



## Public Document Pack

North Devon Council  
Brynsworthy Environment Centre  
Barnstaple  
North Devon EX31 3NP

K. Miles  
Chief Executive.

To: All Members of the Council  
and Chief Officers

**NOTE: PLEASE NOTE THAT PRAYERS WILL BE SAID AT 2.25 P.M. PRIOR TO THE COUNCIL MEETING FOR ANY MEMBER WHO WISHES TO ATTEND**

### **ANNUAL COUNCIL MEETING**

**YOU ARE HEREBY SUMMONED** to attend a Annual meeting of **NORTH DEVON COUNCIL** to be held in the Barum Room - Brynsworthy on **THURSDAY, 18TH MAY, 2023 at 2.30 pm.**

A handwritten signature in black ink, appearing to read 'K. Miles', is written over a light blue horizontal line.

**Chief Executive**

### **AGENDA**

1. Election of Chair of Council for 2023/24

The Chair will then take the Declaration of Acceptance of Office.

(NOTE: Article 5.8 of the Constitution states that “Neither the Chair of the Council nor the Vice-Chair shall be a Member of the Strategy and Resources Committee”.)

2. Election of Vice-Chair of Council for 2023/24

The Vice-Chair will then take the Declaration of Acceptance of Office.

(NOTE: Article 5.8 of the Constitution states that “Neither the Chair of the Council nor the Vice-Chair shall be a Member of the Strategy and Resources Committee”.)

3. Apologies for absence
4. Declarations of Interest

**(NB. Members only need to re-declare any interests previously declared at Committee and Sub-Committee meetings if the item is discussed at Council).**

5. To agree the agenda between Part 'A' and Part 'B' (Confidential Restricted Information).

## **PART A**

6. **Appointment of Leader of the Council for 2023/24**

To consider the appointment of Leader of the Council for the 2023/24 municipal year.

7. **Appointment of Deputy Leader of the Council for 2023/24**

To consider the appointment of Deputy Leader of the Council for the 2023/24 municipal year.

8. **Appointment of Committees (To Follow)**

Report by Chief Executive (to follow)

- (a) Appointment of Committees and Joint Committees

“That the Council appoints Committees and Joint Committees each with the total number of voting Members and Group allocations as shown in Tables 1 and 2 for the 2023/24 municipal year with the terms of reference set out in the Council’s constitution.”

- (b) Appointment of Councillors to Committees and Joint Committees

“That, as required by section 16(1) of the Local Government and Housing Act 1989, Members be appointed to Committees and Joint Committees in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats as determined at (a) above, as set out for the time being in Table 3 circulated at the meeting.”

- (c) Appointment of Chairs and Vice-Chairs to Committees and Joint Committees

“That the Council appoints Chairs and Vice-Chairs to the Committees and Joint Committees as set out in Table 4 circulated at the meeting for the 2023/24 municipal year.”

- (d) Appointments to the Local Government Association and South West Regional Chamber

“That the Council appoints Members to the Local Government Association and South West Regional Chamber for the period 2023/24 as set out in Table 5 circulated at the meeting and that these appointments be approved duties.”

- (e) **Appointments of Members to the Appointments Committee**  
“That alternative arrangements be made for the appointment of Members to the Appointments Committee in accordance with the powers set out in 3 Section 17 of the Local Government and Housing Act 1989 and the provisions of the Local Government (Committees and Political Groups) Regulations 1990 and that the alternative arrangements provide that the membership of the Appointments Committee be not politically balanced”.
- (f) **Appointment of Members to the Joint Planning Policy Committee**  
“That alternative arrangements be made for the appointment of Members to the Joint Planning Policy Committee in accordance with the powers set out in 3 Section 17 of the Local Government and Housing Act 1989 and the provisions of the Local Government (Committees and Political Groups) Regulations 1990 and that the alternative arrangements provide that the membership of the Joint Planning Policy Committee be not politically balanced”.

9. **Appointment of Lead Members**

To consider the appointment of Lead Members.

10. **Appointments to Outside Bodies** (Pages 9 - 14)

Report by Head of Governance (attached).

11. **Planning Code of Conduct and Review of the Scheme of Delegations** (Pages 15 - 32)

Report by Senior Solicitor and Monitoring Officer (attached)

12. **Appointment of Independent Person** (Pages 33 - 34)

Report by Senior Solicitor and Monitoring Officer (attached).

13. **Assistants for Political Groups** (Pages 35 - 38)

Report by Chief Executive (attached).

**PART B (CONFIDENTIAL RESTRICTED INFORMATION)**

Nil.

**If you have any enquiries about this agenda, please contact Corporate and Community Services, telephone 01271 388253**

10.05.23

## **GUIDANCE NOTES FOR RULES OF DEBATE AT MEETINGS OF COUNCIL**

### Part 4, Council Procedure Rules of the Constitution

#### **The basics**

At a meeting of Full Council, Members shall stand when speaking unless unable to do so and shall address the Chair.

While a Member is speaking, other Members shall remain seated unless rising for a point of order, a point of information or in personal explanation.

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

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

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

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

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

Speeches by other Members may not exceed 3 minutes without the consent of the Chair, unless when the Council's annual budget is under discussion, the leader of each political group on the Council may speak for up to 5 minutes or such longer period as the Chair shall allow.

#### **The rules of Question Time**

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



### **North Devon Council protocol on recording/filming at Council meetings**

The Council is committed to openness and transparency in its decision-making. Recording is permitted at Council meetings that are open to the public. Members of the public that attend meetings must be aware that these meetings are open to the public and so therefore both individuals and the Council itself have the right to record the meeting. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chair of the meeting will make sure any request not to be filmed is respected.

