

NDDC CONSTITUTION

Part 3

PART 3 – RESPONSIBILITY FOR FUNCTIONS

Introduction

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

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

General Principles

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

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

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

ANNEXE 1 – POWERS AND DUTIES OF COMMITTEES

1. STRATEGY AND RESOURCES COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
Minimum of 9	The Chair shall be the Leader of the Council and membership will include all	1/3 with a minimum of 4	

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	Group Leaders where political balance allows.		
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Functions

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

2. POLICY DEVELOPMENT COMMITTEE

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

Functions

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

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3. PLANNING COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
15	<p>Members of the Committee must be trained prior to sitting on the Committee (NOTE: Failure to attend the required training will result in exclusion from sitting on the Committee)</p> <p>Substitute Members may only be appointed from an appointed and trained reserve list. Substitute Members must substitute for the whole of the meeting. (NOTE: substitute Members must be from the same political group).</p>	3	<p>If a Member:</p> <p>(a) Arrives at a meeting during the consideration of an item; or</p> <p>(b) Leaves a meeting at any time during the consideration of an item;</p> <p>they shall not:</p> <p>(i) propose or second any motion or amendment; or</p> <p>(ii) cast a vote</p> <p>(For the avoidance of doubt may still participate in the debate)</p> <p>An amendment which opposes a motion to grant or refuse a planning application is deemed to be a valid amendment.</p>

Functions

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

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4. LICENSING AND COMMUNITY SAFETY COMMITTEE

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

Functions

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

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5. GOVERNANCE COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
9	Membership of the Committee cannot include Strategy and Resources Members. 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)	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

6. HARBOUR BOARD

Number of Members	Special Requirements	Quorum	Notes
5	In addition to 4 Members, 4 Independent Members (who are not Members of the Council) are appointed to provide experience and	3 (2 of whom must be members of the Council).	All persons co-opted to serve on the Board shall be required to provide a written undertaking to

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	<p>expertise in harbour management. Appointments of independent Members shall be for a four year period to ensure continuity of experience and expertise available to the Board. Appointments may be renewed at the discretion of the Council for a maximum of two four year terms after which any further service on the Board can only be achieved following a competitive appointments process.</p>		<p>comply with the Council's Members Code of Conduct and shall complete a register in accordance with that Code.</p> <p>The Chairman of the Board shall be appointed annually by Full Council and shall come from those Members of the Council appointed to serve on the Board.</p> <p>All Board Members shall have voting rights.</p>
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Functions

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

7. JOINT CREMATORIUM COMMITTEE

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

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

8. JOINT BUILDING CONTROL COMMITTEE

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

Functions

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

9. APPOINTMENTS COMMITTEE

Number of Members	Special Requirements	Quorum	Notes
A minimum of 3	Membership must include all	3	Not to be politically

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including all Group Leaders	Leaders of Designated political groups on the Council		balanced
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Functions

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

ANNEXE 2 – OFFICER DELEGATIONS

1. PREFACE

- 1.1 The purpose of this part of the Constitution is to bring together delegations to officers and roles and responsibilities of officers. Officers may be delegated to make decisions in respect of any matter other than those which by law are reserved only to Full Council..
- 1.2 Section 101 of the Local Government Act 1972 provides that:
 - (a) A Council may delegate its powers (except those incapable of delegation) to a committee or an officer
 - (b) A Committee may delegate its powers to a sub-committee or an officer
 - (c) Powers which have been delegated may be exercised by the delegating body.

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- 1.3 Any delegation to a Committee or an Officer shall be exercised in compliance with the Council's Constitution, any other policies or conditions imposed by the Council and with the law
- 1.4 In making any decision regard shall be had to the principles of decision-making as set out in Article 11 of the Constitution.
- 1.5 In exercising their delegated powers Officers will consult any appropriate Member. This would normally include:
 - (a) Ward Councillor(s)
 - (b) the Chair of the relevant Committee, or in his absence the Vice-Chair
 - (c) the Leader, or in his absence the Deputy Leader
- 1.6 In exercising their delegated powers Officers will consult any appropriate officer, in particular where there are significant financial, legal, property or human resource implications of the proposed action or decision

