

Part 2 Articles of the Constitution

1 Article 1: The Constitution

1.1 Powers of the Council

1.1.1 The Council will exercise all its powers and duties in accordance with the law and this Constitution

1.2 The Constitution

1.2.1 This Constitution, and all its appendices, is the Constitution of the East Devon District Council

1.3 Purpose of the Constitution

1.3.1 The purpose of the Constitution is to:

- To Enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- Enable the Cabinet to act quickly and effectively within the Council's approved policy framework whilst at the same time ensuring the delivery of efficient, transparent and accountable decision-making;
- Support the involvement of citizens in the process of local authority decision-making;
- Help Councillors represent their constituents more effectively;
- Enable decisions to be taken efficiently and effectively;
- Create a powerful and effective means of holding decision-makers to public account;
- Ensure that no one will review or scrutinise a decision in which they were directly involved;
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- Provide a means of improving the delivery of services to the community.

1.3.2 The Constitution recognises the Council's role as a Community Leader and its strategic responsibility for community planning and best value in service delivery. Its overall objective is, therefore, to organise its activities so as to ensure that they demonstrably contribute to the outcomes identified through the community planning process.

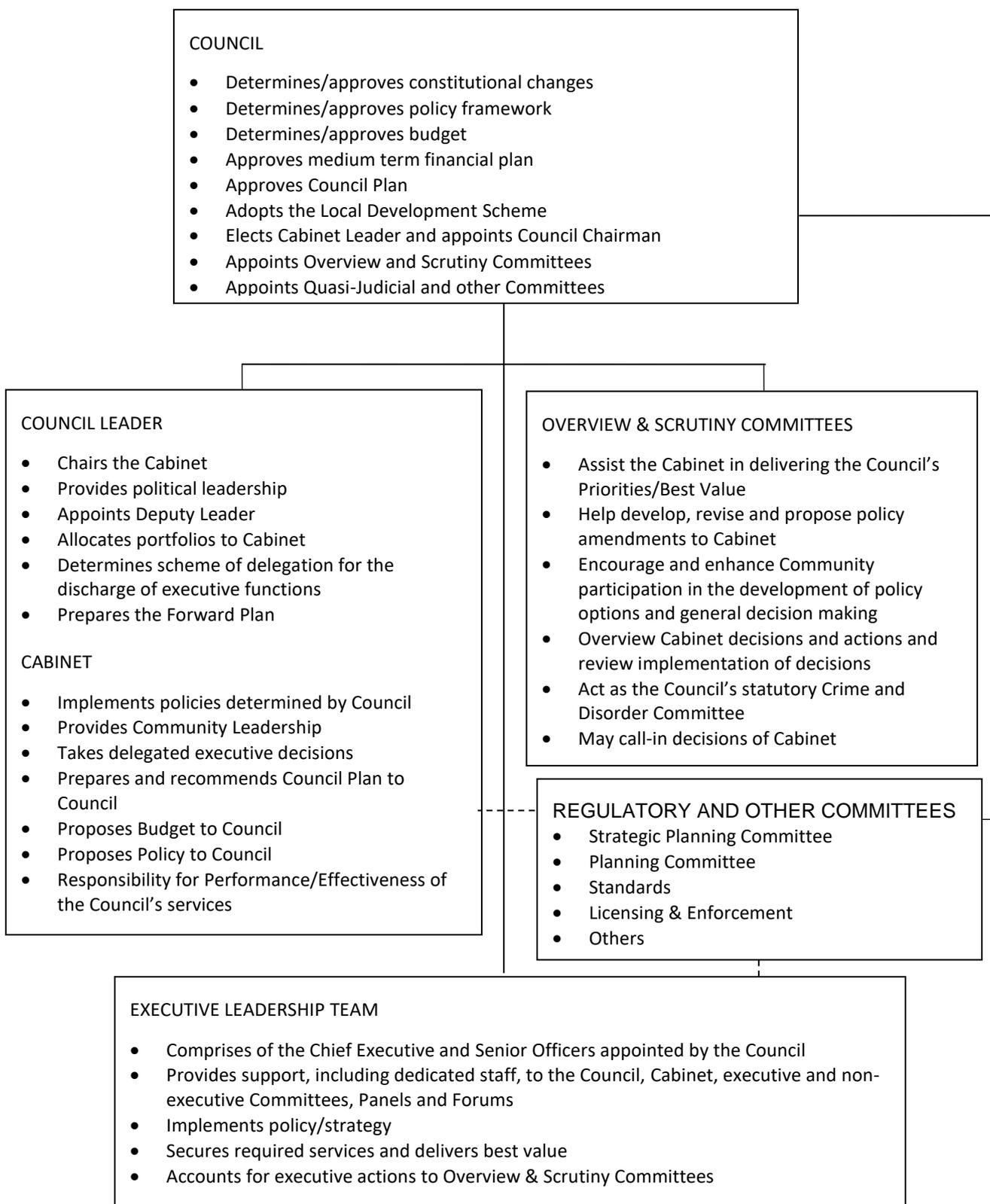
1.3.3 The Council believes in the importance of partnership working in order to effectively discharge its community role, achieve best value and continuous improvement.

1.4 Interpretation and Review of the Constitution

1.4.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option that is considered to be closest to the purposes stated above.

1.4.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

1.4.3 The following illustrates the Council’s Constitutional structure in a diagrammatic form. It is explained in the rest of Part 2 of this Constitution.



2 Article 2: Members of the Council

2.1 Composition and eligibility

- 2.1.1 **Composition:** The Council will comprise 60 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State. Details of the current Councillors and of the wards that they represent are set out at the end of this Article.
- 2.1.2 **Eligibility:** Only registered voters of the district or those living or working there will be eligible to hold the office of Councillor.

2.2 Election and terms of Councillors

- 2.2.1 The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2011. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. Different arrangements apply to the term of office of Leader; see Article 6.