The rules that the Council will apply are:

1. The recording must be overt (clearly visible to anyone at the meeting) and must not disrupt proceedings. The Council will put signs up at any meeting where we know recording is taking place.
2. The Chair of the meeting has absolute discretion to stop or suspend recording if, in their opinion, continuing to do so would prejudice proceedings at the meeting or if the person recording is in breach of these rules.
3. We will ask for recording to stop if the meeting goes into 'part B' where the public is excluded for confidentiality reasons. In such a case, the person recording should leave the room ensuring all recording equipment is switched off.
4. Any member of the public has the right not to be filmed. We ensure that agendas for, and signage at, Council meetings make it clear that recording can take place – anyone not wishing to be filmed must advise the Chair at the earliest opportunity to allow them to be directed to an area in the room where they will not be caught on camera. Subject to paragraphs 1, 2 and 3 above, audio recordings shall be permitted at all times during public meetings.
5. The recording should not be edited in a way that could lead to misinterpretation or misrepresentation of the proceedings or in a way that ridicules or shows a lack of respect for those in the recording. The Council would expect any recording in breach of these rules to be removed from public view.

#### **Notes for guidance:**

Please contact either our Corporate and Community Services team or our Communications team in advance of the meeting you wish to record at so we can make all the necessary arrangements for you on the day.

For more information contact the Corporate and Community Services team on **01271 388253** or email [memberservices@northdevon.gov.uk](mailto:memberservices@northdevon.gov.uk) or the Communications Team on **01271 388278**, email [communications@northdevon.gov.uk](mailto:communications@northdevon.gov.uk).

North Devon Council offices at Brynsworthy, the full address is:  
Brynsworthy Environment Centre (BEC), Roundswell,  
Barnstaple, Devon, EX31 3NP.

Sat Nav postcode is EX31 3NS.

At the Roundswell roundabout take the exit onto the B3232, after about ½ mile take the first right, BEC is about ½ a mile on the right.

Drive into the site, visitors parking is in front of the main building on the left hand side.

On arrival at the main entrance, please dial 8253 for Corporate and Community Services.

All public meetings held at Brynsworthy Environment Centre are held on the ground floor and are accessible through the main entrance to the building or via a ramp located adjacent to the main entrance







## North Devon Council

Report Date: Thursday, 18 May 2023

Topic: Appointments to Outside Bodies

Report by: Head of Governance

### 1. INTRODUCTION

- 1.1. The purpose of this report is to seek the appointment of representatives to Outside Bodies for which the Council currently appoints to.
- 1.2. The report also highlights the legal and insurance position of the Council and clarifies the expectations of appointees to Outside Bodies.

### 2. RECOMMENDATIONS

- 2.1. To appoint Members of Council to the Outside Bodies listed in Appendix A of the report for the life of Council and that attendance at meetings be an approved duty.
- 2.2. To appoint Members of the Council who would be required to act as Directors of the companies for the life of Council as follows:
  - 2.2.1. North Devon + - 2 Members
  - 2.2.2. One Ilfracombe – 1 Member
- 2.3. That all appointees to Outside Bodies be required to report back to Council at appropriate levels, usually annually.
- 2.4. That Council consider whether to re-appoint to the following organisations:
  - 2.4.1. Devon Rail Forum
  - 2.4.2. Ilfracombe and District Business Tourism Association

### 3. REASONS FOR RECOMMENDATIONS

- 3.1. To safeguard the interests of both the Council and the appointees.
- 3.2. To clarify the Council's expectations of appointees to outside bodies.
- 3.3. To improve the Council's knowledge of and communications with outside bodies by requiring reports from appointees.

### 4. REPORT

#### 4.1. Legal Position

- 4.1.1. Members acting as the Council's representatives on other bodies must comply with the Code of Conduct for Members as you are acting in your official capacity as a Member of the Council when sitting on an outside body. The only exception to this would be where there is a conflict between a legal duty you hold to the body to which you are appointed and the interests of the Council, see para 4.1.2 below for more information.
- 4.1.2. The legal obligation of the appointed Member differs according to the type of appointment:



- a) **Directors of Limited Companies** – a Director has a fiduciary duty to act in the best interests of the company. The Director is under a duty to exercise independent judgment; it is not acceptable to simply vote in accordance with a Council mandate. To do so would breach the legal duty owed to the company and expose the Member to personal liability. In the event of a conflict between the interests of the company and the interest of the Council the proposed course of action is for the Member to resign from one or other, further advice can be sought depending on the circumstances of the case.
- b) **Charitable Trustees** – can be personally liable to third parties because as a trust (unlike a company), the charity has no separate legal identity. Trustees are, however, entitled to an indemnity from the charity if they have acted properly in incurring the liability. Trustees remain personally liable when they retired and should therefore seek an indemnity from their successors.
- c) **Unincorporated associations** – examples are clubs and residents associations. These unincorporated associations have no separate legal identity from their members. Therefore, a Council appointee who sits on a management committee will have joint and several liability with other members. If the body has insufficient funds they will be liable for any shortfall.
- d) **Consultative or advisory bodies** – examples are external committees or statutory partnerships which advise the Council on various issues. Nationally there have been national difficulties when an elected Member champions a position taken by the body. This may result in Council decisions being subject to the risk of successful challenge.

## 4.2. Insurance Position

4.2.1. The Council's insurance covers appointees to a certain extent. It covers the Council's: "Business .... which is held to include...activities of employees and Members approved by the insured in connection with outside organisations but only where the insured is legally entitled to: (i) approve such activities and (ii) indemnify such employees and Members in respect of such activity".

4.2.2. The extent to which the Council is legally entitled to indemnify a Member who is acting in the best interest of another organisation is limited and will vary from case to case.

4.2.3. Therefore a Member appointed by the Council is not allowed to act in the interest of the Council because of the duty they give to the body they were appointed to and the appointee can become personally liable.