2. INTERPRETATION

- 2.1 For the avoidance of doubt unless the context otherwise requires reference to:
 - (a) "the Council" shall be deemed to include any of its meetings including the Committees and Sub-Committees;
 - (b) "the Planning Acts" shall mean the Town and Country Planning Act 1990, the Town and Country Planning (Listed Building and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, Growth and Infrastructure Act 2013, Housing and Planning Act 2016, the Caravan Sites and Control of Development Act 1960, Localism Act 2011, Neighbourhood Planning Act 2017 and the Planning Act 2008 (and in respect of them all any amendments as may be made from time to time) and any regulations and orders made pursuant to the same or other legislation including in particular, but without prejudice to the generality of the foregoing the Use Classes Order 1987, General Permitted Development Order 2015, the General Development Procedure Order 2015, the Community Infrastructure Levy Regulations 2010, Environmental Impact Assessment Regulations 2017, the Brownfield Land Register Regulations 2017, Self Build and Custom Housebuilding Regulations 2016, the Hedgerow Regulations 1997, and Town and Country Planning (Control of Advertisements) (England) Regulations 2007, (including in respect of them any amendments as may be made from time to time).
 - (c) Reference to the masculine shall include reference to the feminine and vice versa

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- 2.2 Any reference to an Act or Regulations shall be deemed to be a reference to that piece of legislation as amended or replaced
- 2.3 An officer may nominate another named Officer to carry out any powers and duties which have been delegated to him providing this nomination is recorded in the register referred to in 2.4 below.
- 2.4 Member Services will hold a register of all amendments to delegated powers

3. CHIEF EXECUTIVE

- 3.1 To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989.
- 3.2 To act as Returning Officer for Council Elections in accordance with Section 35 of the Representation of the People Act 1983 (the 1983 Act).
- 3.3 To act as Electoral Registration Officer for the County in accordance with Section 8 of the 1983 Act.
- 3.4 To guide and, where appropriate, direct Heads of Service in the exercise of their delegated functions in order to achieve the overall corporate aims and objectives of the Council
- 3.5 To grant exemptions on the political restriction of officer posts under the Localism Act 2011.
- 3.6 To exercise all powers referred or delegated to any other officer (except Chief Financial Officer and Monitoring Officer) when that officer is either absent or otherwise unavailable.
- 3.7 All powers delegated in the “All Heads of Service” section are also delegated to the Chief Executive.
- 3.8 To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to a Head of Service within the Constitution whether specifically identified in the delegated powers to officers or otherwise.

Health and Safety

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

Human Resources

- 3.10. To consider, amend and revise the manpower establishment provided any such amendments or revision is in accordance with any approved manpower plan and budgetary framework of the Council.

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- 3.11. To appoint temporary staff or authorise the appointment of external resources to undertake work normally undertaken by a Service subject to the costs thereof not exceeding the available budget.
- 3.12. To consider, refuse or approve with or without modification:
 - (a) essential car users allowances;
 - (b) applications for car loans in accordance with Council policy.
- 3.13. To determine whether to approve or refuse staff applications to undertake second employment
- 3.14. To determine pursuant to Part V of the Local Government Discretionary Payments Regulations 1996:
 - (a) the amount of any injury allowance payable to an officer; and
 - (b) any time period(s) associated therewith or to any death benefit payments referred to in those provisions.
- 3.15. To hear and determine any grievance or grievance appeal passed to the Chief Executive for his determination whether pursuant to any policy of the Council or otherwise.
- 3.16. To appoint and/or dismiss officers below Head of Service level in accordance with Council policies and procedures, including power to nominate any other officer to undertake such powers on his behalf.
- 3.17. To agree minor revisions to existing employment policies and/or procedures.
- 3.18. To interpret employment policies, custom and practice and implement processes and/or decisions based on either the policy or the custom and practice of the Council.
- 3.19. To act on the advice of medical practitioners with regard to retiring employees on grounds of ill health.
- 3.20. To negotiate revised terms and conditions of employment with recognised trades unions.
- 3.21. To develop employment policies and negotiate with recognised trades unions prior to adoption by Council.
- 3.22. To apply employment legislation/European Union Directives as appropriate which may impact on staff terms and conditions, including pay.

