any conflict between this Protocol, any other policy, protocol, or guidance of the Council and any law (either common law or statutory), the law shall take precedence.

Note: This Protocol is provided for the benefit of Somerset County Council only. It is intended as a general guide only. It is not intended to set out the entire legal position in this large and complex area of law. Members or Officers should obtain appropriate professional advice in relation to any specific issue they may have.

G - Member / Officer Protocol 2014

Given the variety and complexity of relations between Members, Co-opted Members and Officers, this Protocol does not try to cover everything or to be prescriptive in its application. General guidance is offered on issues that most commonly arise or cause concern. You should, however, seek assistance from your line manager in relation to any specific issue which is not covered by this Protocol.

In the unlikely event that there is any irreconcilable disagreement in the interpretation of this Protocol, the opinion of the Chairman of the Standards Committee (or the Vice-Chairman if the Chair is unavailable or is unable to act) will be final.

Definitions in this document:

- Senior Leadership Team (SLT) posts are detailed in Section 1, Part 1 of the Constitution.
- Members: refers to elected members only
- Co-opted Members: refers to both voting and non-voting non-elected members of the Council's committees.
- Vires: an action that is beyond the powers as detailed in a law

1 – General obligations of Members and Co-opted Members

1.1 Code of Conduct

1.1.1 Members and Co-opted Members must observe:

- the Council's Code of Conduct; and
- the Seven Principles of Public Life as set out as an Appendix to the Code of Conduct

whenever acting in an official capacity or giving the impression that they are so acting in that capacity.

1.2 Reasonable Conduct

1.2.1 Members and Co-opted Members have a duty to act reasonably and when taking decisions, must:

- take into consideration all relevant matters and disregard anything which is not relevant;
- meet the Council's Constitutional requirements;

- provide lawful, reasonable and rational reasons for their decisions.
- 1.2.2 Members who control the Council's assets and finances are in a position of particular trust and have a fiduciary duty to act in the best interests of the Council and the public interest.

2 – Principles Underlying Member / Co-opted Member / Officer relationships

2.1 General

- 2.1.1 Members, Co-opted Members and Senior Officers have distinct yet complementary roles that often bring them together to work as a team. This is most clearly seen in the Council Leader and Chief Executive relationship. They must demonstrate political and professional leadership respectively and accountability for their actions. The Cabinet Member as the lead for a particular service area: defines the political priorities, develops the local vision and policy and exercises delegated decision making responsibilities. Senior Leadership Team officers as the leads for their service areas are accountable to the Cabinet Member and the Council for the day-to-day management of service delivery within accordance the policies and decisions made by Members and Co-opted Members and for ensuring the implementation of Member decisions. In doing so the lead Officer provides a clear line of accountability, promotes leadership, and secures the provision of appropriate services.

2.2 Mutual respect

- 2.2.1 Officers, Members and Co-opted Members should treat each other with courtesy and mutual respect for the respective roles which each discharges.

2.3 Impartial Officer advice

- 2.3.1 Members and Co-opted Members must respect the political impartiality of Officer advice in general, and in particular must have regard to the professional advice provided by statutory and key post-holders as follows: the Chief Executive as Head of Paid Service, the Section 151 Officer (Finance & Performance Director), the Monitoring Officer (Strategic Manager, Governance & Risk) , the Director of Social Services (Lead Commissioner Adults and Health) and the Chief Education Officer/Director of Children's Services (Lead Commissioner Children and Learning), the County Solicitor, the HR & OD Director, and the Scrutiny Officer (Service Manager – Governance).
- 2.3.2 Members and Co-opted Members must respect the professional independence of Officers and must not compromise or attempt to compromise, the impartiality of anyone who works for or on behalf of the Council. Members and Co-opted Members must allow Officers and those working on behalf of the Council to carry out their duties in a neutral, non-biased and non-partisan way. A Member/ Co-opted Member may appropriately challenge the advice of an Officer (this should usually be done at a senior level) but they must not pressurise the Officer to change

their advice if, in the opinion of that Officer, doing so would prejudice his / her professional integrity.

- 2.3.3 Members and Co-opted Members must consult the Monitoring Officer, the County Solicitor and the Section 151 Officer where they have any concerns about *vires*, illegality, maladministration, financial impropriety or probity in relation to the decision making process or where they have any concerns as to whether a particular decision is, or is likely to be, outside of the policy or budget framework.
- 2.3.4 Members and Co-opted Members who fail to respect the requirements of paragraphs 2.3.1 to 2.3.3 may be subject to a complaint about a potential breach of the Code of Conduct.

2.4 Inappropriate use of position

2.4.1 In summary (and para 2.3.2 above refers):-

- The only circumstances where Members and Co-opted Members can instruct Officers is through formal decisions taken by Members and Co-opted Members and formal delegation of authority to Officers to act. In normal circumstances delegated authority should only be given to Officers at SLT level.
- Officers below Senior Leadership Team level work to the instructions of their Senior Officer and not individual Members of the Council.
- Members and Co-opted Members should normally direct requests for information or a service through Officers at SLT level.
- Members and Co-opted Members must respect the reporting lines of Officers. If a Member or Co-opted Member has any concerns about the actions of an Officer then they should discuss the matter with an appropriate Senior Officer.
- Members and Co-opted Members must not attempt to require Officers to act in a way that is unlawful, unconstitutional, or which would be likely to amount to, or result in, maladministration.

2.5 Personal and Family Relationships

- 2.5.1 Close personal familiarity between a Member and an Officer should be avoided as it can damage the relationship and prove embarrassing to other Members and Officers. It could also damage the integrity of the Council. Any family relationships (e.g. parent/child; spouse/partner) between Officers and Members must be disclosed as soon as reasonably practicable to the Chief Executive who will then decide how far this needs to be disclosed to others.
- 2.5.2 A Member should not take up a decision-making role where it would give them decision-making responsibility for any Officer to whom they are closely related so as to avoid any perceptions or accusations of preferential treatment or a lack of objectivity.
- 2.5.3 If a Member or an Officer is in any doubt about what is appropriate or not in relation to 2.5.1 or 2.5.2 above then they should seek the advice of the Chairman of the Standards Committee and / or the Chief Executive.

3 – Role of Officers - (in respect of relationships with Members)

3.1 Role of SLT

- 3.1.1 SLT has an important role in providing leadership to the organisation and Officers of the Council, preparing the Policy and Budget Framework for consideration by the Leader / Cabinet / Council and directing and monitoring the performance of the organisation in applying the approved policies / budget.
- 3.1.2 SLT Officers have a particular responsibility to the Leader, Cabinet Members and Cabinet Support Members in respect of:-
- preparing the Medium Term Financial Plan, the Business Plan, the Asset Management Plan, the Performance Plan and other key plans and strategies for consideration by the leadership;
 - ensuring services are delivered and functions discharged in accordance with the relevant legislation, the Council's Constitution and the directions of the Leader / Cabinet; and
 - referring issues of concern to the Leader / Cabinet for determination. Key Officers from SLT have regular private meetings with the Leader and Cabinet members to progress key strategic policy and decision-making issues.
- 3.1.3 SLT Officers are also responsible to the Opposition Leader and Opposition Group Spokespersons (and their Support Members) for briefing them on a regular basis about corporate and service matters. This is done on a one to one basis and through regular private meetings. These facilities may be extended on occasion to include the other minority party Leaders.