4.3. **Appointments to Outside Bodies** - in order to safeguard the interests of both the Council and the appointed Councillor:



4.3.1. The Council will only expect appointees to act as advisors and communication links to the outside body. The Council will not ask appointees to become Directors of companies or trustees of charities. Nor will the Council expose Councillors to personal liability by asking them to be committee members of unincorporated associations (This paragraph is subject to 4.3.3 below).

4.3.2. The Council will only appoint Councillors or officers to outside bodies. Other people will not be considered for appointment. (This paragraph is subject to 4.3.3. below).

4.3.3. There might be instances in which the Council goes against 4.3.1 and 4.3.2 above such as appointments of Councillors to act as Directors to North Devon+ and One Ilfracombe. If this occurs they will be specifically identified for exceptional cases. The Council's expectations of the appointee will be clearly explained in writing to the appointee.

4.3.4. All appointees will be expected to report back to Council at appropriate intervals, usually annually in March/April. This will be made clear in the letter of appointment.

4.3.5. It should be noted that these measures do not stop appointees exceeding the brief given them by the Council, by for example becoming a Director or a Trustee. However this will be in a purely personal capacity and they will not be acting as representatives of the Council.

4.4. Although the previous member appointed to the Ilfracombe and District Business Tourism Association did not consider the appointment to be relevant to North Devon Council, the Association has confirmed that they would still wish the Council to make an appointment. It is for Council to decide if it wishes to do so.

4.5. The previously appointed member to Devon Rail Forum also did not consider the appointment to be relevant to North Devon but again it is for Council to decide whether it wishes to do so..

## 5. RESOURCE IMPLICATIONS

5.1. Attendance at meetings of outside bodies are approved duties and therefore Councillors are eligible to claim allowances in accordance with the Scheme of Members Allowances.

## 6. EQUALITIES ASSESSMENT

6.1. Not applicable. All Councillors are eligible to be appointed as Council representatives on Outside Bodies.

## 7. ENVIRONMENTAL ASSESSMENT

7.1. There are no environmental implications arising from this report.



## 8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: Not applicable

8.1.2. Improving customer focus and/or: Not applicable

8.1.3. Regeneration or economic development: Not applicable

## 9. CONSTITUTIONAL CONTEXT

9.1. Article 4.5.7, Council Procedure Rules, Part 4, paragraph 1.2.7

## 10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

Report to Council on 16 May 2019 and report to Council on 15 March 2023.

## 12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Head of Governance, Chief Executive, Senior Solicitor and Monitoring Officer.

# Agenda Item 10

Appendix a

Outside Body	Number of Representative(s)	Notes For Consideration
Barnstaple and District Chamber of Commerce	1	
Barnstaple Town Centre Management	2	
Barnstaple Youth House Association	1	
Braunton Marsh Internal Drainage Board	3	
The Bridge Trust	2	
Chulmleigh Town Hall Committee	1	
Citizen's Advice (Torrige, North Devon, Mid Devon and Bude)	1	
Combe Martin Business Association	1	
Campaign for the Protection of Rural England (CPRE)	1	
Devon and Cornwall Police Crime Panel	1	
Devon Districts Forum	2 (1 Member and 1 Officer)	
Devon Rail Forum (formerly Devon and Exeter Rail Project Working Party)	1	Member appointed believes that this appointment is not relevant to NDC interests.
Devon Waste Reduction and Recycling Committee	1	
District Council's Network Assembly	1	
Exmoor National Park Authority	2	
Go North Devon	1	

# Agenda Item 10

Appendix a

Ifracombe and District Business Tourism Association	1	It has been previously noted by appointed Members that they did not think this appointment was relevant to NDC interests.  IDBTA was contacted and believe that a Member being appointed to them is desired.
North Devon Against Domestic Abuse	1	
Northern Devon Areas of Outstanding Natural Beauty	1	
North Devon Athenaeum	1	
North Devon Biosphere	1	
Northern Devon Growth Board	1	
North Devon County Locality Committee  <i>(This meeting follows immediately after HATOC)</i>	3	
North Devon Highways and Transport Orders Committee	2	
North Devon Voluntary Services	1	
One Barnstaple	1	
PATROL	1	
Safer North Devon Community Safety Partnership Board	1	
South West Provincial Council for Local Authority Services	1	
Trustees of Pilton Charities	1	This Outside Body has previously appointed by Mr Cameron, who has retired from this position as of April 2023.
Woolacombe and Morteohoe Tourism Association	1	



## North Devon Council

Report Date: Thursday, 18 May 2023

Topic: Planning Code of Conduct and Review of the Scheme of Delegations

Report by: Senior Solicitor and Monitoring Officer

### 1. INTRODUCTION

- 1.1. Each year Annual Council considers the Scheme of Delegations as provided in the Constitution as a standing item to ensure that it remains appropriate and up to date.
- 1.2. The Planning Code of Conduct has been revised to represent up to date national guidance and to ensure its inclusion in the published Constitution.

### 2. RECOMMENDATIONS

- 2.1. That the Scheme of Delegations for the discharge of functions for the year 2023/24 as set out in Part 3 of the Constitution be adopted with the amendments as provided in Appendices 1 and 2 to this report.
- 2.2. That the revised Planning Code of Conduct as provided in Appendix 3 to this report be included in the Constitution in Part 5 and that this replaces the current Planning Code of Conduct as published on the Council's website.

### 3. REASONS FOR RECOMMENDATIONS

- 3.1. To provide additional clarity to the exclusions from the delegated powers of the Head of Planning Housing and Health to make a planning decision in respect of a planning application made by a Member, an Officer (or their respective partners) or by the Council itself consistent with the revised Planning Code of Conduct.
- 3.2. To proceed with the resolution of the Governance Committee on 27 March 2023 that the Committee's Terms of Reference be updated as provided in Appendix 2 to this report, be recommended to Full Council for approval.
- 3.3. To ensure that the Constitution, and the delegated powers and Codes within it, remains up to date.