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- 3.23 To act as the lead countersignatory for the Council and nominate other countersignatories for the Council in respect of the Disclosure and Barring Service.
- 3.24 To sign employment related documents, e.g. Compromise Agreements, etc.
- 3.25 To determine applications for flexible retirement where there is no net cost to the Council

General

- 3.26 To respond to consultation papers where timescales for responses do not fit in with the Council's timetable of meetings.
- 3.27 To attest the Council seal and sign any document necessary to give effect to:
 - (a) a resolution of the Council ; and/or
 - (b) the exercise of a power or function delegated by the Council, provided that any such attestation or signing accords with Article 12 of the Constitution
- 3.28 To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Chief Executive within the Constitution whether specifically identified in the delegated powers to officers or otherwise.
- 3.29 For the purpose of surveillance operations to which the Regulation of Investigatory Powers Act 2000 apply (or any statutory provision modifying, replacing or re-enacting the same) the power:
 - (a) to authorise a surveillance operation; and
 - (b) to designate other officers to exercise the power to authorise surveillance operations to other officers,
 - (c) provided that such designations is only given to those officers who have responsibility for the management of an investigation.
- 3.30 To authorise the making of an application under the Crime and Disorder Act for an Anti-Social Behaviour Order in consultation with the Monitoring Officer.
- 3.31 To re-allocate the delegations as set out in this Annexe as necessary from time to time to give effect to any re-designations of post titles, re-allocation of service responsibility or vacancy of post.
- 3.32 Coordination of the Member Training and Development Programme including
 - (a) management of the approved Member Training and Development Budget and
 - (b) authorisation of Member attendance at conferences, seminars and other training and development events.

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Council and Committees

- 3.33. To receive Group nominations for relevant Committees and Sub-Committees subject to Council being notified of the Group appointments.
- 3.34. To consider and determine whether to refer to the Planning Committee any application pursuant to the Planning Acts that, in the opinion of the Chief Executive is an application which:
 - (a) is on or could have significant implications for, land owned or controlled by the Council;
 - (b) the scale of which is such as to warrant a clear separation of responsibilities between Members with primary responsibility for considering future development schemes for such land and Members who will be responsible for determining applications under the Planning Acts.
- 3.35. To carry out such actions and take such decisions so as to give effect to any procedures set out in Part 4 of this Constitution.
- 3.36. To summon a meeting of the Council where at his discretion, he believes there are circumstances warranting the same, provided the circumstances necessitating the calling of the meeting are identified on the agenda for that meeting.

Member Claims

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

Contracts

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

Proper Officer

- 3.39 To act as 'Proper Officer' for all functions detailed in the Local Authorities (Referendum) (Petitions and Directions) (England) Regulations 2000,
- 3.40 To act as 'Proper Officer' for all functions detailed in the Constitution not otherwise specifically delegated to another officer; including the power:
 - (a) to consider and nominate in writing any other officer to act as a 'Proper Officer' where this is permitted by law; and

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- (b) to negotiate and approve variations to an officers terms and conditions of employment, in order to facilitate the same, provided that any such appointment or variations do not exceed any budget allocated for such a purpose.

Emergency Powers

- 3.41. In the event of an emergency defined by the Chief Executive as a major emergency, which may include designated officers attending at Gold or Silver Control (as defined in the Council's Major Incident Plan or successor document) then the Chief Executive, without consultation with any other person, may:
- (a) incur expenditure whether forming part of an identifiable budget or otherwise;
 - (b) to authorise any lawful action on behalf of the Council;
 - (c) The Chief Executive will act in accordance with the following requirements:
 - (d) to maintain a record of response and expenditure as set out in the Major Incident Plan;
 - (e) to inform the Chief Finance Officer of all details of any expenditure incurred as soon as reasonably practicable;
 - (f) to report any expenditure to the next available meeting of Council.

Financial

- 3.42 To waive the charge of each inspection under the Data Protection Act 1984 where deemed appropriate.

Pannier Market

- 3.43 To enforce any bye-laws relating to Barnstaple Pannier Market.
- 3.44 To determine whether to grant or refuse (with or without modification) Barnstaple Pannier Market licenses
- 3.45 To undertake minor amendments to the charges structure to facilitate good management of the Pannier Market.

Miscellaneous

- 3.46 To authorise and maintain a list of assets of community value and to make adjudications and decisions in relation thereto.
- 3.47 To consider and determine the security arrangements for information held electronically.