3.2 Operational management

- 3.2.1 Officers implement the decisions of Members and will ask for guidance on implementation of the decisions, as required.
- 3.2.2 Officers must observe the Standards of Conduct required of them by the Council.

3.3 Provision of support to Members and Co-opted Members

- 3.3.1 Officers provide support services and resources to Members as agreed by the Council to enable them to undertake their various roles. This includes the provision of direct Personal Assistant support to the Leader, Cabinet and Chairman of Council which is provided on a part-time basis.
- 3.3.2 The Council can only lawfully provide support services (such as IT provision and the use of certain rooms in County Hall) to Members and Co-opted Members for the discharge of their Council duties. These support services can only be used for political purposes where that use specifically relates to delivery of the Council functions or any office to which the Member has been elected or appointed.

Council resources must not be used for party political campaigning activity or for private (including business) purposes.

3.4 Delegating decision making to Officers

- 3.4.1 Members may delegate decision making authority to Officers to act on their behalf. However, Officers cannot set or amend Council policy other than to facilitate the smooth running of procedures and processes and must abide by the requirements of the Constitution and in particular the Council, Cabinet and Officer Schemes of Delegation.
- 3.4.2 An Officer must have regard at all times to the fact that he or she is employed by the County Council as a whole and not by an individual member or political group.

3.5 Officers – giving professional advice

- 3.5.1 Officers will give such professional advice to Members and Co-opted Members as is necessary or desirable, recognising the different needs for advice they may have dependent on their role.

4 – Specific Member Roles / Officer Relationships

4.1 Leader & Chief Executive / Senior Officers

- 4.1.1 The Leader gives political direction and leadership to the Council. The role encompasses:
- Setting standards of conduct and expectations for his / her group of Members and resolving any instances of misconduct by a member of that group that has been referred to him/her from the Standards Committee.
 - Appointing his/her Cabinet and allocating responsibilities to Cabinet Members and Officers under the Cabinet Scheme of Delegation
 - Encouraging all Members to play a full part in the running of the Council and being effective community leaders.
 - Working closely with the Chief Executive to ensure proper co-ordination of the Council's leadership and management. The Leader and Chief Executive have ultimate responsibility for the corporate working of the Council. They also have responsibility for ensuring that overall partnership working is effective.
- 4.1.2 The Chief Executive is responsible to the Leader for the corporate, strategic and operational management of the County Council.
- 4.1.3 The Council will provide sufficient support and resources to enable the Leader to perform his / her role effectively.

4.2 Cabinet Members and Officers

- 4.2.1 Cabinet Members will develop the expertise, knowledge of and responsibility for the service(s) allocated to them by the Leader. This includes taking decisions delegated to them by the Leader within the Cabinet Scheme of Delegation. The nature of this role means that Cabinet Members will work closely with their relevant SLT Officer(s) particularly on policy development, decision-making, service delivery and performance issues.
- 4.2.2 For their area of responsibility, the Cabinet Member provides political focus and leadership for their Political Group and is the lead spokesperson and 'first' political contact for Opposition Group Spokespersons, other Members of Council, the public, press and Officers.
- 4.2.3 The Council will provide sufficient support and resources to enable the Cabinet Member to perform their role effectively.

4.3 Leader of the Opposition and Officers

- 4.3.1 The title 'Leader of the Opposition' refers to the Leader of the largest political group in opposition on the Council.
- 4.3.2 The office-holder has several key roles including:
- supporting the democratic process by ensuring that the activities of the Administration are appropriately examined, contributed to and, where considered necessary, challenged through mechanisms provided for in law and within the Constitution;
 - bringing forward alternatives to policies or operational decisions proposed by the Administration, as appropriate;
 - giving political direction and leadership to their group of Members, setting standards of conduct and expectations and resolving any instances of misconduct by a member of that group referred to him/her by the Standards Committee
 - liaising with the Leaders of other minority political groups on the Council.
- 4.3.3 The office-holder should establish effective working relationships with particularly the Chief Executive and Senior Leadership Team officers and other Officers, as appropriate.
- 4.3.4 The Council will provide appropriate support, resources and advice to enable the office-holder to perform their role effectively.
- 4.3.5 In addition, other minority Group Leaders will play a similar role as set out in paragraph 4.3.2 above in respect of the members of their own groups and paragraphs 4.3.3 and 4.3.4 also apply.

4.4 Opposition Group Spokespersons and Officers

- 4.4.1 These positions are held by Members of the largest opposition political group on the Council and provide an effective political counter-balance to Cabinet Members.

- 4.4.2 In respect of the activities agreed for the office, the office-holder provides political focus and leadership for the Group and is the lead spokesperson and 'first' political contact for Cabinet Members, other Members of Council, the public, press and Officers.
- 4.4.3 The office-holder should establish and maintain effective working relationships with Senior Leadership Team officers and other Officers.
- 4.4.4 The Council will provide appropriate support and advice to enable the office-holder to perform their role effectively.

4.5 Scrutiny Members and Officers

4.5.1 Members of the Council's Scrutiny Committees shall:

- obtain the advice of the Monitoring Officer or County Solicitor where they consider there is doubt about the vires for a decision or they consider a decision of the Leader, Cabinet, Cabinet Member or an Officer might be outside the policy and / or budget framework.
- when considering calling Officers to give evidence, consult the relevant SLT Officer to identify as to the most appropriate Officer to attend.
- when asking Officers to give evidence, confine questions, so far as possible, to questions of fact and explanation relating to policies and decisions. Officers may be asked to give a professional opinion, but officers must not be asked questions relating to political views.
- where they consider it appropriate, ask Officers to explain and justify advice given to Members prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- not question Officers in such a way as to be in breach of the Council's policy on harassment or the Members' Code of Conduct nor deal with matters which are of a personal or disciplinary nature.

4.5.2 Officers shall:

- maintain political impartiality at all times when commenting on the Cabinet's / Council's policies and actions.
- be prepared to explain and justify advice given to Members of the Cabinet and the Council prior to decisions being taken and justify decisions they themselves have taken under the Council's Constitution.
- ensure that appropriate Officers appear before the relevant County Council body.

4.6 Other Committee Chairmen and Officers

4.6.1 This section applies to all the Council's Committees, including the Regulation Committee, and the Standards Committee.