2.3 Roles and functions of Councillors

- 2.3.1 **Key roles** – Councillors are or will:
- a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - b) consider the budget proposed by the Cabinet and vote on the final budget;
 - c) advise the Cabinet on decisions and policies that affect local issues including through the Council's Overview and Scrutiny Committees (including the Housing Review Board);
 - d) participate in regulatory decision-making through its planning and licensing functions;
 - e) review and question policies and decisions taken by the Cabinet
 - f) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
 - g) effectively represent the interests of their Ward and of individual constituents;
 - h) respond to constituents' enquiries and representations, fairly and impartially;
 - i) be familiar with the needs, priorities and aspirations of their local community by being accessible and by being involved in consultation with them and working with other local organisations;
 - j) represent the Council on other bodies; and
 - k) maintain the highest standards of conduct and ethics consistent with the Council's Code of Conduct.

2.3.2 **Rights and duties:** Councillors will:

(a) have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

(b) not make public information that is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it

For these purposes, "confidential" and "exempt" information is defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 **Conduct**

2.4.1 Councillors will at all times observe the Members' Code of Conduct and such other codes as the Council may from time to time adopt and include or refer to in Part 5 of this Constitution.

2.5 **Allowances**

2.5.1 Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution unless lawfully withheld, for example, following a decision of the Standards Committee.

2.6 **Political Groups**

2.6.1 Councillors may belong to local political groups. The groups are entitled under the Local Government (Committees and Political Groups) Regulations to nominate Councillors to fill a proportion of the seats on certain committees of the Council.

2.6.2 At meetings of the Council and the committees, individual Councillors may have regard to the views of their political group on policy matters provided they also take into account other relevant considerations. However this would exclude, for example, individual planning applications.

2.7 **External Representation**

2.7.1 The Council recognises the importance of its relationship with the communities it represents and all those who receive its services in order to provide desired outcomes. It achieves these aims in the following ways:

(a) by making appropriate Councillor appointments to other bodies; and

(b) by ensuring that the Councillor representative role is meaningful and recognises the needs of the electorate.

Ward detail

Name of Ward	Description of Area	No of Cllrs	Councillor Contact Details
Axminster	The Parish wards of Town, Raymonds Hill and Weycroft in the Parish of Axminster.	3	Paul Hayward Sarah Jackson Simon Smith
Beer and Branscombe	The Parishes of Beer and Branscombe.	1	John Heath
Broadclyst	Parishes of Broadclyst, Clyst Honiton, Clyst Hydon, Clyst St Lawrence and Farringdon.	3	Sarah Chamberlain Paula Fernley Eleanor Rylance
Budleigh and Raleigh	The Parishes of Bicton, Budleigh Salterton, East Budleigh, Colaton Raleigh and Otterton.	3	Charlotte Fitzgerald Melanie Martin Henry Riddell
Clyst Valley	Parishes of Clyst St. George, Clyst St. Mary and Sowton.	1	Mike Howe
Coly Valley	The Parishes of Colyton, Farway, Northleigh, Offwell, Southleigh and Widworthy.	2	Paul Arnott Helen Parr
Cranbrook	Cranbrook.	3	Kevin Blakey Kim Bloxham Sam Hawkins
Dunkeswell & Otterhead	The Parishes of Awliscombe, Combe Raleigh, Cottleigh, Dunkeswell, Luppitt, Monkton, Sheldon, Stockland, Upottery and Yarcombe.	2	Colin Brown Yehudi Levine

Name of Ward	Description of Area	No of Cllrs	Councillor Contact Details
Exe Valley	Parishes of Brampford Speke, Huxham, Nether Exe, Rewe, Stoke Canon, Upton Pyne and Poltimore	1	Jamie Kemp
Exmouth Brixington		3	Fred Caygill Maddy Chapman Cherry Nicholas
Exmouth Halsdon		3	Tim Dumper Andrew Toye Daniel Wilson
Exmouth Littleham		3	Brian Bailey Nick Hookway Anne Hall
Exmouth Town		3	Olly Davey Joe Whibley Eileen Wragg
Exmouth Withycombe Raleigh		2	Steve Gazzard Matt Hall
Feniton	Buckerell, Feniton to include the Parish Ward of Gittisham Village.	1	Alasdair Bruce
Honiton St Michaels	(to include the Parish Ward of Gittisham Vale).	3	Violet Bonetta Jenny Brown Roy Collins
Honiton St Pauls		2	John O'Leary Tony McCollum

Name of Ward	Description of Area	No of Cllrs	Councillor Contact Details
Newbridges	Parishes of Dalwood, Kilmington, Musbury and Shute and Whitford.	1	Iain Chubb
Newton Poppleford and Harpford	The Parish of Newton Poppleford and Harpford.	1	Christopher Burhop
Ottery St Mary	Parish wards of North, Tipton St John and Town in the Parish of Ottery St Mary.	3	Peter Faithful Vicky Johns Bethany Collins
Seaton	The Parish of Seaton.	3	Marcus Hartnell Dan Ledger Del Haggerty
Sidmouth Rural	The Parish wards of Salcombe Regis and Sidbury in the Parish of Sidmouth.	1	John Loudoun
Sidmouth Sidford	The Parish wards of North, Primley, Sidford Village and Sidmouth West in the Parish of Sidmouth.	3	Stuart Hughes Mike Goodman Marianne Rixson
Sidmouth Town	The Parish wards of East and South in the Parish of Sidmouth.	2	Ian Barlow Sophie Richards
Tale Vale	Parishes of Talaton, Broadhembury, Payhembury and Plymtree.	1	Richard Jefferies
Trinity	Parishes of Axmouth, Combyne Rousdon and Uplyme.	1	Susan Westerman

Name of Ward	Description of Area	No of Cllrs	Councillor Contact Details
West Hill and Aylesbeare	Parishes of West Hill and Aylesbeare.	1	Jessica Bailey
Whimple and Rockbeare	Parishes wards of Whimple and Rockbeare Rockbeare and Rockbeare Marsh Green in the Parishes of Wimple and Rockbeare.	1	Todd Olive
Woodbury and Lympstone	The Parish of Lympstone and the Parish wards of Exton, Woodbury and Woodbury Salterton in the Parish of Woodbury.	2	Ben Ingham Geoff Jung
Yarty	Parishes of All Saints, Chardstock, Membury and Hawkchurch.	1	Duncan Mackinder

3 Article 3: Citizens and the Council

3.1 Citizen's rights

3.1.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

Voting and petition rights:

(a) Citizens on the electoral roll for the area have the right to vote.