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- 3.48 To consider and accept or refuse offers of re-purchase and determine applications for consent pursuant to covenants imposed on right to buy sales under.

Urgent Decision Making

- 3.49 To take a decision on any matter falling within the remit of any Committee in cases of urgency where it is not reasonably practicable to obtain prior approval of a Committee SUBJECT TO:

3.49.1 to the prior consultation, where practicable, with the Leader or Deputy Leader and the Chair or Vice Chair of the relevant Committee, and

3.49.2 the proviso that this power will not extend to the determination of any application submitted pursuant to the Planning Acts or under the Licensing Act 2003 or the Gambling Act 2005, and

3.49.3 the decision being reported to the next meeting of the relevant Committee and the next meeting of Strategy and Resources Committee

Building Control

- 3.50 To determine and issue all Decisions and Notices arising under the Building Act 1984 and any building regulations.
- 3.51 To relax or dispense with Building Regulations and to sign and issue such decisions.
- 3.52 To withdraw Building Regulation approvals not exercised within three years.
- 3.53 To refer to the Magistrates' Court, Notices under Section 77 of the Building Act 1984 requiring dangerous buildings to be made safe, and to take, or instruct emergency action under the provisions of Section 78 of the Building Act 1984.
- 3.54 To carry out, or instruct contractors to carry out, works in default of a Court Order obtained pursuant to Section 77 of the Building Act 1984.
- 3.55 To institute proceedings for infringement of the Building Regulations.
- 3.56 To serve Notice requiring removal or alteration of work not conforming with the Building Regulations (Section 36 of the Building Act 1984).
- 3.57 To sign and issue Demolition Notices in respect of works falling within Section 80 of the Building Act 1984.
- 3.58 To issue Notices under Sections 24, 71 and 72 of the Building Act 1984, requiring adequate entrances, exits and means of escape in case of fire in appropriate buildings.

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- 3.59 To serve Notices under Section 79 of the Building Act 1984 relating to ruinous and dilapidated buildings.
- 3.60 To enter sites and premises to carry out and enforce the Statutory Powers and Duties, such visits to be properly recorded.
- 3.61 To carry out tests on sewers, drains and land and where necessary to take samples and conduct tests on other building materials.
- 3.62 To take emergency action under the provisions of Section 78 of the Building Act 1984 in respect of dangerous structures.
- 3.63 To take action to enforce Building Regulations, including the issue of written Notices.
- 3.64 To place officers within the building control team at the disposal of Mid Devon District Council under section 113 Local Government Act 1972

4 ALL HEADS OF SERVICE

- 4.1 The Heads of Service referred to in this scheme of delegations are those designated as such by the Head of Paid Service.
- 4.2 Heads of Service are empowered to carry out those specific functions of the Council delegated to them in this Annexe 2 or in Part 4 of this Constitution. In doing so Heads of Service are expected to follow principles of decision making in Article 11 of the Constitution.
- 4.3 Functions are to be construed in a broad and inclusive fashion and include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
- 4.4 To consider and approve or refuse (with or without modification) any grant application provided:
 - (a) the expenditure is within the allocated budget; and
 - (b) any such determination is made in accordance with a relevant policy of the Council.
- 4.5 To introduce, set and vary as necessary fees and charges for the delivery of services and for the issue of any licence, registration, permit, consent or approval.
- 4.6 To serve, receive and act upon notices, give or refuse consents, issue determinations, apply for permissions, make orders, grant licences in the exercise of any discretionary power or in complying with any duty of the Council.

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- 4.7 To provide services to other local authorities and organisations.
- 4.8 Each Head of Service shall act as the designated Proper Officer for the following functions under the Local Government Act 1972:
- (a) to identify which background papers disclose facts on which a particular report or an important part of the report is based (Section 100D(5)(a) of the Act)
 - (b) to prepare a list of background papers and to make arrangements for production of copies of background papers (Section 100D(1)(a) and (b) of the Act) (such delegation relates to the Chief Officer(s) in whose name(s) the report is prepared).

Human Resources

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

Contracts

- 4.13 Within service budgets, to accept tenders, place contracts and procure other resources within or outside the Council subject to compliance with the Council's Financial and Contract Procedure Rules.