4.6.2 The Chair, other Members and Co-opted Members of those Council bodies shall:

- be bound by the same provisions set out in section 1 when sitting as a Committee/Council body; and
- enable County Council Officers to present any report and give any advice they wish.

5 – Officer Relationships with Party Groups

5.1 Officers - dealing with requests for information

5.1.1 The Council has adopted the position at law in relation to access to information for Members and Co-opted Members. More detailed guidance is available upon request to the Monitoring Officer or the County Solicitor.

5.1.2 This allows all Groups to develop policies and plans on the basis of officers providing information on a confidential basis to their Group, providing that the information is readily accessible, does not entail significant additional work and does not entail the release of information which is confidential or exempt.

5.1.3 Groups are expected to give reasonable notice of requests for information and to have regard to the cost of producing any new detailed information.

5.2 Officers attending political briefings

5.2.1 Senior Officers may, on request, attend a political group meeting to give advice and answer questions but must not stay for, or participate in, any part of the political discussion. Where such a meeting includes persons who are not Members of the County Council, then particular care will be taken by the Officer as to his / her contribution to the meeting as these persons are not bound by the Member's Code of Conduct (in particular, provisions concerning the declaration of interests and confidentiality). Officers may therefore be unable to provide the same level of information or advice as they would to a Members only meeting.

6 – Members in their Divisional Role and Officers

6.1.1 When acting in their Division role, Members:

- Need to be mindful of their competing roles, i.e. acting for the Council and acting for constituents, and the possible conflicts of interest that can arise and the pressure this can bring on officer time.
- Should recognise the need for Officers' to seek authorisation, where required, from Senior Officers or Members for additional work requested by individual Members.

7 – Complaints about Officers or Services

7.1 Members and Co-opted Members criticising reports / actions of Officers

7.1.1 Members and Co-opted Members have the right to criticise reports or the actions taken by Officers, but they should always:

- avoid personal attacks;
- ensure that criticism is constructive and well-founded; and
- ensure that criticism is conveyed in such a way and a place that it is not disrespectful, harassing or bullying of the Officer.

7.2 Respecting each other's roles

7.2.1 Members and Co-opted Members should be particularly careful that that they do not undermine, or are disrespectful, harassing or bullying of, Officers at meetings or in any public forum (including council offices).

7.2.2 Similarly, Officers must respect the roles and rights of Members and Co-opted Members and not undermine, or be disrespectful of Members and Co-opted Members particularly at meetings or in any public forum (including council offices).

7.3 Process for Members and Co-opted Members to complain about Officers and be informed of action taken

7.3.1 Complaints about Officers or Council services should be made to the relevant Senior Leadership Team officer. Within three days, s/he will:

- acknowledge your complaint, and
- say if action will be taken, or
- say how long it will take to investigate the complaint.

7.3.2 Members and Co-opted Members have a right to know if action has been taken to address a matter, but they must not, either:

- influence, or seek to influence, the level of disciplinary action to be taken against an Officer, nor
- insist (nor be seen to insist) that an Officer is disciplined.

7.3.3 Members and Co-opted Members have a right to be told the outcome of any disciplinary case, but have no entitlement to detailed information about the hearing or its conduct aside from those Members of the Officer Appeals Committee where specific cases are considered by the Committee.

7.3.4 If a Member or a Co-opted Member is not satisfied with the action taken to deal with the complaint then he / she may refer the matter to the Chief Executive.

8– Members and the Media

8.1 Council press release rules

- 8.1.1 All Council press releases should be in accordance with the Council's agreed Media Guidelines and must be issued through the Council's Communications and Marketing Team.

8.2 Avoiding party political content

- 8.2.1 Council press releases should not contain anything of a party political nature. Regard must be given to relevant legislation and guidance concerning publicity issued by Councils, especially around election time in the form of the Somerset Election Protocol

8.3 Political press releases

- 8.3.1 Members or political groups have the right to issue political press releases but these shall not be prepared or issued using County Council resources of any kind.

8.4 Handling the Media

- 8.4.1 Lead Members with special responsibilities will receive training in handling the media and shall receive additional support as required and an appropriate for their roles from the Communication and Marketing Team.

9 – Correspondence

9.1 Use of paper

- 9.1.1 The relevant paper containing the Council's corporate identity image must be used for all correspondence written on behalf of the Council. When Members are writing in their capacity as a Member they must make it clear whether they are writing on behalf of the Council or as the divisional Member. Members must never use paper containing the Council's corporate identity image for personal, party political or business matters.

9.2 Correspondence between Members / Officers

- 9.2.1 Correspondence from an individual Member to an Officer will not normally be copied by the Officer to any other Member unless it is the intention of the Member that it should be so (e.g. representations made in relation to a planning application). Where, exceptionally, and having sought the advice of a Senior Officer, it is considered appropriate to copy the correspondence to another Member, then the original Member should be given prior notification and be told to whom it is proposed to be copied and the reasons for this proposed course of action. The decision of whether another Member should be sent the correspondence is ultimately for the Chief Executive to take.

- 9.2.2 Particular care needs to be taken with email correspondence where the Council's use of email policy should be followed. For example, when dealing with constituency email correspondence be careful when copying emails when using 'cc' or 'bcc' or 'reply to all'. Only copy your email to those people that really need to see it, don't inadvertently forward confidential information and don't forward a constituent's email to others even within the Council without having first obtained their consent.

10 – Complaints about Members, Co-opted Members and Officer Conduct

- 10.1. Any person (Member, Officer or member of the public) may raise a complaint about a Member or Co-opted Member of a Council Committee where they believe that there may have been a breach of the Members' Code of Conduct. This may be done by contacting the Monitoring Officer or the County Solicitor who will advise the process to be followed as set out in the Constitution.
- 10.2 The process for members to complain about Officers conduct is set out at 7.3 above.
- 10.3 Members and Officers should ensure that they are aware of and apply the Council's Whistleblowing Policy as necessary.

11 - County Council Election

- 11.1 Particular rules apply to Member, Officer and Election Candidates behaviour around County Council quadrennial elections and by-elections. These rules are detailed in the Somerset Election Protocol.

12 – Further Advice from the Chief Executive / Monitoring Officer / County Solicitor

- 12.1 Further advice on the interpretation of this protocol is available from the Chief Executive, Monitoring Officer or from the County Solicitor. Advice on any issue relating to Member/Officer relations which is not covered in this Protocol may also be raised with the Chief Executive, Monitoring Officer or County Solicitor.