### 4. REPORT

- 4.1. The Scheme of Officer Delegations was recently reviewed at the Council meeting on 20<sup>th</sup> July 2022 and further adjusted at the Council meeting on 22 February 2023 and so it is considered that, save as provided in 4.2 below, this remains up to date. Similarly, other delegations within Part 3 are also considered to be up to date.
- 4.2. On review, it is considered that the wording at paragraph 5.2.5(a)(iv) of Annexe 2 of Part 3 of the Constitution, which relates to the exclusion to the delegated power of the Head of Planning Housing and Health to decide planning applications, requires further clarity. In this case the exclusion



relates to where the Council itself, a Member (or their partner) or an Officer (or their partner) puts in a planning application. It is considered that the wording provided at paragraph 5.2.5(a)(iv), while acceptable, leaves the potential for quite wide interpretation which leads to the potential for inconsistency.

- 4.3. The proposed amendment to paragraph 5.2.5(a)(iv) is provided at Appendix 1 to this report. It is considered that this will provide additional clarity and transparency in terms of which planning matters fall outside of the Head of Planning Housing and Health's delegated powers and therefore must be referred to Planning Committee for a decision. This includes situations where a Member is, pursuant to their profession, involved in a planning application and likewise provides additional provision for officers who may not be in the "Planning Service" but are heavily involved with the planning process or otherwise exert influence over it.
- 4.4. The principle behind this exclusion being to ensure that the Head of Planning Housing and Health (and those he nominates to also hold this power in common with him) cannot be at risk of being influenced in the decisions that he takes.
- 4.5. The terms of reference, in Annexe 1 to Part 3 of the Constitution, for Governance Committee are reviewed annually. At the last meeting on 27 March 2023 the Committee reconsidered the wording in its terms of reference as regards its standards function, the Governance Committee being formed from an amalgamation of the former Audit Committee and Ethics Committee. As provided in the minutes of the Governance Committee, the amendment as proposed at Appendix 2 to this report will allow greater clarity as to what Members on Governance Committee should be considering in the context of its standards function.
- 4.6. The Planning Code of Conduct is published on the Council's website and is referenced in the Constitution but not included. It has not been reviewed for some time and has become inconsistent with the Members' Code of Conduct, which was replaced with the Local Government Association's model Code of Conduct in 2021.
- 4.7. The intention of having a Planning Code of Conduct is to reflect the increased potential for lobbying, pre-determination and conflicts of interest which it is advisable to address by a supplemental Code specific to the issues which are covered by the Council's role as local planning authority.
- 4.8. As with the Members' Code of Conduct, the proposed Planning Code of Conduct, as provided in Appendix 3 to this report, is based on the Local Government Association's most up to date edition of Probity in Planning. Accordingly this is recommended best practice for local planning authorities to follow. It works alongside the Members' Code of Conduct and the Employees' Code of Conduct, supplementing these Codes rather than replacing them. The intention of the new Planning Code of Conduct is to





create clearer guidance for Members and Officers alike and also greater transparency for members of the public to understand how the Council ensures that decisions are taken appropriately and lawfully. It is considered that this Planning Code of Conduct should be added to the Constitution in Part 5 along with the Members' Code of Conduct and the Employees' Code of Conduct.

## 5. RESOURCE IMPLICATIONS

5.1. There are none arising from this report.

## 6. EQUALITIES ASSESSMENT

6.1. There are no equalities implications anticipated as a result of this report, the intention being to amend existing constitutional documentation to increase openness and transparency as to how the Council takes decisions.

## 7. ENVIRONMENTAL ASSESSMENT

7.1. There are no environmental implications arising from this report.

## 8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: Not applicable

8.1.2. Improving customer focus: The proposed updates to the Constitution will remove inconsistencies and allow customers to better understand how the Council makes decisions and ensures that such decisions are fair and lawful.

8.1.3. Regeneration or economic development: Not applicable

## 9. CONSTITUTIONAL CONTEXT

9.1. Article 13.3.1(a) and Part 4 paragraph 1.1.6

## 10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report:

- Constitution
- Local Government Association's Probity in Planning (2019 edition).

(The background papers are available for inspection and kept by the author of the report).

## 12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Simon Fuller, Senior Solicitor and Monitoring Officer

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## CURRENT WORDING OF PART 3 ANNEXE 2 PARAGRAPH 5.25(a)(iv)

To consider and determine any application (excluding applications for particular applications that are specifically referred to elsewhere in this section) submitted pursuant to the Planning Acts or any regulations or orders made pursuant to the Planning Acts (as revoked and replaced or amended from time to time) excluding an application:

(a) which in the opinion of the Head of Planning Housing and Health:

...

(iv) is an application submitted by the Council, a Member or Officer (or their respective partners) who at the time of submitting the application is part of the Planning Service, except that in the case of such an application by an Officer (or their partner), the Head of Planning Housing and Health may still determine the application so long as he has previously consulted with the Monitoring Officer and the Officer concerned does not participate in the processing or determination of the application; or

## REVISED WORDING OF PART 3 ANNEXE 2 PARAGRAPH 5.25(a)(iv)

To consider and determine any application (excluding applications for particular applications that are specifically referred to elsewhere in this section) submitted pursuant to the Planning Acts or any regulations or orders made pursuant to the Planning Acts (as revoked and replaced or amended from time to time) excluding an application:

(a) which in the opinion of the Head of Planning Housing and Health:

...