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- 4.14 To terminate contractual and other commissioning arrangements.
- 4.15 That, in respect of covenant 3.4 of the Transfer dated 21st February 2000 to North Devon Homes Limited of the Council's former housing stock, authority be delegated to the Head of Service to issue a waiver of that covenant where:
- (a) in the opinion of the Head of Service it would be appropriate to do so; and
 - (b) the effect of the waiver is to allow the incorporation of that land into an existing domestic garden and for no other purpose.

Finance

- 4.16 To vire up to £5,000 within budget heads, subject to:
- (a) all virements being reported to the Chief Financial Officer; and
 - (b) approval by the Chief Financial Officer of any virements from income to expenditure, provided any such virement does not result in a net change in the Council's overall budget.
- 4.17 To authorise instructions:
- (a) for the raising of customer accounts;
 - (b) to cancel customer accounts;
 - (c) to recommend write off of customer accounts.
- 4.18 To investigate and resolve complaints (whether made through the formal Council complaint procedure or otherwise) relating to the Service, provided that where a resolution of a complaint involves the payment or waiving of money then the same can be met without any increase to the Service's budget and is no more than £750.
- 4.19 To determine a reasonable charge for the preparation, production and sale of notices, agreements, orders, licenses and any other documents, including for copying or the undertaking of any other associated work.
- 4.20 To undertake any roles, actions or measures, including power to consider and determine any matter, allocated to the Head of Service within the Constitution whether specifically identified in the delegated powers to officers or otherwise.
- 4.21 Where the Head of Service has the power to institute criminal proceedings he shall be able to issue a formal warning instead. This is subject to:
- (a) him having full regard to any guidance that may be issued for the benefit of crown prosecutors, and
 - (b) in the event of any doubt consulting with the Monitoring Officer.

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- 4.22 To authorise officers and any other persons (including inspectors appointed on behalf of the Council) to carry out inspections and to exercise powers of entry for any purpose which in the opinion of the Head of Service is reasonably necessary for the performance of a delegated or referred power or duty.
- 4.24 The responsibility for the monitoring, storage, archiving and destruction of documentation held by their Service provided the same is in accordance with Council policies.
- 4.25 To authorise and sign identity cards on behalf of any officer within their Service as may be necessary for the proper performance of their duties.

5 HEAD OF ENVIRONMENTAL HEALTH AND HOUSING

Environmental Health and Housing

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

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

Appointments and Authorisations

- 5.15 To appoint all Authorised Officers, Authorised Persons, Enforcement Officers and Inspectors as Proper Officers of the Council for the purpose of authenticating documents issued by them on behalf of the Council.

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

Housing

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

6 CHIEF FINANCIAL OFFICER AND HEAD OF RESOURCES

- 6.1 The investment and re-investment of Council monies provided this is undertaken in accordance with the Financial Procedure Rules and any other relevant policies.
- 6.2 To draw, sign and endorse cheques on the Council's Bank Accounts, to pay approved accounts including wages and salaries, housing benefit and all other authorised payments.

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- 6.3 To authorise and make transfers between the Council's bank accounts, including power to authorise and act as authorised signatory for the purposes of instructing the Council's bankers to make transfers by electronic transfer.
- 6.4 To borrow and raise loans on behalf of the Council provided this is undertaken in accordance with the Financial Procedure Rules and any other relevant policies
- 6.5 To act as signatory for Housing Association Partnership/Homes and Communities Agency documents.
- 6.6 To make the following determinations relating to the statement of accounts under the Local Government and Housing Act 1989:
 - (a) the amount to be set aside from revenue account as provision for credit liabilities (Section 63(1))
 - (b) the amount of capital expenditure to be financed by credit approval (Section 56(1));
 - (c) the amount of credit approval (if any) to be transferred to another local authority (Section 56(2));
 - (d) the amount of capital expenditure to be financed by useable capital receipts (Section 60(2)).
- 6.7 To act as authorised signatory, authorise transfer and/or give instructions to the Council's bankers to transfer money from, between and to accounts held by or on behalf of the Council in respect of sums properly payable and/or held by the Council.
- 6.8 To act as Proper Officer for the purposes of the following provisions of the Local Government Act 1972:
 - (a) Section 115(2) (Accountability of Officers);
 - (b) Section 146 (Transfer of Securities on Alteration of Area Etc.)
- 6.9 To make a statutory declaration of local authority mortgage interest.
- 6.10 To respond to notices in relation to European Union financial sanctions.
- 6.11 To receive and respond to expressions of interest under Community Right to Challenge, under Part 5, Chapter 2 of the Localism Act 2011.
- 6.12 To consider and determine whether the Council should opt to tax any property to preserve the interest of the Council
- 6.13 To act as Stage 1 Internal Dispute Resolution in respect of pensions