H - MEMBER ROLE DESCRIPTIONS

All Members of Council

Representative democracy elements	Participative democracy elements
<p>Political Representative</p> <ul style="list-style-type: none"> • Uses political and democratic processes to deliver group manifesto • Provides peer support to other Members / spreads best practice <p>Community Leader</p> <ul style="list-style-type: none"> • Sets direction, make choices and delivers community needs and aspirations at both strategic and local levels • Balances Officer recommendations against community aspirations when making decisions <p>Transformer of Services</p> <ul style="list-style-type: none"> • Leads, supports, co-ordinates partners and partnerships at the local level • Proactively works and supports outcomes across the tiers of government and key partners • Works effectively and in partnership with officers • Influences spending / decision-making in the locality through devolution of resources / decision making – through making representations <u>before</u> decisions are made • Challenges decision-makers / service providers • Varies / enhances / monitors service standards • Measures impact of outcomes on communities <p>Knowledge Champion</p> <ul style="list-style-type: none"> • Real source of local knowledge – to the public and to the Council • Uses local information to challenge performance / maximise community benefit • Develops / maintains a working knowledge of other local organisations and services 	<p>Voice of the Local Community</p> <ul style="list-style-type: none"> • For all sectors of the community - challenges the Council / partners • Ensures that the community's voice is heard within the Council <p>Community Leader</p> <ul style="list-style-type: none"> • Makes community led developments happen – supports local projects • Educates local people about the Council and why they should get involved • Promotes the Council and the services it provides • Contributes to and inspires community participation at a local level, including through consultation / mediation • Community champion promoting leadership, direction and vision in local groups and building support for that vision • Freedom to act on local (public realm) issues and resolve / assist through Community Budgets • Be proactive in enabling local people and groups to access services and in responding to enquiries / complaints from constituents <p>Transformer of Services</p> <ul style="list-style-type: none"> • Enable communities to take action to meet local problems /needs

Leader of Council

Appointment/Purpose

The Leader is appointed by Full Council for a term of four years. The Council, has however, retained the ability to replace the Leader during that period if it so wishes.

In accordance with statute and the Council's Constitution, the key purpose of the Leader's post in summary is to provide the political focus and leadership within and outside of the Council.

Key responsibilities

1. To provide the political leadership to the Council including leading the Cabinet in the development and delivery of the Council's Policy Framework and Budget.
2. To be the Council's key contact for outside organisations (including Central Government, Local Authority Associations and Council partners), and the media.
3. To provide political direction and leadership to his / her group of Members.
4. In respect of the Cabinet:
 - To have ultimate responsibility and accountability for the executive decision making arrangements of the Council and for any such decisions that he / she takes under these arrangements
 - To appoint and lead the Cabinet and ensure that its work and that of the individual Cabinet Members is planned and conducted in accordance with relevant legislation and the Council's Constitution
 - To ensure the effective integration of roles, responsibilities and functions within the Cabinet membership and with Officers via the Cabinet Scheme of Delegation
5. To communicate the Administration's policies and priorities to the Executive Leadership Team and, in particular to work closely with the Chief Executive to secure co-ordination of the Council's leadership and management.
6. To communicate the Administration's policies, priorities and actions to all Members of the Council and to promote effective working relationships across the Council's Party Groups.
7. Working with the Chief Executive, the Leader has ultimate responsibility for ensuring that overall partnership working is effective.
8. To ensure that arrangements are in place to enable the views of Members of Council and of other key influencers to be heard and taken into account when Council policy is being formed and decisions taken.
9. To develop effective working relationships with the Scrutiny Committee and other Committees of the Council.
10. To promote and support good governance of the Council and its business.

Deputy Leader of Council

Appointment / Purpose

The Deputy Leader is appointed by the Leader for a four year term of office, although the Leader may remove the Deputy Leader from office at any time. In the event of the removal of a Deputy Leader from office, the Leader must appoint another Deputy Leader for the remainder of the four year term of office.

The primary purpose of the Deputy Leader is to assist and work with the Leader and to deputise for him / her accordingly.

Key responsibilities

1. To deputise for the Leader, as necessary, unless statutory requirements prevent this or the Leader provides otherwise.
2. To discharge other roles and functions, including decision-making responsibilities, as agreed by the Leader.
3. To establish effective working relationships with other Members, particularly Cabinet Members and including the Chairmen of Committees.
4. To establish effective working relationships with the Chief Executive, Senior Leadership Team officers and other staff.

Cabinet Member

Appointment / Purpose

Cabinet Members are appointed by the Leader of the Council. Their titles and areas of responsibility are also agreed by the Leader. In addition, the Cabinet Member with responsibility for children's services has specific statutory responsibilities beyond the roles described below.

Key Responsibilities

Cabinet Members have a range of corporate (as a Member of the Cabinet) and individual service responsibilities.

In respect of the corporate role and as a member of the Cabinet:

1. To promote the Council and its interests inside and outside of the Council on partnerships and outside bodies.
2. To assist in the shaping and development of the Council's strategic priorities and vision.
3. To participate effectively as a member of the Cabinet, taking joint responsibility for actions and being accountable collectively with other Cabinet Members.
4. To balance his / her specific service responsibilities with the wider interests of the Council.
5. To promote and support good governance of the Council and its business.

For his / her service responsibilities:

1. To develop expertise, knowledge and take responsibility for a specific service area or areas.
2. To take decisions as delegated by the Leader within the Cabinet Scheme of Delegation and to be accountable for those decisions.
3. To provide political focus and leadership for the Political Group as the lead spokesperson and 'first' political contact for Opposition Group Spokespersons, other Members of Council, the public, press and Officers.
4. To represent the Council on external bodies as necessary.
5. To bring forward policy proposals and operational issues for decision, utilising support from scrutiny as necessary, present them for approval as necessary and ensure implementation.
6. To be aware of developments at national, regional and local level and participate as necessary in relevant networks.

7. To maintain an overview of the performance, efficiency and effectiveness of the service(s) and promote excellence in service development and provision.
8. To provide leadership to sub-regional and local partnerships as necessary – in the pursuit of common aims and priorities
9. To assist the activities of the Scrutiny Committee.
10. To keep other Members of Council informed about their activities,
11. To maintain effective working relationships with Senior Leadership Team officers and other Officers.

Chairman of Scrutiny Committee

Role Purpose

The Scrutiny Committee's Chairman is elected annually by Full Council.

The Committee Chairman's primary role is to provide leadership for the Council's scrutiny function and in particular for the Scrutiny Committee's activities and meetings.

Key responsibilities

1. To promote the role of scrutiny (as the Council's lead spokesperson) within and outside of the Council and ensure that the Committee's role is understood by all Members of Council, other agencies and the public.
2. To ensure the effectiveness of the scrutiny process and encourage the participation of all Members of the Council in that process.
3. To publicise the Committee's activities to other Members.
4. To lead on the generation and organisation of business for the Committee's work programme and the scrutiny function generally.
5. To ensure that there are effective arrangements in place and applied to hold decision makers to account (Members and Officers – in relation to Key Decisions) through the scrutiny process.
6. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
7. To ensure that the Vice-Chairman of the Committee is adequately briefed on relevant issues.
8. To ensure implementation of the Committee's actions through effective monitoring.
9. To establish effective working relationships with the Leader, Cabinet, Cabinet Members and the Chairman and Vice-Chairman of Full Council and Committees of the Council.
10. To establish effective working relationships with the Senior Leadership Team officers and other Officers.