(b) Citizens have the right to sign a petition to request a referendum for an elected mayor form of Constitution.

(c) Citizens have the right to sign a petition on any matter within the Council's purview (excluding certain issues including Licensing and Planning matters) and for any such petition to be considered by the Council as set out in the Council's Petitions Scheme. The Council's petition scheme is set out at Part 5 of this Constitution.

Information rights:

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

(e) To attend meetings of the Cabinet when key decisions are being considered (unless confidential or exempt information is likely to be considered);

(f) To find out from the Forward Plan what key decisions will be taken by the Cabinet and when;

(g) To see reports and background papers (except where confidential or exempt information has been considered); and any records of decisions made by the Council and the Cabinet;

(h) To inspect the Council's accounts and make their views known to the external auditor; and

(i) To request access to information under the Freedom of Information legislation.

Right to complain:

(j) To the Council itself under its complaints scheme;

(k) To the Local Government Ombudsman after using the Council's own complaints scheme; and

(l) To the Monitoring Officer about a breach of the Councillors' Code of Conduct.

3.2 Citizen's responsibilities

3.2.1 Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the Council, councillors or officers.

4 Article 4: The Full Council

4.1 The Role of the Council

4.1.1 Council is the policy making body from which the policy framework will be established. Council has responsibility for ensuring that the correct structures are in place for the effective implementation and delivery of its services. Once the structures are agreed and appointments made, the Cabinet (acting by itself and through portfolio holders and officers) is delegated the responsibility of policy implementation and effective service delivery. The election of the Leader and removing him/her from office, will be the responsibility of Council. The Leader appoints the Deputy Leader and Cabinet. Council appoints all other committees.

4.1.2 Each year the Council will appoint a Chair who may not then be a Member of the Cabinet. The Council shall normally meet six times a year unless a need is identified for any additional meetings.

4.2 Functions that only Full Council may exercise

4.2.1 Adopting and changing the Constitution.

4.2.2 Approving or adopting the policy framework (see paragraph 4.5), the budget (see paragraph 4.3) and any application to the Secretary of State in respect of any Housing Land Transfer (see paragraph 4.4).

4.2.3 Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function that is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget.

4.2.4 Electing the Leader and removing him/her from office, appointing Committees and the Chair and Vice Chair of those Committees with the exception that the Leader appoints Cabinet and the Housing Review Board shall appoint its Vice Chair.

4.2.5 Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them.

4.2.6 Appointing representatives to outside bodies unless the appointment is made by the Cabinet or has been delegated by the Council.

4.2.7 Adopting an allowances scheme under Article 2.5.

4.2.8 Changing the name of the area or a parish and conferring or removing the title of honorary alderman.

4.2.9 Confirming the appointment, dismissal and redundancy of the Head of Paid Service and Chief Officers.

4.2.10 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.

4.2.11 Expressing its views to the Cabinet before the Cabinet resolve to make a compulsory purchase order.

- 4.2.12 All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet.
- 4.2.13 Receiving the annual out-turn report on treasury management activities.
- 4.2.14 Functions relating to elections that are not carried out by the Chief Executive or other delegated officer.
- 4.2.15 Power to resolve not to issue a casino premises licence.
- 4.2.16 All other matters which, by law, must be reserved to Council.

4.3 Council meetings

- 4.3.1 There are three types of Council meeting: (a) the annual meeting; (b) ordinary meetings; (c) extraordinary meetings; and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.4 Responsibility for functions

- 4.4.1 The Council will keep under review Part 3 of this Constitution setting out the responsibilities for the Council's functions that are not the responsibility of the Cabinet.

4.5 Budget

- 4.5.1 The budget includes the allocation of financial resources both revenue and capital to different services and projects, proposed contingency funds and reserves, setting the council tax and decisions relating to the control of the Council's borrowing requirement, control of investments and the setting of virement limits.

4.6 Housing Land Transfer

- 4.6.1 Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.7 Policy Framework

- 4.7.1 The policy framework means approving and adopting the following plans and strategies some of which must, by law, be a Council decision (under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000) or other legal provision) while others are reserved to Council as a matter of local choice:

Plan or Strategy	Must be a Full Council decision by law	Reserved to Full Council by local choice
Asset Management Plan	✓	
Climate Change Strategy		✓
Commercialisation Strategy		✓
Community Infrastructure Levy (C.I.L)	✓	
Contaminated Land Strategy		✓
Council Plan	✓	
Crime and Disorder Reduction Strategy	✓	
Cultural Strategy		✓
Empty Homes Strategy		✓
Financial Strategy (including Medium Term Financial Plan)	✓	
Gambling Policy (Statement)	✓	
Homelessness and Rough Sleeping Strategy		✓
Housing Strategy/Business Plan		✓
Licensing Policy (Statement)	✓	
Local Development Scheme / Development Plan Documents / [and any replacement documents e.g. Local Plan]	✓	
Local Nature Reserve Strategy		✓
Private sector Renewal Policy		✓
Public Health Strategic Plan		✓
Treasury Management Strategy Statement	✓	
Waste Strategy		✓

5 Article 5: Chair of the Council

5.1 Role and function of the Chair

5.1.1 **Ceremonial Role** - primary responsibility for civic and ceremonial functions, and shall attend functions both within and outside the District to represent the Council; host functions in order to promote the Council and its interests; attend and participate in ceremonial events ensure that the Council's services and achievements are appropriately celebrated and publicised.