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Treasury Management

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

Loans Administration

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

Revenues and Benefits

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

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- 6.29 To instigate, defend, attend at, represent and take further action as deemed appropriate in respect of housing benefit, council tax benefit, or council tax support appeals.
- 6.30 To administer the Council Tax Support Scheme.
- 6.31 To attest the Council seal and sign any document necessary to give effect to:
 - (a) a resolution of the Council ; and/or
 - (b) the exercise of a power or function delegated by the Council, provided that any such attestation or signing accords with Article 12 of the Constitution.

Property Management

- 6.32 To authorise assignments, subletting, assignments of sublets, charging, exercise of break options, consent to change of use (within the same use class), and other consents and variations of leases.
- 6.33 To refuse applications to purchase Council land and buildings.
- 6.34 To determine applications for temporary access over Council owned land.
- 6.35 To determine applications for wayleave agreements and easements across Council owned land.
- 6.36 To determine applications for
 - (a) temporary licences for land use
 - (b) annual licences relating to property management.
- 6.37 To determine minor land transactions, which means acquisitions, disposals easements and licences.

(Note: for the purposes of this delegation “minor land transaction” refers to those areas of land with no development potential and where the consideration is less than an amount of £5,000).
- 6.38 To approve sales or leases of land for sub-stations or similar installations of statutory undertakers
- 6.39 To grant and extend existing licences for advertisement hoardings on Council-owned car parks.
- 6.40 To set charges for circuses.
- 6.41 To consider, determine, grant or refuse all applications for the consent of the Council in its capacity as Landlord or landowner pursuant to any requirement for such consent contained in any lease, transfer or other instrument pertaining to

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interests in land to which the Council is a party save to the extent that such power is otherwise specifically delegated by the Scheme of Delegations.

- 6.42 To determine (including all terms and conditions relating to) rent reviews, lease renewals and new leases provided that this shall not extend to a new or renewal of a lease where it is proposed that the term will exceed 21 years.
- 6.43 To manage the Council's property portfolio in accordance with the Council's Asset Management Plan; and to seek planning or listed building consent as appropriate.
- 6.44 The power to:
 - (a) Consider and decide the merits of any claim to ownership of or rights over land owned by the Council, and as appears at her discretion to be appropriate either:
 - (i) Lodge and pursue objection with the Land Registry; or
 - (ii) Accept and agree the claim; or
 - (iii) Negotiate and carry through settlement of the claim.
 - (b) Determine whether or not to seek rectification of the Land Registers in respect of Council land already registered to third parties.
 - (c) Determine whether or not to pursue registration of any land to which the Council holds disputed title.

Miscellaneous

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

7 HEAD OF PLACE

- 7.1 To make any drafting amendment to any emerging development plan document and supplemental planning document which is in the course of preparation and is produced for the purposes of the Town and Country Planning Act 1990 that in the opinion of the Head of Place is of a minor nature and to consider and respond to requests and questions from an appointed Inspector during a Development Plan examination.

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- 7.2 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 Place:
 - (i) is in conflict with the adopted Development Plan (as may be reviewed and/or amended from time to time); and
 - (ii) is of sub-regional or district wide significance; or
 - (iii) is on the Council's own land or land occupied by the Council, excluding an application to carry out works to trees covered by a TPO; or,
 - (iv) is 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 Place may still determine the application so long as he has previously consulted with the Monitoring Officer and the Officer concerned does not participate in the processing or determination of the application; or
 - (b) which in the opinion of the Head of Place, save otherwise provided for herein, ought to be determined by the Planning Committee (provided that in such a case, at the absolute discretion of the Head of Strategic Planning and Development, the application may be first referred to a site inspection Committee after consultation with the Chairman of the Planning Committee and the Ward Member(s) for the ward in which the application site is situated; or
 - (c) in respect of which the Head of Place receives within 28 days of notification of receipt of the application being first sent to one or more Members a written representation from a Member(s) which in the opinion of the Head of Strategic Planning and Development both conflicts with the Officer recommendation in respect of the application and contains planning reasons indicating why a different conclusion ought to be reached (provided that for the avoidance of doubt, a notification shall be deemed sent once it has been placed in the post in an envelope addressed to the Member or placed in a pigeon hole allocated for use by the Member in offices of the Council). In any such case the Head of Place may first refer that application to a site inspection committee after consultation with the Chairman of the Planning Committee and the Ward Member for the ward in which the application site is situated.