Vice-Chairman of Scrutiny Committee

Appointment / Purpose

The Scrutiny Committee's Vice-Chairman is appointed annually by Full Council.

The primary purpose of the Vice-Chairman is to provide a source of support to the Chairman of the Scrutiny Committee.

Key responsibilities

1. To assist the Chairman with the operation and management of the scrutiny function and the management of the Committee's meetings.
2. To chair meetings of the Committee or undertake other responsibilities of the Chairman where the Chairman is unable to act.
3. To assist the Chairman with any aspects of the Council's scrutiny function and / or the Committee's activities including the implementation and monitoring of the Committee's actions and planning / developing scrutiny activity.
4. To establish effective working relationships with the Leader, Cabinet, Cabinet Members and the Chairman and Vice-Chairman of Full Council and Committees of the Council.
5. To establish effective working relationships with Senior Leadership Team officers and other Officers.
6. This is in addition to the responsibilities undertaken as a Scrutiny Committee spokesperson (if appropriate).

Scrutiny Committee Spokesperson

Appointment / Purpose

Each of the political groups who do not hold the chairmanship of the Scrutiny Committee may appoint a formal spokesman for their group from amongst their members on the Committee, to lead for the Group in respect of scrutiny activities.

Key Responsibilities

1. To act as the Political Group's lead spokesman at meetings of the Scrutiny Committee and in respect of other scrutiny business.
2. In co-ordination with the Group Leader, to act as the Political Group's spokesman to the public and press about matters coming to scrutiny and the Scrutiny Committee.
3. To act as the primary point of contact for County Council Officers in respect of the Political Group's input to the work of the Scrutiny Committee.
4. To contribute to the generation and planning of business for the Committee's meetings and to attend the Chairman's pre-meeting briefing.
5. To maintain an awareness of the contents of the Forward Plan of Key Decisions and of Key Decisions subsequently taken and implemented.
6. To ensure that there are effective arrangements in place and applied to hold decision makers to account [Members and Officers (in relation to Key Decisions)] through the scrutiny process.
7. To establish an effective working relationship with the Chairman of Scrutiny Committee.
8. To establish effective working relationships with Senior Leadership Team officers and other Officers.
9. To liaise with and report back to other Members of their Group about the activities of the Scrutiny Committee and to arrange substitutes as necessary for Group Members.

Chairman of Regulation Committee

Appointment / Purpose

The Regulation Committee Chairman is elected annually by the Full Council.

The Chairman's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To chair meetings of the Regulation Committee and provide effective management of the business to achieve good governance and clear decision making.
2. To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process.
3. To be the Council's lead spokesperson for the Committee within the Council and externally with partners and individuals.
4. To ensure that the Vice-Chairman of the Committee is adequately briefed on relevant issues.
5. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
6. To give guidance to Officers as necessary about the Committee's business.
7. To respond to Officers' requests for advice on issues they propose to deal with under delegated powers.
8. To help ensure that all the Committee's Members are adequately trained to discharge the Committee's functions.
9. To establish effective working relationships with Senior Leadership Team officers and other Officers involved in the functions exercised by the Committee.

Vice-Chairman of Regulation Committee

Appointment / Purpose

The Regulation Committee's Vice-Chairman is appointed annually by the Full Council.

The Vice-Chairman's primary role is to support the role of the Chairman.

Key responsibilities

1. As appropriate to assist the Chairman in managing the Committee's meetings.
2. In co-ordination with the Committee Chairman, to act as a Council spokesperson in respect of the Committee's activities.
3. As and when necessary, to chair meetings of the Regulation Committee.
4. Where the Chairman is unable to act, to respond to Officers' requests for advice on issues they propose to deal with under delegated powers.
5. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
6. To establish effective working relationships with Senior Leadership Team officers and other members of staff involved in the Committee's functions.

Chairman of the Pensions Committee

Appointment / Purpose

The Chairman of the Pensions Committee is elected annually by the Full Council.

The Chairman's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To chair meetings of the Committee and provide effective management of the business to achieve good governance and clear decision making.
2. To acquire and maintain sufficient knowledge of the background to the Committee's responsibilities to ensure that the Committee discharges its functions effectively.
3. In chairing Committee meetings, to have regard to the requirements of relevant Regulations which regulate the Committee's activities.
4. To build effective relationships with other Committee members, the Section 151 Officer, Senior Leadership Team and other relevant staff, and any bodies which help the Committee discharge its functions.
5. On behalf of the Committee, to prepare an annual report for inclusion in the Somerset County Pension Fund Annual Report and Accounts.
6. To keep all Members of Council informed about the work of the Committee.

Chairman of the Audit Committee

Appointment / Purpose

The Audit Committee's Chairman is elected annually by the Full Council.

The Chairman's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To promote the role of the Audit Committee within the Council and ensure that the Committee's role is understood by all Members of Council, relevant external agencies and the public.
2. To publicise the Committee's activities to other Members, including presenting an annual report to the Annual Meeting of Full Council.
3. To lead on the generation and organisation of business for the Committee.
4. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
5. To ensure that the Vice-Chairman of the Committee is adequately briefed on relevant issues.
6. To ensure Committee Members have appropriate training to undertake their role and to arrange for such training to be provided as necessary.
7. To ensure implementation of the Committee's actions through effective monitoring.
8. To establish effective working relationships with external and internal audit, inspection agencies and other relevant bodies.
9. To establish effective working relationships with the Leader, Cabinet, Cabinet Members and the Chairman of the Scrutiny Committee.
10. To establish effective working relationships with the Senior Leadership Team officers and other Officers.

Vice-Chairman of the Audit Committee

Appointment / Purpose

The Audit Committee's Vice-Chairman is appointed annually by the Full Council.

The Vice-Chairman's primary role is to support the role of the Chairman of the Committee.

Key responsibilities

1. As appropriate to assist the Chairman in managing the Committee's meetings.
2. In co-ordination with the Committee Chairman, to act as a Council spokesperson in respect of the Committee's activities.
3. As and when necessary, to chair meetings of the Committee and in doing so provide effective management of the business to achieve good governance and clear decision making.
4. To develop and maintain a working knowledge of the Committee's functions and the procedures and practices that govern its operation.
5. To establish effective working relationships with external and internal audit, inspection agencies and other relevant bodies.
6. To establish effective working relationships with the Leader, Cabinet, Cabinet Members and the Chairman of the Scrutiny Committee.
7. To establish effective working relationships with Senior Leadership Team officers and other members of staff involved in the Committee's functions.

Chairman of the Standards Committee

Role Purpose

The Chairman of the Standards Committee is elected annually by the Committee from within the independent membership of the Committee.