(iv) is an application submitted by:

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

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## CURRENT TERMS OF REFERENCE

### GOVERNANCE COMMITTEE

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

- (a) Audit functions including receiving and considering reports and making recommendations on them
- (b) Risk management and corporate governance including considering reports from the Local Government Ombudsman.
- (c) Reviewing the annual statement of accounts
- (d) Standards function including dealing with complaints regarding Councillor conduct and the imposition of sanctions.
- (e) Electoral matters including Community Governance Reviews
- (f) Human Resources and Personnel matters including pensions issues
- (g) To hear any appeal in respect of any grievance or disciplinary decision taken by officers

## PROPOSED REVISED TERMS OF REFERENCE

### GOVERNANCE COMMITTEE

Number of Members	Special Requirements	Quorum	Notes

9	<p>Membership of the Committee cannot include Strategy and Resources Members.</p> <p>Members of the Committee must be trained prior to sitting on the Committee (NOTE: Failure to attend the required training will result in exclusion from sitting on the Committee)</p>	3 – Provided at least two political groups are represented	<p>The role of the Committee is to promote good behaviour amongst Councillors and to ensure that all business conducted by the Council is carried out within the law, in accordance with the Constitution and also in accordance with statutory Codes. It is also to promote improvement in governance issues</p>
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- (a) Audit functions including receiving and considering reports and making recommendations on them
- (b) Risk management and corporate governance including considering reports from the Local Government Ombudsman.
- (c) Reviewing the annual statement of accounts
- (d) Standards function including:
  - i. To promote and maintain high standards of conduct by Members and Co-opted Members of the Council.
  - ii. To make recommendations to the Council on the adoption, and revision of a local Code of Conduct for Members and Co-opted Members, and to monitor and review its operation.
  - iii. To make recommendations to the Council on the adoption, and revision of a Code of Conduct for officers of the Council.
  - iv. To approve guidance and protocols to supplement the Code of Conduct for Members and Co-opted Members.
  - v. To approve arrangements for dealing with written allegations of failure to comply with their Code of Conduct by Council, Parish or Town Council Members or Co-opted Members.
  - vi. To approve training and assistance for Members and Co-opted Members in conduct matters and to approve arrangements for advice to individuals on the treatment of interests and on conduct generally.
  - vii. To grant dispensations to Council Members to allow them to speak on, participate in the discussion of and/or participate in a vote on matters in which they have an interest and to approve the arrangements for dispensations generally.
- (e) Electoral matters including Community Governance Reviews
- (f) Human Resources and Personnel matters including pensions issues
- (g) To hear any appeal in respect of any grievance or disciplinary decision taken by officers

## PLANNING CODE OF CONDUCT

### 1. Introduction

- 1.1 Decisions on plan making and planning applications must be undertaken, on behalf of communities, in a fair, impartial and transparent way. This Code of Conduct has been written for officers and councillors involved in making planning decisions.
- 1.2 This Planning Code of Conduct is supplemental to the Council's Constitution, the Member's Code of Conduct and the Employee's Code of Conduct, should be read in conjunction with those documents and where there is any conflict or inconsistency then those documents shall prevail.
- 1.3 Officers who are chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. The RTPI provides advice for planning professionals on matters of probity aimed at supporting planners in exercising their independent professional judgement, and promoting public confidence in the planning system.
- 1.4 Officers and (save insofar as their involvement is purely on the basis of their employment, trade, profession or vocation) councillors must not act as agents for people pursuing planning matters within their authority, even if they are not involved in the decision making on them. In addition, officers must always act impartially and in a politically neutral manner.

### 2. Interests

- 2.1 Councillors should refer to the Member's Code of Conduct for the detail of the requirements for registering and declaring interests.
- 2.2 It is important for councillors to identify a potential interest in a planning decision early on and raise this with the Monitoring Officer as soon as possible. Advice should always be sought from the Council's Monitoring Officer where there is any uncertainty over what action the Councillor should take in compliance with the Member's Code of Conduct. Ultimately, responsibility for fulfilling the requirements rests with each councillor.
- 2.3 The provisions of the Localism Act 2011 (as amended) seek to separate interests arising from the personal and private interests of the councillor from those arising from the councillor's wider public life. Councillors should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the councillor's involvement would be appropriate or not.

### 3. Pre-disposition, Pre-determination and bias

- 3.1 Members of a planning committee, local plan steering group or full council (when the local plan is being considered) need to avoid any appearance of bias or having 'predetermined' views when making a decision on a planning application or policy.

- 3.2 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is indicative of a 'closed mind' approach and may leave the grant of planning permission vulnerable to challenge by Judicial Review.
- 3.3 Predisposition is where a councillor may have a pre-existing opinion or attitude about the matter under discussion, but remains open to listening to all the arguments and changing their mind in light of the information presented at the meeting. Section 25 of the Localism Act 2011 (as amended) clarifies that a councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicates what view they might take in relation to any particular matter.
- 3.4 A councillor in the position as outlined in paragraph 3.3 above will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the councillor was biased.
- 3.5 Planning issues must be assessed fairly and on their planning merits, even when there is a predisposition in favour of one side of the argument or the other. Avoiding predetermination and the impression of it is essential. The decision making process must be seen to be fair and impartial from the perspective of an external observer. Particular care must be taken when using social media (e.g. a councillor who posts: "Wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before the committee" will be perceived very differently from a councillor who posts: "Many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area").
- 3.6 If a decision maker (which, for the avoidance of doubt, may be an officer or a councillor as applicable) has predetermined their position, they should withdraw from being a member of the decision making body for that matter. This applies to any member of the planning committee who wants to speak for or against a proposal as a campaigner (for example on a proposal within their ward).
- 3.7 The leader of the Council and relevant lead member for the Council's planning service play an important role driving planning policies and proposals so (subject to paragraph 3.8 below) should normally exclude themselves from the Council's Planning Committee. This is to avoid the perception of a conflict of interests and predisposition.
- 3.8 Where a member who is a relevant lead member for the Council's planning service is to be involved in the Council's Planning Committee they will need to withdraw when the committee is considering the Council's own schemes or other applications that they have been seen to support previously.



## **4. Development proposals**

4.1 Planning applications or proposals for changes to a local plan submitted by serving and former councillors, officers and their close associates and relatives can give rise to suspicions of impropriety. Such proposals must, subject to paragraph 4.2 below, be handled consistently with any other planning applications and not treated in such a way as to give grounds for accusations of favouritism.