5.1.2 **The Council Meeting** - The Chair shall be elected annually by the Council. The Chair will have the following responsibilities:

- a) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary having regard to appropriate advice;
- b) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- c) To ensure that at the Council meeting Councillors who are not on the Cabinet or who are not Chairs of Committees are able to hold the Cabinet and Committee Chairs to account;
- d) Generally, to be the conscience of the Council.

5.1.3 **The Standards Committee** - The Chair will also be Chair of the Council's Standards Committee.

5.1.4 In the absence of the Chair of Council, the Vice-Chair will have the above roles and functions.

6 Article 6: The Cabinet

6.1 Role

6.1.1 The Cabinet will carry out all of the local authority's functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution. The Cabinet makes operational decisions in accordance with Council policy. Its responsibility for providing policy advice, community planning, best value and performance will be supported by the Overview and Scrutiny Committees (and any panels/forums set up with specific responsibilities).

6.2 Form and composition

6.2.1 The Leader will determine the size of the Cabinet (also referred to as the Executive) within statutory limits. The Leader will appoint between two and nine other councillors to the Cabinet. The Leader and other Members of the Cabinet collectively form the Cabinet. None of the Members of the Cabinet will be Members of the Overview and Scrutiny Committees. Some of the Cabinet will have portfolios allocated by the Leader.

6.3 Leader

6.3.1 The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- a) he/she resigns from the office; or
- b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000; or
- c) he/she is no longer a Councillor; or
- d) he/she is removed from office by resolution of the Council;
- e) The election of another Leader at the Annual Council meeting.

6.4 The Leader and the Cabinet

6.4.1 The Leader has responsibility for the smooth running of the Cabinet.

6.4.2 The Leader chairs all meetings of the Cabinet.

6.4.3 The Leader appoints the Deputy Leader, and may remove him/her from office.

6.4.4 The Leader has responsibility for the allocation of portfolios (and scheme of delegated powers) to the Cabinet Members and may vary them in writing at his/her discretion, subject to Article 6.9. The portfolio areas of responsibility are set out in Article 6.12. The Leader may appoint Cabinet Members without portfolio.

6.4.5 The Leader has overall responsibility for matters relating to and arising from Corporate Governance including the publication of a formal annual report presenting an objective and understandable account of the Council's activities and achievements, its financial position and performance and proposed future objectives.

6.5 The Deputy Leader

- 6.5.1 The Deputy Leader will be a councillor on the Cabinet appointed to the position of Deputy Leader by the Leader. The Deputy Leader will hold office until:
- a) he/she resigns from office; or
 - b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000; or
 - c) he/she is no longer a Councillor; or
 - d) he/she is removed from office by the Leader.
- 6.5.2 The Deputy Leader will carry out the functions of the Leader when he/she is unable to act, or the office of Leader is vacant.

6.6 Other Members of the Cabinet

- 6.6.1 The other Members of the Cabinet will be Councillors appointed to the position by the Leader. They shall individually hold office until:
- a) they resign from office; or
 - b) they are suspended from being Councillors under Part III of the Local Government Act 2000; or
 - c) they are no longer Councillors; or
 - d) they are removed from office, either individually or collectively by the Leader.

6.7 Members of the Cabinet who are Portfolio Holders

- 6.7.1 During their period as a Portfolio Holder each Councillor will be expected to work closely with key staff. This will require an effective system of relevant information provision to those Councillors. Responsibility for the identification of such information lies with the Portfolio Holder and/or the key staff who will also be expected to brief the appropriate Councillor on important operational items which may be happening as part of delegated Council business. Portfolio Holders expected to speak at Cabinet meetings, or called in to speak at Overview and Scrutiny Committees or other Council meetings, must also be briefed by appropriate staff who will be entitled to accompany them at such meetings and able to speak there in their own right.
- 6.7.2 The generic role of a Portfolio Holder will include:
- a) Collective responsibility for policy implementation as a Cabinet Member;
 - b) Specific responsibility for speaking at the Cabinet on issues within allocated portfolios;
 - c) The exercise of delegated powers;
 - d) Occasional responsibility for speaking on behalf of the Council at outside meetings where Councillor attendance is required;
 - e) An acceptance of the need to be well informed, and where appropriate to undergo training about relevant current issues;

- f) Responding to media requests as appropriate in relation to topical issues. In this respect, each Councillor should attend media training sessions;
- g) Speaking at Council meetings on issues relevant to the allocated portfolio;
- h) Attendance at Overview and Scrutiny Committees to speak on particular performance issues and to assist on the preparation of policy issues.

6.8 Proceedings of the Cabinet

- 6.8.1 Proceedings of the Cabinet will take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution. In addition they may appoint sub-committees, panels and forums to assist or advise in the carrying out of any of its functions.

6.9 Responsibility for functions

- 6.9.1 The Leader will maintain a list in Part 3 of this Constitution setting out whether the Cabinet itself, or which individual Members of the Cabinet, or officers are responsible for the exercise of particular executive functions.