The Chairman's primary role is to chair meetings and manage the business of the Committee.

Key responsibilities

1. To promote the role of the Standards Committee within the Council and ensure that the Committee's role is understood by all Members of Council and the public.
2. To publicise the Committee's activities to elected Members, including presenting an annual report to the Annual Meeting of Full Council.
3. To lead on the generation and organisation of business for the Committee.
4. To chair the Committee's meetings and provide effective management of the business to achieve good governance and clear decision making.
5. To ensure that the Vice-Chairman of the Committee is adequately briefed on relevant issues.
6. To ensure implementation of the Committee's actions through effective monitoring.
7. To establish effective working relationships with the Leader and other key members of the Council including the Leader of the Opposition and the Chairman of the Scrutiny Committee.
8. To establish effective working relationships with the Monitoring Officer and other Officers as necessary.

Leader of the Opposition

Role Purpose

The leader of the largest Opposition Group on the Council is formally designated 'Leader of the Opposition' by the Council.

This designation acknowledges that the Council's largest political group forms the Council's 'Administration' and that the other political groups are not part of that activity. It identifies the Member responsible for providing the focus for those groups' role in opposition.

Key responsibilities

1. To support the democratic process by ensuring that the activities and decisions of the Administration are examined and, where appropriate, challenged.
2. To bring forward alternatives to policies or operational decisions proposed by the Administration, as appropriate.
3. To ensure that the political group sets their expectations of the Group Leader and that those expectations are delivered.
4. To provide political direction and leadership to his/her group of Members, setting standards and expectations and encouraging Members to play a full part in the running of the Council and being effective community leaders.
5. To provide guidance and support to Opposition Group Spokespersons and Committee Chairmen / Vice-Chairmen as appropriate.
6. To liaise with the Leader of any other political group in Opposition on the Council as appropriate.
7. To be aware of the views of Opposition Members of Council and of other key influencers and use those views in delivering the key responsibilities of the post.
8. To establish effective working relationships with the Leader of Council and the Chairmen of the Council and its Committees.
9. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.

Deputy Leader of the main Opposition Group

Purpose of the Post

As the Leader of the largest Opposition Group on the Council is also formally designated Leader of the Opposition, the purpose of the Deputy Leader of the main Opposition Group is to support the Group Leader and to aid the Group's organisation and activities.

Key responsibilities

1. As required by the Leader, to support the role and activities of the Leader and the Group.
2. To undertake the role of and assume the responsibilities of the Leader in the absence of the Leader or where the Leader is unable to act.
3. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.

Leader of an Opposition Political Group

Purpose of the Post

The purpose of the statutory requirement to designate a Group Leader is to identify and publicise a member of the Group to act as a focal point for the Group and its activities.

Key responsibilities

1. To ensure that the political group sets their expectations of the Group Leader and that those expectations are delivered.
2. To provide political direction and leadership to their group of Members, setting standards and expectations and encouraging Members to play a full part in the running of the Council and being effective community leaders.
3. Together with other opposition group leaders, to support the democratic process by ensuring that the activities of the administration are examined and, where considered necessary, challenged.
4. To provide support and advice to any members of the Group who are Chairs or Vice-Chairs of Committees.
5. When appropriate, to bring forward alternatives to policies or operational decisions proposed by the Administration.
6. To liaise with the Leader of any other political group in opposition on the Council.
7. To establish effective working relationships with the Leader of Council and the Chairmen of the Council and its Committees.
8. To establish effective working relationships with Senior Leadership Team officers and, as appropriate, other staff.

Cabinet Support Member

Appointment / Purpose

Cabinet Support Members are appointed by the Leader of the Council. Their titles and functions are also agreed by the Leader. Their primary role is to provide advice and support to their Cabinet Member.

Key Responsibilities

Cabinet Support Members will be allocated specific service areas to lead and advise the Cabinet member on by the relevant Cabinet member. They are not able to take decisions.

They will:

1. Focus on information gathering and understanding key policy / service delivery areas
2. Assist with the development of options and policies for consideration by the Cabinet member taking into account national policies and local circumstances
3. Brief and make recommendations to Cabinet members and others on relevant issues in relation to policy development and decision making.
4. Represent or deputise for the Cabinet member at meetings or events as necessary.
5. Promote and support good governance of the Council and its business.
6. To keep other Members of Council informed about their activities,
7. To maintain effective working relationships with Senior Leadership Team officers and other Officers.

Opposition Group Spokespersons

Purpose

These posts are held by members of the largest Opposition Political Group on the Council. The sphere of interest of each corresponds with that of a Cabinet Member. The primary role of the post is to provide an effective political counter-balance to the role of the Cabinet Member.

Key responsibilities

In respect of the service area(s) for which the post-holder has an interest:

1. To develop expertise and knowledge.
2. To provide political focus and leadership within the Group's membership.
3. To be the Group's lead spokesperson and 'first' political contact for other Members of Council, the public, press and Officers.
4. To lead the development of approaches to policy and operational approaches on behalf of the Group and to present them at member-level meetings, as appropriate.
5. To be aware of policies being developed and decisions being taken by the Administration, including those taken by individual Cabinet Members, and to challenge/contribute to them as necessary via mechanisms provided for in the Constitution.
6. To keep members of the Group informed.
7. To establish and maintain effective working relationships with Senior Leadership Team officers and other Officers.
8. To establish appropriate contacts with other bodies and with individuals to exchange views and information.

Chairman of Council

Election of / Purpose

The Chairman of Council is elected annually by full Council.

The Chairman's role is to:

- preside at formal meetings of the Council and other Council events
- conduct the affairs of Council and any other duties with no political or personal bias
- represent the County Council in ceremonial and similar events
- advance the interests of the County Council and of Somerset.

Key responsibilities

1. To chair all meetings of Full Council and provide effective management of the business to achieve good governance and clear decision making;
2. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members of Council are able to hold the Leader, Cabinet, Cabinet Members and Officers (where Officers have taken Key Decisions) to account.
3. To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
4. To promote public involvement in the Council's activities.
5. To be the conscience of the Council;
6. To preside at other meetings in connection with the Council's activities, as required.
7. To delegate functions to the Vide-Chairman of Council as the Chairman sees fit.
8. To help ensure that all Members of Council are able to discharge their responsibilities to the best of their ability.
9. To maintain regular contact with Political Group leaders and any Members who do not belong to a Political Group.
10. To represent the County Council and, when appropriate, the County of Somerset, at civic and similar functions, and to host such functions on behalf of the County Council as necessary.
11. To act as host to royalty, civic dignitaries and similar visitors to the County or the County Council.

Vice-Chairman of Council

Appointment / Purpose

The Vice-Chairman of Council is appointed annually by full Council.

The Vice-Chairman of Council provides the Chairman of Council with a dedicated source of support.