4.2 In relation to proposals submitted by serving councillors or planning officers (or their respective partners):

- (a) if they submit:
  - (i) their own proposal; or
  - (ii) (in the case of a councillor or their partner only) a proposal on behalf of another acting pursuant to their employment, trade, profession or vocation (or have otherwise been formally contracted in connection with such proposal);to the Council they should play no part in its consideration;
- (b) a system should be devised to identify and manage such proposals and ensure probity in decision making; and
- (c) the Monitoring Officer should be informed of such proposals.

4.3 A councillor would undoubtedly have a disclosable pecuniary interest in their own or their partner's application and should not participate in its consideration. They have the same rights as any applicant in seeking to explain their proposal to an officer, but the councillor, as an applicant, should also not seek to influence the decision improperly.

4.4 Proposals for the Council's own development should be treated with the same transparency and impartiality as those of private developers.

## **5. Lobbying of and by councillors**

5.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee. Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, and so care and common sense must be exercised by all parties involved.

5.2 In line with paragraph 3 on pre-determination above, when being lobbied:

- (a) councillors should try to take care expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have considered all the application materials and arguments for and against the development proposal; and
- (b) a councillor should restrict themselves to giving advice about the process and what can and can't be taken into account. Councillors can raise issues which have been raised by their constituents with officers. If councillors do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after they have heard all

the relevant arguments, and have taken into account all relevant material and planning considerations at committee

- 5.3 If any councillor, whether or not a committee member, speaks on behalf of a lobby group at the decision making committee, they should withdraw from the meeting once any public or ward member speaking opportunities have been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence.
- 5.4 Lobbying can take many forms and where there are concerns, advice should immediately be sought from the Monitoring Officer, although it must be reiterated that compliance with this paragraph 5 is ultimately the responsibility of the individual councillor.
- 5.5 Planning decisions cannot be made on a party political basis in response to lobbying - the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration
- 5.6 Planning committee or local plan steering group members should in general avoid organising support for or against a planning application, and avoid lobbying other councillors
- 5.7 Councillors should not put pressure on officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the officers' impartiality or professional integrity.
- 5.8 Where a councillor seeks to require a proposal that would normally be determined under the delegated authority of an officer to be called in for determination by the planning committee, the reasons for call-in must be recorded in writing and refer solely to matters of material planning concern.
- 5.9 Councillors and officers should be cautious about accepting gifts and hospitality in general and especially where offered by lobbyists. It is not enough to register such gifts. Any councillor or officer receiving offers over £50 should let the council's monitoring officer know, in writing, and seek advice as to whether they should be accepted or declined, such consideration being based on the purpose of the hospitality, proportionality and the avoidance of any conflict of interest.

## **6. Discussions before a decision is taken**

- 6.1 Pre-application discussions between a potential applicant and the Council can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- 6.2 Section 25 of the Localism Act 2011, which establishes prior indications of view of a matter not to amount to predetermination, has given councillors much more freedom to engage in pre-application discussions.

Nevertheless, in order to avoid the perception that councillors might have fettered their discretion, such discussions should ensure:

- (a) Clarity at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
- (b) Consistent advice is given by officers based upon the development plan and material planning considerations.
- (c) That councillors avoid giving separate advice on the development plan or other material planning considerations, as they may not be aware of all the issues at an early stage. Councillors should not become drawn into any negotiations, which should be done by officers (keeping interested councillors up to date) to ensure that the Council's position is co-ordinated.
- (d) A commitment is made that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to committee could appear to be advocacy.

6.3 Officers should arrange any meetings where discussions as envisaged by paragraph 6.2 may take place, attend these with councillors and make a written record of the meeting placing this note on the case file. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.

6.4 Councillors also talk regularly to constituents to gauge their views on matters of local concern – which can include planning applications. Where it is apparent that such discussions may engage paragraph 6.2 above and an officer is not present then such discussions should be registered by the councillor with the planning officer and notes written to evidence compliance with paragraph 6.2.

## **7. Officer reports**

- 7.1 Officer reports on planning applications must have regard to the following:
- (a) Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
  - (b) Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the NPPF, any local finance considerations, and any other material planning considerations.
  - (c) Reports should have a written recommendation for a decision to be made.
  - (d) Reports should contain, where relevant, technical appraisals which clearly justify the recommendation.

- (e) If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.
- (f) Where an application is being taken to Committee which might otherwise have been decided under delegated officer powers in accordance with paragraph 5.25 of Annexe 2 to Part 3 of the Constitution (including applications covered by paragraph 4 above) this should be highlighted.
- (g) Any oral updates or changes to the report should be recorded.

7.2 Appropriate interventions by the legal officer at the committee meeting itself might be needed in order to correct any misconceptions on specific issues raised in an officer report.

## **8. Public speaking at Planning Committees**

8.1 Clear protocols as provided by 8.2 below should be established about who is allowed to speak, including provisions for applicants, supporters, ward councillors, parish councils and third party objectors.

8.2 In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the local planning authority in writing.

8.3 New documents should not be circulated to the committee as councillors may not be able to give proper consideration to the new information, and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. Late information might lead to a deferral. This should be made clear to those who intend to speak.

8.4 Messages should never be passed to individual committee members, either from other councillors or from the public. This could be seen as seeking to influence that member improperly and will create a perception of bias that will be difficult to overcome.

## **9. Decisions which differ from an officer recommendation and 'departures'**

9.1 The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990). This applies to all planning decisions.

9.2 Any reasons for refusal must be justified against the development plan and other material considerations. The committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other non material considerations which might cause local controversy, will rarely satisfy the relevant tests.