6.10 Leader and Portfolio Teams

- 6.10.1 The Leader and each Portfolio Holder will be advised and assisted in carrying out their responsibilities by a group of Members. The groups will be informal and flexible to establish all-party working within each portfolio area. They will be of up to 15 members and shall as far as reasonably practicable reflect the political balance of the Council. The Monitoring Officer will work with Group Leaders to agree the composition of the Portfolio Teams.
- 6.10.2 Their primary function will be to enable the Leader/Portfolio Holders to initiate the review and development of policies and to discuss major issues that have yet to be considered by the Cabinet. They may also assess the implementation of matters that have already been approved in principle and to advise on budget monitoring.
- 6.10.3 It is the prerogative of the Leader/Portfolio Holder to call meetings of their Portfolio Teams and to frame their agendas. Members of a Portfolio Team and the Chief Executive can however suggest topics for discussion and the Cabinet will be entitled to refer items to a Portfolio Team for debate.
- 6.10.4 Portfolio Teams will not be decision-making bodies and their meetings will not therefore be in public. Their meetings will not be scheduled in the Council Calendar but will be serviced by the relevant Senior Officer. In all other respects Portfolio Teams will identify the working arrangements with which they are most comfortable. The appropriate officer will undertake the co-ordination and distribution of agendas, background papers and prepare short notes (not minutes) of the meetings.

6.11 Assistant Portfolio Holders

6.11.1 An Assistant Portfolio Holder shall be a Councillor appointed at the discretion of the Leader to any Portfolio and who assists the Portfolio Holder by contributing to the policymaking process within Cabinet for their respective area. In that regard they will support a Portfolio Holder with their work, is invited to and expected to attend Cabinet briefings, Cabinet meetings and attend meetings the Portfolio Holder has outside the Council or with officers. Assistant Portfolio Holders are not legally a part of the Cabinet, have no voting rights at Cabinet and have no authority to make executive decisions.

6.11.2 An Assistant Portfolio Holder is not precluded from sitting on any of the Overview and Scrutiny Committees but must be mindful of any role they have played in relation to the matter under consideration and have regard to the requirements of paragraph 2 of the Overview and Scrutiny Procedure Rules (Part 4.5) of this Constitution which prevents any member being involved in scrutinising a decision which he / she has been directly involved in.

6.12 Cabinet portfolios

Member	Portfolio	Detail
Councillor Marianne Rixson	Climate Action & Emergency Response	<ul style="list-style-type: none"> - Net Zero strategy and Compliance - Best practice in Green Planning and Carbon Neutral Construction - Ecology policy development - Developing the Council's Green Initiatives - Community responses to COVID-19 - Post COVID-19 recovery - Council's effective response to Brexit (inc. implications for the authority, residents and businesses of East Devon) - Emergency Planning
Councillor Geoff Jung	Coast, Country & Environment	<ul style="list-style-type: none"> - Habitat Mitigation - Ecology Policy Implementation - Wildlife and Habitat Conservation - Wildlife and Cemeteries - Flooding (inc flood resilience) - Nutrient Management Plans - Beaches & Foreshores - Countryside and Open Spaces - AONB protection and enhancement - Environmental Health - Community Health & safety - Household Refuse & Recycling - Streetscene Services - Parks & gardens (maintenance) - Play / skate parks and sports grounds (maintenance) - Public Toilets - Cemeteries and Allotments - Licensing

Member	Portfolio	Detail
Councillor Sarah Jackson	Communications & Democracy	<ul style="list-style-type: none"> - Governance Review - Constitutional Reform - Public Democratic Engagement - Freedom of Information / Subject Access - Democracy & Elections - Democratic Services - Democratic Outreach to Parishes and Towns - Member Declarations of Interest - Anti-Bribery Policy - Member Development - Press & Media enquiries / liaison - Direct communications to residents - External Communications inc. press & media and direct to resident communications - Public Digital Interface (inc website functionality and content and transactions, EDDC app, social media, and Firmstep) - Branding and Marketing - Public Consultations
Councillor Matt Hall	Economy	<ul style="list-style-type: none"> - Economic Development - Rural Economy - Business Support - Business Grants (inc AIR / ARG) - Business Intelligence - Exmouth and Axminster Regeneration - Enterprise Zone - Broadband Provision and Improvements - External Investment
Councillor Paul Hayward	Finance & Assets	<ul style="list-style-type: none"> - Audit & Governance - Budget Preparation & Monitoring - Capital Project Monitoring - Council Tax - Land Charges - Procurement - Revenues & Benefits - Treasury Management - Car Parks revenue - Asset Portfolio Acquisition Management & Transfer - Assets Improvements and Repairs - Revenue Generating Assets (inc. Beach Huts, buildings but excluding Car Parks) - Car Parks as a property asset
Councillor John Loudoun	Council and Corporate Co-ordination	<ul style="list-style-type: none"> - Cabinet Cohesion - Internal Planning and Policy Development and Delivery (inc Council / Corporate / Service Planning) - Lead Member Coordination and reporting - External bodies

Member	Portfolio	Detail
		<ul style="list-style-type: none"> - Member report liaison - Regional Engagement with other authorities - Customer Services and care (including complaints) - Staff Health and Safety - Legal Services - Human Resources - Officer Learning and Development - Organisational Development - Payroll Services (including pay, benefits and reward) - Performance Monitoring - Management Information - Systems Thinking - Equality - IT Client Lead for Service related projects and staff IT equipment
Councillor Olly Davey	Strategic Planning	<ul style="list-style-type: none"> - Development Management & Building control - Growth Point - NPPF - Local Plan Review and Policy - National Park Review - Neighbourhood Plans - Strategic Planning & Delivery
Councillor Dan Ledger	Sustainable Homes & Communities	<ul style="list-style-type: none"> - Affordable Homes - Community Development & Support - Gypsies & Travellers - Health & Wellbeing - Homelessness - Housing Enabling - Social Inclusion - Private Housing
Councillor Nick Hookway	Culture, Leisure, Sport & Tourism	<ul style="list-style-type: none"> - Visitor Economy and Tourism Strategy - Events programme - Event delivery - Arts and Culture - Leisure provision and policy - Sports Strategy for East Devon - Play and sports events - Park and garden events - LED operations

7 Article 7: The Overview and Scrutiny Committees

7.1 Terms of reference

7.1.1 Overview and Scrutiny is a non-executive function carried out by three committees, the Overview Committee, the Scrutiny Committee and the Housing Review Board ('the Overview and Scrutiny Committees'). The legal provisions affecting the Overview and Scrutiny Committees are contained in section 21 of the Local Government Act 2000 and regulations under section 9 and 32 of the Local Government Act 2000, the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007.