Key Responsibilities

1. In the absence of the Chairman, to chair meetings of Full Council.
2. At the Chairman's request, to preside at other meetings in connection with the full Council's activities.
3. As appropriate, to assist the Chairman in the management of Council meetings.
4. To maintain regular contact with Political Group leaders and any Members who do not belong to a Political Group.
5. At the Chairman's request, to represent the County Council and, when appropriate, the County of Somerset, at civic and similar functions, and to host such functions on behalf of the County Council.
6. At the Chairman's request, to act as host to royalty, civic dignitaries and similar visitors to the County or the County Council.

I – SOMERSET COUNTY COUNCIL RECORDING PROTOCOL: THIRD PARTY RECORDING OF COMMITTEES, BOARDS AND PANELS:

In accordance with the Openness of Local Government Bodies Regulations 2014 recording is allowed at all formal meetings of the authority to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings.

In this Protocol references to:

- 'Recording' covers any means used to record the proceedings including filming, auto-recording and the use of photography.
- 'Reporting' covers the reporting of the business of the meeting via any social media.
- 'Council meetings' covers all formal Full Council, Cabinet and Committee meetings which are open to the press and public to attend and other meetings as agreed at the time by the Council.

Accordingly:

1. Recording and reporting of Council meetings is permitted subject to the requirements set out below.
2. Those wishing to record proceedings (including elected members) should, as a courtesy, inform the chair (or clerk) of the committee of their intentions prior to the beginning of the meeting.
3. Where the Council is notified in advance of an intention to record, the Chairman at the start of the meeting will announce that the meeting or part of it may be recorded by a third party and will ask if any member of the public objects to being recorded. If objections are raised by members of the public, then the person responsible for the recording must take all reasonable steps to ensure that an individual request not to be recorded is complied with. Elected members and officers attending a formal public meeting and in an official capacity cannot object to being recorded or filmed.
4. Recordings may be taken by press representatives, members of the public and elected members only be taken from the area designated for the public and:
 - Recording devices must be in silent mode
 - No flash or additional lighting is permitted

Recordings must be taken from one fixed position and must not obstruct others from observing proceedings. Other than in accordance with this provision, members must not record, photograph or film other elected members, staff or members of the public during a meeting.

5. If a meeting includes the consideration of exempt or confidential business then recording must cease prior to the consideration of such business and the recording equipment must be removed from the meeting room for the duration of the consideration of such business. If the person doing the recording is not present then the clerk shall remove the equipment from the meeting room for the consideration of confidential or exempt business.
6. Any person can provide a written commentary during the course of a meeting that falls under this Protocol. Oral commentaries are not permitted within the meeting room during the course of the meeting.
7. The Chairman can require recording to be stopped where:
 - The requirements of section 3 above are not met by the person doing the recording
 - The press and public are excluded from the meeting due to the nature of (exempt or confidential) business being discussed
 - There is public disturbance or a suspension/adjournment of a meeting
 - The recording has become disruptive or distracting to the good order and conduct of the meeting
 - Where it is considered that continuing the recording might infringe the rights of an individual or intimidate them.

Application of this Protocol to Members

The Council's Code of Conduct for Members states that Members must:

- not conduct themselves in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of Members and
- must act in accordance with the Council's reasonable requirements.

Members must therefore have regard to the requirements of this protocol in carrying out their duties.

Rules for use of Recordings by Third Parties

A The law applies to any information recorded and transmitted including the laws on defamation, public order, Human Rights and Data Protection and intellectual property rights. Freedom of speech within the law should also be exercised with personal and social responsibility.

B. Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion, and a clear identification of the main speakers and their role or title.

C. Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts;

recordings may start at any point and end at any point but the material between those points must be complete.

D Those making recordings will be responsible for any breaches of the law resulting from their use of recorded material. The Council takes no responsibility for any recording carried out by a third party or its subsequent use.

Local Councillor

October 2015

Protocol on a page

We have a responsibility to tell Councillors (“Members”) what the Council is doing or plans to do in their area. Councillors also have detailed knowledge of their electoral division and this can help us do our jobs better.

- Councillors **must** be informed at the earliest stage about significant County Council events and issues affecting their electoral division and their constituents. The Council’s Constitution **requires** it.
- In particular Officers must inform Councillors about local impacts of:
 - Changes to council services
 - Council decisions (before and after the decision is taken).
 - Controversial issues (local campaigns / planning applications etc)
 - Events such as opening or closing of premises.

Keeping Councillors informed is vital for good communications, effective decision-making and service delivery.

Key rules:

- Think about informing local Councillors at the earliest possible stage in the development of a proposal or as soon as an issue becomes apparent to you.
- If you’re telling the public about something, tell the Councillor too – ideally beforehand.
- Individual services are responsible keeping Councillors informed. The Communications and Corporate Governance teams cannot do it for you.
- Newly elected Councillors may not be aware of the history of local issues and may need additional briefings from the outset.
- If in doubt consult with senior managers – but assume that it’s better to tell the Councillor than not. The Communications and Corporate Governance teams can also advise you.

The following pages provide detail in support of the Protocol and the responsibilities of Officers and Councillors.

1. Introduction

1.1 This Protocol is for all Officers and sets out the arrangements to ensure that Officers understand the need for keeping Councillors informed, and confirms the arrangements for doing so.

1.2 Our Councillors are decision makers, the voice of their communities, and are often the first point of call for local people when they have a problem.

- They need therefore to know what the Council is doing or proposing to do that directly affects their electoral division.
- They are uniquely placed to bring information and views from the community into the council to help decision making and delivery of services.
- They are democratically accountable for the work the council does including within their own electoral divisions.

1.3 For this reason, Councillors **must be informed about all significant developments affecting their electoral division at the earliest opportunity.**

1.4 As a 'rule of thumb':

- A significant development is anything that may cause a constituent, a local organisation, or the press to contact the Councillor.
- **If in doubt, tell the Councillor anyway.**

Part 3 gives examples of "significant developments".

1.5 Failure to inform Councillors of local developments / issues can result in embarrassment for them locally and complaints from them against Officers. This can be to the detriment of the relationships between Councillors and Officers.

1.6 Overall responsibility for ensuring that this Protocol is implemented rests with the Senior Leadership Team, Strategic Managers and Service Managers although the responsibility for informing Councillors rests with all staff.

1.7 The Council and Officer Scheme of Delegation **requires** local Councillors to be consulted before formal decisions are taken which affect localities and also to be informed of the decision taken. Officers preparing proposals for decision are responsible for ensuring that local Councillors are consulted at the earliest possible stage in the process.

In addition, for decisions proposed to be taken under authority delegated by the Council (and not the Leader / Cabinet) to an Officer, where the local Councillors consulted above so requests, the matter will be referred to the relevant Committee for decision.

1.8 The requirement to inform local members about significant developments goes way beyond formal decisions. A significant development or an issue about Council services may arise in a number of ways and may even be initiated by residents or local groups.