- 9.3 If a councillor is concerned about an officer's recommendation they should discuss their areas of difference and the reasons for that with officers in advance of the committee meeting. Care should be taken, however, to ensure that this does not lead to predetermination of a decision.
- 9.4 The detailed reasons as to why the planning committee should differ from an officer recommendation must be recorded as part of the mover's motion.
- 9.5 The committee meeting should be adjourned for a few minutes for those reasons to be discussed and then agreed by the committee.
- 9.6 Where there is concern about the validity of reasons, consideration should be given to deferring to another meeting to have the reasons tested and discussed.
- 9.7 If the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or section 106 planning obligations):
- (a) A detailed minute of the committee's reasons should be made and a copy placed on the application file.
  - (b) Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation, which should be set in the context of the development plan or the NPPF.
  - (c) The officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome based on policies set out in the development plan and the NPPF, and chances of a successful award of costs against the local authority, should one be made
- 9.8 All applications that are clearly contrary to the development plan must be advertised as such, and are known as 'departures' from the development plan. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the development plan must be clearly demonstrated.

## **10. Committee site visits**

- 10.1 The Member's Code of Conduct applies to site visits and the Council must adopt a clear and consistent approach on when and why to hold a site visit and how to conduct it as follows:
- (a) Site visits should only be used where the benefit is clear and substantial in light of (e) below. Officers will have visited the site and assessed the scheme against policies and material considerations already
  - (b) The purpose, format and conduct should be clear at the outset and adhered to throughout the visit
  - (c) Where a site visit can be 'triggered' by a request from the ward councillor, the 'substantial benefit' test (at (a) above) should still apply

- (d) A record should be kept of the reasons why a site visit is called, this includes where the planning committee defer consideration of an application for a site inspection.
  - (e) A site visit is only likely to be necessary if:
    - (i) the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers;
    - (ii) the comments of the applicant and objectors cannot be expressed adequately in writing; and/or
    - (iii) the proposal is particularly contentious.
- 10.2 Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.
- 10.3 Once a councillor becomes aware of a proposal they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

## **11. Training**

- 11.1 Councillors must undertake training on planning organised by the Council when first appointed to the planning committee or any local plan steering group.
- 11.2 Councillors shall attend regular ongoing training on decision making, the Member's Code of Conduct as well as on planning matters.
- 11.3 Failure to attend the above mandatory training will result in the councillor not being able to sit on planning committee or take part in decision making.

## **12. Reviewing past planning decisions and the outcomes**

- 12.1 The Planning Committee shall visit a sample of implemented planning permissions, to assess the quality of the decisions and the development, on an annual or more frequent basis to improve the quality and consistency of decision making, strengthen public confidence in the planning system, and help with reviews of planning policy.
- 12.2 Reviews should include visits to a range of developments such as major and minor schemes, upheld appeals, listed building works and enforcement cases. Briefing notes should be prepared on each case. The planning committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

## **13. Complaints and record keeping**

- 13.1 Where a complaint is raised pursuant to this Planning Code of Conduct then it shall be dealt with as follows:
  - (a) By the Service Manager (Development Management) insofar as it relates to a decision taken by the local planning authority or the operation of the planning service.

- (b) By the Monitoring Officer insofar as it relates to the Member's Code of Conduct as supplemented by this Planning Code of Conduct or decisions are considered to have been made unlawfully or otherwise in contravention of the Council's Constitution including as provided by paragraph 4.2 above.
  - (c) By the Council's Feedback team if a general complaint is to be raised in relation to an apparent failure to comply with this Planning Code of Conduct or a matter is considered to have not been dealt with appropriately.
- 13.2 Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by committee and under delegated powers, and to applications, enforcement and development plan matters.

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## North Devon Council

Report Date: Thursday, 18 May 2023

Topic: Appointment of Independent Person

Report by: Senior Solicitor and Monitoring Officer

### 1. INTRODUCTION

1.1. Under s.28(7) of the Localism Act 2011 the Council is required to appoint an Independent Person to assist the Council in promoting and maintaining high standards of conduct amongst the elected members of the District Council and all Parish and Town Councils in the District Council's area.

1.2. Mr R Jeanes currently holds the position of Independent Person and this report recommends that the appointment continues for the current Council term.

### 2. RECOMMENDATIONS

2.1. To continue the appoint of Mr Rob Jeanes as Independent Person with effect from 18<sup>th</sup> May 2023 for a four year term

### 3. REASONS FOR RECOMMENDATIONS

3.1. To ensure that this statutory role is filled.

### 4. REPORT

4.1. Under Section 28 of the Localism Act 2011, local authorities (other than parish and town councils) must have in place 'arrangements' under which allegations that an elected or co-opted councillor of the authority or of a town or parish council within the principal authority's (in this case the District Council's) area has failed to comply with the authority's Code of Conduct can be considered and decisions made on such allegations.

4.2. It is for the District Council to decide the details of those arrangements, but it must appoint at least one Independent Person whose views are to be taken into account before making a decision on a complaint that the District Council has decided to investigate.

4.3. Mr Rob Jeanes has acted as Independent person during the previous two Council terms and has been particularly effective. He has supported the aims of the Council to improve standards but has also been willing to challenge views put forward in respect of complaints. He is highly experienced and responds to queries from the Monitoring Officer efficiently and with helpful information for consideration. It is therefore recommended that his appointment continue for a further four year term.

### 5. RESOURCE IMPLICATIONS

5.1. There are none arising from this report.



## 6. EQUALITIES ASSESSMENT

6.1. Not applicable as the proposal is to continue an existing appointment.

## 7. ENVIRONMENTAL ASSESSMENT

7.1. There are no environmental implications arising from this report.

## 8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: Not applicable

8.1.2. Improving customer focus: This is a statutory role, however the appointment of an effective Independent Person improves the ability of the Monitoring Officer and/or Governance Committee to handle Code of Conduct complaints efficiently.