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- 7.3 To exercise and determine all functions of the Council arising from the Planning Acts that can reasonably be regarded as ancillary to the process of determining applications.
- 7.4 The power, in conjunction where necessary with the Head of Environmental Health and Housing, to make recommendations on Paragraph 5 Certificates under the Caravan Sites and Control of Development Act 1960.
- 7.5 To consider and determine any matter arising in respect of the Council's planning function.
- 7.6 To determine whether or not to issue and serve any notice which in the opinion of the Head of Strategic Planning and Development is appropriate in order to regulate planning breaches (including conditions attached to any permissions or consents) pursuant to the Planning Acts.
- 7.7 To make observations on proposed Tree Felling Licences to the Forestry Commission except that where the view of a Ward Councillor is in conflict with that of the Head of Place, they be reported to the Committee for decision.
- 7.8 To take enforcement action to prevent the unauthorised holding of open air markets.
- 7.9 To prepare, issue, serve and confirm provisional Tree Preservation Orders.
- 7.10 The making of representations to the County Council in respect of road safety, subject to any matter having policy implications being referred to the Planning Committee.
- 7.11 To consider and determine applications for works to trees which were subject to Tree Preservation Orders or within Conservation Areas.
- 7.12 Power to determine applications for Lawful Development Certificates.
- 7.13 Power to determine certificates of lawful use for existing development, following consultation with the Monitoring Officer.
- 7.14 Power to determine appropriate measures for inclusion in Appropriate Assessments under the Habitats Regulations
- 7.15 Power to amend the adopted Sustainability Appraisal Framework.
- 7.16 Power to determine hedgerow removal notifications, determine high hedge complaints and prepare and serve associated notices.
- 7.17 Power to determine whether to take action in respect of dangerous trees.

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- 7.18 Power to identify and include candidate buildings of local importance on the Council's list of locally important buildings after consultation with the relevant ward member.
- 7.19 Power to consider and respond to consultation documents.
- 7.20 Power to determine applications for eligibility for entry to the self build and custom build register.
- 7.21 Power to determine the developability of SHLAA sites and when any housing can be expected to be delivered.
- 7.22 Power to prepare housing trajectories and reach a conclusion as to whether the Council has a 5 year housing land supply.

8 HEAD OF OPERATIONAL SERVICES

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

Burial grounds

- 9.2 To approve the erection of memorials in cemeteries administered by the Council.
- 9.3 To manage and administer burial grounds.
- 9.4 To agree and sign exclusive rights of burial
- 9.5 To discharge any functions relating to the efficient management and running of North Devon Crematorium
- 9.6 The power to execute exclusive Rights of Burial on behalf of the Council

Car parking

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

10 HARBOUR MASTER

- 10.1 To exercise within the harbour at Ilfracombe all statutory and regulatory powers given to a Harbourmaster under the provisions of the Harbours Docks and Piers Clauses Act 1847, the Harbours Act 1964 and the Ilfracombe Harbour Byelaws.

11 MONITORING OFFICER AND HEAD OF CORPORATE AND COMMUNITY

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

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

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- 11.19 Power to agree compensation payments recommended as a result of a complaint up to a value of £500.00
- 11.20 Power to agree to advertisement or sponsorship arrangements and the power, in consultation with the Head of Resources and the relevant Portfolio Holder, to set appropriate fees for such arrangements
- 11.21 Power to make changes to the Constitution in order to give effect to legislation changes and to make minor amendments, in consultation with the Leader.
- 11.22 Power to make any changes to the Policy on the use of covert surveillance to ensure that it is in compliance with the relevant legislation and Code of Practice

ANNEXE 3 –

A - DELEGATIONS TO COUNCILLORS

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

B – ROLE OF LEAD MEMBERS

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