7.1.2 The Overview and Scrutiny Committees operate within the guiding principles of effective scrutiny promoted by the Centre for Public Scrutiny, namely:

- a) Provide a 'critical friend' challenge to the Cabinet as well as external authorities and agencies;
- b) Reflect the voice and concerns of the public and its communities;
- c) Take the lead and own the scrutiny process on behalf of the public;
- d) Make an impact on the delivery of public services

7.1.3 The Overview and Scrutiny Committees will look beyond the Council to how other authorities and partners impact on the District and delivery of the Council Plan and ensure that the Council develops its partnership working to help achieve integrated Devon service delivery (including the Local Government family Devon-wide, achieving savings through partnership working with neighbouring authorities (Mid Devon, Exeter, Teignbridge, West Dorset, East Devon and Blackdown Hills AONB Partnerships), Police, Fire, and the Clinical Commissioning Groups and health providers, effective Local Economic Partnership operation and Local Strategic Partnership service commissioning.

7.1.4 The Overview and Scrutiny Committees will have the power to establish specific sub-committees, called Task and Finish Forums, comprising Members of the relevant Committee, other councillors as appropriate (excluding the Cabinet) and where appropriate, members of the public.

7.1.5 The Overview and Scrutiny Committees will have the authority to require members of the authority and officers to attend a meeting to answer questions. They will receive reports on performance in order to assist them in their duties;

7.1.6 The Overview and Scrutiny Committees may make reports and recommendations to partner authorities concerning the partner's functions in the Council's area and require the partner to have regard to the report; partner authorities must also provide such information as the Committee may reasonably require to discharge its functions.

7.2 General functions

7.2.1 The Overview Committee will principally provide the 'critical friend' challenge and reflect the voice and concerns of the public and its communities prior to the decision being taken so as to make an impact on the delivery of public services.

7.2.2 The Scrutiny Committee will principally take the lead and own the post decision scrutiny process (in its widest sense) on behalf of the public with a view to making an impact on the delivery of public services.

7.2.3 Within their Terms of Reference, both the Overview Committee and Scrutiny Committee will:

(a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions including considering the draft budget by way of a joint meeting between the two committees in January each year (or such time as is appropriate).

(b) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions.

(c) make reports and/or recommendations to full Council and/or Cabinet on any matter affecting the area or its inhabitants.

(d) enable Members to refer matters relevant to the functions of the committee to it by including items on the committee agenda and notify the Member of its reasons for its decision if it decides not to exercise any of its functions further, subject to the restriction on referral in 7.2.7.

(e) the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012 excludes from referral to Overview and Scrutiny the following:

(i) a planning decision;

(ii) a licensing decision;

(iii) any matter concerning an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;

(iv) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview Committee or Scrutiny Committee;

(f) a matter does not fall within (e) if it consists of an allegation relating to items (i) to (iii) and it is alleged that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis;

(g) exercise the right to question any Member as regards delegated Ward Member functions if and when such a scheme is made under sections 120 and 236 of the 2007 Act.

7.3 [Specific Functions of the Overview Committee, relating to policy development and review](#)

7.3.1 To assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues.

7.3.2 To conduct research and carry out community and other consultation in the analysis of policy issues and possible options.

- 7.3.3 To consider and propose mechanisms to encourage and enhance community participation in the development of policy options.
- 7.3.4 Question Members of the Cabinet and/or committees and Senior Officers about their views on issues and proposals affecting the area.
- 7.3.5 Subject to prior Council approval of an annual work plan, liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

7.4 Specific Functions of the Scrutiny Committee

- 7.4.1 Review and scrutinise the decisions made by and performance of the Cabinet and Council officers both in relation to individual decisions and over time.
- 7.4.2 Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- 7.4.3 Question Members of the Cabinet and Senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- 7.4.4 Make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process.
- 7.4.5 Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance.
- 7.4.6 Question and gather evidence from any person (with their consent).
- 7.4.7 Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet and/or a Portfolio Holder Member of the Cabinet.

7.5 Specific Functions of the Housing Review Board

- 7.5.1 Advise the Cabinet on the Council's landlord activities and functions affecting tenants and leaseholders.
- 7.5.2 Maintain an active involvement in the on-going review of the options for the future ownership and management of Council owned homes, and make recommendations.
- 7.5.3 Promote good practice and oversee Service improvements.
- 7.5.4 Monitor performance on core housing management activities and report to the Cabinet.
- 7.5.5 Assist the Cabinet to monitor and prepare the Housing Revenue Account budget and the Housing Revenue Account Business Plan.
- 7.5.6 Promote tenant and leaseholder involvement and implementation of the Resident Involvement Strategy.
- 7.5.7 Consult with the Resident Involvement Strategy Monitoring Forum who will liaise with tenant groups and representatives.
- 7.5.8 Encourage good practice in relation to equality and diversity issues, and ensure that the needs of vulnerable tenants are satisfied.

7.5.9 Advise on any other matters affecting the Council’s landlord duties and responsibilities.

7.6 Finance

7.6.1 The Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.

7.7 Annual Report

7.7.1 The Overview and Scrutiny Committees will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

7.8 Section 19 of the Police and Justice Act 2006

7.8.1 The Act requires the Council to have a statutory Crime and Disorder Committee for the purposes of section 19 of the Police and Justice Act 2006. The role of the Crime and Disorder Committee shall be carried out by the Scrutiny Committee.