8.1.3. Regeneration or economic development: Not applicable

## 9. CONSTITUTIONAL CONTEXT

9.1. Article 4.5.18

## 10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

## 12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Simon Fuller, Senior Solicitor and Monitoring Officer



## North Devon Council

Report Date: Thursday, 18 May 2023

Topic: Assistants for Political Groups

Report by: Chief Executive

### 1. INTRODUCTION

1.1. The Local Government and Housing Act 1989 section 9 provides Local Authorities to appoint political assistants, subject to conditions.

1.2. This reports appraises Council of those provisions and conditions.

### 2. RECOMMENDATIONS

2.1. That Council notes the report.

### 3. REASONS FOR RECOMMENDATIONS

3.1. There is no recommendation for action to be made. Any decision to act on the report is a matter for Councillors.

### 4. REPORT

4.1. The Local Government and Housing Act 1989 section 9 makes it possible for Local Authorities to appoint political assistants subject to the following conditions:

4.1.1. **Employer** – the Council is the employer, not the political group.

4.1.2. **Job Purpose**

- a) The appointment must be for the purpose of providing assistance to the members of a political group in the discharge of their functions as members of the Authority.
- b) No delegated powers are available to the political assistant.
- c) No officer can be required to work under their direction, save for the provision of secretarial or clerical services.

4.1.3. **Group Qualification** – Political Groups will only qualify if they comprise at least 10% of the membership of the Authority and are one of the three largest groups of the Authority. The exception is where only one political group accounts for at least 10% of the membership, in which case the next largest group also qualifies.

4.1.4. **Number of Appointments**

- a) There can be no more than three such appointments across the Authority.
- b) Each group can only have one political assistant.

4.1.5. **Filling the Posts**

- a) If the Council decide to do so it must allocate a post to each political group qualifying for one before any appointment may be made. It



would be a matter for each group to decide whether to take up the offer.

- b) All appointments of staff must be made on merit and therefore advertised in the normal way. In the case of political assistants, the procedures relating to the appointment of staff should be amended so that the post can be filled according to the wishes of the political groups to be assisted. This means that if there are two candidates of equal political “attractiveness”, the more able to perform the role must be appointed.
- c) Members of the Council cannot be appointed to any paid office whilst they remain Members and for a period of 12 months thereafter.
- d) Nothing in the Act prevents the secondment to a political group of officers conventionally appointed and accordingly appointed on merit without regard to their political sympathies or affiliations.

#### 4.1.6. **Terms of Employment**

- a) In accordance with sub section 3 (a) the Regulations relating to Political Assistants provide for a maximum term of office to end “before the end of in the case of a post under an authority in England and Wales, the day in the appropriate year on which the authority hold the meeting which they are required to hold in pursuance of paragraph 1 of Part I of Schedule 12 to the Local Government Act 1972 (annual meeting of principal councils); “
- b) The 2023/24 approved Revenue Budget does not contain any provision for these posts and the costs for this year would need to be met from reserves. Future years budget would need to be adjusted accordingly if the posts are approved.
- c) The remuneration of each political assistant must not exceed spinal column point 32 of the salary scales for Local Government officers i.e. £38,296 or its part-time equivalent. However, under the Council’s procedures for the establishment of a new post, the post will be subject to a written job description and evaluated in accordance with the Council’s Job Evaluation scheme. For this purpose the Job Description of the Political Assistant post previously appointed by Council could be used as a guide.

4.1.7. **Constitution** – there will be a need to amend the Constitution to incorporate the requirements of sub-section 2(d) of the Local Government and Housing Act 1989.

4.2. Members should be aware of government guidance on local authority political assistants which includes guidance on when to consider their appointment as follows:



*When considering how best to manage their resources, councils should be certain to take into account their use, potential use, or necessity of local authority political assistants.*

*While these politically restricted advisers can provide elected members with a different perspective, offering the type of advice other council staff cannot, local authorities should remember that they are taxpayer-funded employees and should not be exempt from wider discussions about how to make the authority as efficient and effective as possible.*

*All local authorities, and individual political groups themselves, should therefore have particular regard to financial considerations when determining the need for a political assistant.*

*These considerations are especially relevant where a political group is represented by a small number of councillors but nevertheless qualifies for a political assistant. Where such cases arise, local authorities should pay particular attention to the value for money of employing an assistant and whether they can justify this to local residents.*

*The local authority cannot delegate any functions to an assistant, and no other authority officer can be required to work under the direction of an assistant (other than in respect of secretarial or clerical services)*

## 5. RESOURCE IMPLICATIONS

- 5.1. The costs of the appointments will be influenced by the number of hours worked and the actual salary of the specific posts.
- 5.2. The 2023/24 approved Revenue Budget does not contain any provision for these posts and the costs for this year would need to be met from reserves. Future years budget would need to be adjusted accordingly if the posts are approved.
- 5.3. Any new appointments made could have a knock on effect on existing secretarial and/or administrative support staff if such are needed, which in the first instance would have to be met from existing resources.

## 6. EQUALITIES ASSESSMENT

- 6.1. Not required as report is for information purposes only. The appointment procedure will follow Council procedures and will be an open process for suitable applicants to apply.

## 7. ENVIRONMENTAL ASSESSMENT

- 7.1. Not required as report is for information purposes only.



## 8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: Not applicable

8.1.2. Improving customer focus and/or: Not applicable

8.1.3. Regeneration or economic development: Not applicable

## 9. CONSTITUTIONAL CONTEXT

9.1. The power to appoint staff including the terms and conditions on which they hold falls to Council to exercise.

## 10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

## 11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

Local Government and Housing Act 1989 section 9

Local Government (Assistants for Political Groups) (Remuneration) (England) Order 2021

Report presented to Annual Council on 16 May 2019

## 12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers: Head of Governance, Director of Resources, Head of Organisational Development, Senior Solicitor and Monitoring Officer and Senior Corporate and Community Services Officer.