1.9 It is most important to avoid situations where a local Councillor first hears about a significant County Council development or issue affecting their electoral division from a resident or the press.

1.10 General information is made available to Councillors in a variety of ways including electronically through the Council website, the Members' Portal and the monthly Members' Core Brief. However, this does not guarantee that a Councillor will pick up information relating to their local area and is not a substitute for direct contact.

2. Councillor's Roles

2.1 Newly elected Councillors may need time to build up knowledge of local issues and how the Council functions. Bear this in mind when communicating with them, particularly where an issue has a long or detailed history.

2.2 Councillors act on behalf of individual constituents on specific issues. They may also represent the County Council on other groups including school governing bodies.

2.3 The local press often contact Councillors for their views on local issues, particularly where there is likely to be controversy or a major local impact.

2.4 Councillors are in a good position to assess the effectiveness and quality of service delivery at the local level and are therefore a vital communication link between the County Council and local people.

2.5 Councillors have an important role to play in policy and decision-making and it is important that their views and the views of their local communities are heard and taken into account by decision-makers - whether that is Full Council, the Cabinet, Cabinet Members, Committees or Officers.

2.6 Councillors are encouraged to inform relevant Officers of significant local issues which they become aware of and may have an impact on the County Council and its services and to give feedback from their communities.

2.7 Councillors have a responsibility to ensure that they are able to receive communications from officers by SCC email and by phone.

3. Examples of significant issues

3.1 It is not possible to cover everything but the following are examples of the kinds of issues which Councillors might regard as significant.

Inform Councillors of:

3.2 Changes to County Council services including:

- Changes to opening hours or admission arrangements.
- Changes to the type of service provided.
- Introduction of or changes to fees and charges.
- Closures: partial, temporary or permanent.
- Expansions of facilities.
- Planned or programmed highways works.
- Planned or programmed building/maintenance works.
- Changes to 'catchment' areas or areas where a service is provided.
- Changes to rules on financial or professional assistance.
- Communications with parish, town, district or borough councils.

- Major school issues such as closures, amalgamations or schools placed in ‘special measures.’

3.3 Where the Council is taking decisions on issues including:

- Planning applications.
- Traffic management.
- Trading standards.
- Aspects of social care, subject to data and confidentiality rules.
- Local transport matters.

3.4 Potentially controversial issues such as:

- Issues that are or may become of interest to the media
- Planning applications.
- Where a local campaign is developing.
- Multiple letters received by Officers on the same subject.
- Where a local MP has become involved in an issue.
- Where there are concerns about the performance of a County Council service, especially where it is externally assessed.

3.5 Local events. Local Councillors should be involved in, or at least informed of:

- Official visits (for instance by MPs or Royals) in their Division.
- Formal openings of premises or facilities in their Division.

Officers must consider early on whether local Councillors should be invited and, if not, be able to explain why if challenged.

3.6 Corporate issues:

- Formal representations on the part of the County Council on big issues, regional, national, European.
- Formal responses to consultations from government at regional, national or European levels or from ‘quangos’ and other public bodies.

3.7 Civil contingencies

- Councillors can be a key link between the Council and communities during emergencies. It may be appropriate or useful to inform Councillors of incidents affecting part or all of their Division, or services provided in their Division.
- How and when to make contact with Councillors during an emergency should be considered as part of each service area’s Business Continuity Planning process and in the Corporate Business Continuity Plan.
- Full guidance can be found in the [Somerset Elected Members' Emergency Handbook](#)

4. Definition of ‘local Councillor’

4.1 Most local Councillor notifications relate to site or area/locality specific proposals and usually only affect a single electoral division. However, some proposals have a wider impact and Officers will need to judge whether to inform other local Councillors.

4.1.1 The closure of a secondary school, for example, clearly affects a wide catchment area.

4.1.2 Also, road closures, bus routes and library opening times are other examples where more than one electoral division may be affected.

5. Particular requirements relating to formal decisions and the Community Governance team

5.1 Local Councillors should be involved at the earliest possible stage of a decision-making process by the Officer developing a proposal for decision so that they can deal with constituents' concerns and represent constituent's views. Local Councillor support for a plan is very influential.

5.2 For decision reports the Community Governance team will remind report authors about the need to consult local Councillors if it is not clear from a draft report that such consultation has taken place.

The [Decision Making Guidance Notes](#) on the intranet explain Officers' obligations.

5.3 If the Community Governance team identify that a local Councillor has not been consulted but should have been, there may be a delay in the decision being taken whilst the necessary consultation takes place.

6. Who is responsible for notifying local Councillors?

6.1 Each service is responsible for identifying issues that affect local Councillors and establishing their own methods of making contact, in accordance with this Protocol.

6.2 If you are unsure about how or whether to notify a local Councillor on a particular matter please take advice within your own service or from the Community Governance team.

6.3 You should consider carefully whether the relevant Cabinet Member and / or Opposition Group Spokesperson should also be advised of a particular local proposal or issue as they may also be asked by the press or others to comment.

6.4 How to contact Councillors depends on the importance and urgency of the issue. Usually it is better to email or write so that the Councillor has a clear written description of the issue. In urgent cases telephone contact may be necessary.

7. Information about local Councillors and their divisions

7.1. Details of Members and their electoral division areas are available on the Council's internet and intranet.

8. Monitoring and review of this protocol

8.1 Where a Councillor believes that this Protocol is not being followed they should inform the relevant Senior Leadership Team Officer who will investigate in accordance with requirements of the Member / Officer Protocol.

The Councillor who raised the complaint will be informed of the outcome of any investigation and actions resulting from it. If the Councillor is not satisfied with the action taken then they may refer the matter to the Chief Executive for consideration.

9. Data Protection and Confidentiality

9.1 Member roles and legislative provisions mean that in many circumstances personal data **can** be disclosed to Councillors without having to obtain the consent of the data subject, **if** disclosure is necessary for the Councillor to carry out their official duties.

9.2 Councillors are required by the Members' Code of Conduct not to breach confidentiality. Therefore, an issue being confidential does not in itself prevent the sharing of it with the local Councillor, but the Councillor must be made aware that it is confidential.

9.3 Notable **exceptions** to the requirement to share confidential information are:

- Where the issue is about the provision of a personal service from the County Council to the individual or a dependent, **unless** the individual or person in receipt of the service has expressly asked for the involvement of a local Councillor(s) and has agreed that correspondence can be shared, or where the issue is already public, such as in the press or media.
- Where it involves the personal circumstances of an Officer or another Councillor.

9.4 Councillors must ensure that when asked questions by the media requiring them to release information that they know to be or suspect may be confidential, they should have regard to the requirements of the Members' Code of Conduct, make no comment and refer the reporter to an officer in the Communications team.

Julian Gale
Monitoring Officer

Agreed by the Constitution Committee on 27th October 2015