7.8.2 The Scrutiny Committee has the power to review or scrutinise the decisions made, or other action taken, by the responsible authorities in respect of their crime and disorder functions. Any recommendations made as a result can be referred to the Cabinet or Council with respect to the discharge of those functions. Where a report or recommendation results from a review, a copy must be sent to such of the responsible authorities and to the persons or bodies with which the duty to co-operate under section 5 (2) of the Crime and Disorder Act 1998 applies as the Scrutiny Committee thinks appropriate. The recipients of the report or recommendations must give consideration, and respond to the Scrutiny Committee indicating what (if any) action it proposes to take, and have regard to the report or recommendations in exercising its functions.

7.8.3 The Police and Justice Act also requires arrangements to be made to enable a Member who is not a Member of the Scrutiny Committee to refer a local crime and disorder matter to the Scrutiny Committee. Local crime and disorder matters are those affecting the Member’s Ward including anti-social behaviour and alcohol and substance misuse. If the Scrutiny Committee decides not to make a report or recommendations in relation to a matter raised by a Ward Member, the Scrutiny Committee must make clear the reasons why.

7.9 Crime and Disorder (Overview and Scrutiny) Regulations 2009

7.9.1 The Regulations provide for the choice of co-opting additional members from those persons and bodies who are responsible authorities under the Crime and Disorder Act 1998; who may have voting rights on crime and disorder matters if the Scrutiny Committee decides this. The Scrutiny Committee may co-opt either employees or non-executive members of a responsible authority.

7.9.2 Minimum of one meeting per calendar year on crime and disorder.

- 7.9.3 Responsible authorities must provide information requested of them by the Scrutiny Committee. The Committee may require an officer of a responsible authority or a co-operating body to attend a meeting, on reasonable notice.
- 7.9.4 Responses to any reports or recommendations made must be in writing within one month from the date of the report/recommendation, or, if this is not reasonably possible, as soon as possible, back to the Crime and Disorder Committee.
- 7.9.5 The Committee shall review such responses and monitor the action (if any) taken.
- 7.10 [Section 21A Local Government Act 2000](#)
- 7.10.1 The Overview Committee and Scrutiny Committee also discharge the Council's functions for the purposes of reporting a 'local government matter' as defined by the Local Government and Public Involvement in Health Act 2007.
- 7.10.2 Subject to the approval of Full Council the Overview Committee and the Scrutiny Committee have the right to co-opt additional members permanently and or for particular issues (with voting rights on crime and disorder matters if the committee so wishes).
- 7.11 [Relationship between Overview Committee and the Strategic Planning Committee](#)
- 7.11.1 The Strategic Planning Committee shall consider all planning policy related matters (as set out within its Terms of Reference in Section 2 of Part 3 of the Constitution) and accordingly those matters shall not fall within the Overview Committee's Terms of Reference and nothing in this Article 7 shall be construed as indicating to the contrary.
- 7.12 [Proceedings of the Overview and Scrutiny Committees](#)
- 7.12.1 The Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution. In addition they may appoint sub-committees, panels and forums to assist in the carrying out of matters referred to them by the Cabinet, together with such other matters as any of the three Committees may deem necessary within their remit.

8 Article 8: Regulatory and Other Committees

8.1 Regulatory and Other Committees

8.1.1 The Council will also appoint the following Committees/Sub Committees:

Strategic Planning Committee

Planning Committee

Licensing and Enforcement Committee

Personnel Committee (from which the Investigating and Disciplinary Sub Committee, Employment Appeals Sub Committee and Interviewing (Chief Officers) Sub Committee will be drawn)

Audit and Governance Committee

8.1.2 Their terms of reference and delegated powers are set out in Part 3 of this Constitution. No other Committee or Sub Committee shall be established unless authorised by resolution of the Council or under the provisions of the Licensing Act 2003.

9 Article 9: Standards Committee

9.1 Standards Committee

- 9.1.1 The Council meeting will establish a Standards Committee and an Assessment Sub Committee and a Hearings Sub Committee. The Standards Committee will meet four times each year and is subject to the political balance rules unless full Council has unanimously waived this requirement.

9.2 Composition

- 9.2.1 **Membership:** The membership of the full Standards Committee shall comprise the Chair of the Council, six Councillors, three non-voting independent Members and three non-voting Parish Council Members; One member of the Cabinet may be a member of the Committee (but excluding the Leader at all times); The independent Members shall be persons who are not Councillors or officers of the Council or any other body having a standards committee; The Parish Members shall be a member of a Town or Parish Council wholly or mainly in the Council's area and who shall not be Councillors or officers of the Council.
- 9.2.2 **Independent Members:** An independent Member's appointment shall normally be for a term of four years, and may be extended by the Council for up to a further four years.
- 9.2.3 **Parish Members:** A Parish Member's appointment shall normally be for a term of four years, and may be extended by the Council for up to a further four years. A Parish Member's appointment shall automatically determine if s/he ceases to be a Member of the Town or Parish Council wholly or mainly in the Council's area.
- 9.2.4 **Chairing the Committee:** The Chair of the Council shall be the Chair.
- 9.2.5 The composition of the Assessment Sub Committee shall be three district councillors plus an independent Member and a Parish Member, drawn by the Monitoring Officer from the Standards Committee, and one of the Independent Persons. The Independent Member, Parish Member and Independent Person shall be non-voting.
- 9.2.6 The composition of the Hearings Sub Committee shall be three district councillors plus an Independent Member and a Parish Member, drawn by the Monitoring Officer from the Standards Committee as required for each hearing. The Independent Member and Parish Member shall be non-voting.
- 9.2.7 **Quorum:** The quorum for meetings of the Committee, Assessment Sub Committee and Hearings Sub Committee is specified in the Terms of Reference (Part 3 Section 2) but shall comprise at least three Members with voting rights.

9.3 The role and function of the Standards Committee

- 9.3.1 Discharging the Council's standards related functions under Part III of the Local Government Act 2000 and the Localism Act 2011.
- 9.3.2 Promoting and maintaining high standards of conduct by Councillors, co-opted Members and Council officers.

- 9.3.3 Considering reports referred to the Committee by the monitoring officer and making recommendations concerning the governance and ethical standards of the Council.
- 9.3.4 Assisting the Councillors and any co-opted Members to observe the Council's Code of Conduct for Members.
- 9.3.5 Advising the Council on the adoption or revision of the Council's Code of Conduct for Members; a Code for officers, and any related codes or protocols.
- 9.3.6 Monitoring the operation of the Council's Code of Conduct for Members.
- 9.3.7 Advising, training or arranging to train Councillors on matters relating to the Council's Code of Conduct.
- 9.3.8 To grant dispensations to Councillors from requirements relating to Disclosable Pecuniary, Other Registerable and / or Non-Registerable Interests set out in the Council's Code of Conduct for Members [so far as not delegated to the Monitoring Officer] where:
- a) the committee considers that the dispensation is in the interests of persons living in the authority's area; or
 - b) without a dispensation, each Member of the Cabinet would be unable to participate in the matter; or
 - c) the committee considers that it is otherwise appropriate to grant a dispensation.
- 9.3.9 To discharge statutory functions relating to compliance with the Code of Conduct for Parish Councils wholly or mainly in its area and the Members of those Parish Councils.
- 9.3.10 To appoint sub-committees to undertake these functions.
- 9.4 [The role and function of the Assessment Sub Committee](#)
- 9.4.1 To receive reports from the Monitoring Officer on valid complaints to determine the appropriate action to be taken.
- 9.4.2 The Assessment Sub-Committee will consider the Monitoring Officer's report and, having regard to the "Local Assessment Criteria" and the views of the Independent Person, it will take a decision on how a complaint progresses, on the basis of one or more of the following options:
- a) No further action
 - b) Monitoring Officer investigation
 - c) Other action
 - d) Referral to the Police
 - e) Referral to Independent Investigation
- 9.4.3 The Assessment Sub Committee may also grant dispensation in the same circumstances as the Standards Committee.
- 9.5 [The role and function of the Hearings Sub Committee](#)
- 9.5.1 To conduct hearings into allegations of breach of the Code of Conduct following an investigation report referred by the Monitoring Officer.

- 9.5.2 The Committee will make findings of fact and determine whether there has been any breach of the Code of Conduct, the Council's Standing Orders, or Financial Regulations.
- 9.5.3 Where appropriate to impose sanctions on a Member found to have failed to comply with the Code of Conduct including:
- a) censuring or reprimanding the Member;
 - b) publishing its findings in respect of the Member's conduct;
 - c) reporting its findings to Council [or to the Parish Council] for information or sanctions;
 - d) recommending to the Member's Group Leader (or in the case of un- grouped Members, recommending to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - e) recommending to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - f) recommending to Council that the Member be replaced as Executive Leader;
 - g) instructing the Monitoring Officer to [or recommend that the Parish Council] arrange training for the Member;
 - h) removing [or recommending to the Parish Council that the Member be removed] from all outside appointments to which he/she has been appointed or nominated by the authority [or by the Parish Council];
 - i) withdrawing [or recommend to the Parish Council that it withdraws] facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
 - j) excluding [or recommending that the Parish Council exclude] the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 9.5.4 The Hearings Sub Committee may also grant dispensations in the same circumstances as the Standards Committee.

10 Article 10: Joint Arrangements

10.1 Arrangements to promote well being

10.1.1 The Council, or the Cabinet, in order to promote the economic, social or environmental wellbeing of its area (and subject to the matter in question being included in the Council's community strategy) may:

- a) enter into arrangements or agreements with any person or body;
- b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- c) exercise on behalf of that person or body any functions of that person or body.

10.2 Joint Arrangements

10.2.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions that are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

10.2.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions that are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

10.2.3 Except as set out below, the Cabinet may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.

10.2.4 Details of joint arrangements (if any) including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

10.3 Access to Information

10.3.1 The Access to Information Rules in Part 4 of this Constitution apply.

10.3.2 If all the members of a joint committee are Members of the Cabinet/executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.

10.3.3 If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

10.4 Delegation to and from other Local Authorities

10.4.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the Cabinet/executive of another local authority.

10.4.2 The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

- 10.4.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

10.5 Contracting Out

- 10.5.1 The Council and/or the Cabinet (in respect of executive functions only) may contract out to another body or organisation functions that may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

10.6 Strata Service Solutions Ltd

- 10.6.1 The Council has together with Exeter City and Teignbridge District Council agreed to the creation of Strata Solutions Services ("Strata") (a company wholly owned by the three authorities to provide ICT functions across the three authorities). The Council is required to appoint an officer of the Council as a member of the Strata Board and this decision has been delegated to the Head of Paid Service. In addition there is a Joint Executive Committee and Joint Scrutiny Committee. The Council has agreed to the appointment of the Leader of the Council as the Council's representative on the Joint Executive Committee. The three Members appointed to the Joint Scrutiny Committee are appointed by the Council annually. The Terms of Reference and Rules of Procedure governing the operation of the Joint Executive Committee and Joint Scrutiny Committee are exclusively contained within Part 8 of this Constitution.

10.7 South East Devon Habitat Regulations Executive Committee

- 10.7.1 The Council has together with Exeter City and Teignbridge District Council agreed to the formation of a joint committee to be responsible for ensuring the timely delivery and effective mitigation arising from new development which might impact three sites of European wildlife importance. The Council has agreed to the appointment of the Portfolio Holder for Strategic Development as the Council's representative on the joint committee an appointment which is made annually. The Terms of Reference and Rules of Procedure governing the operation of the Joint Executive Committee and Joint Scrutiny Committee are exclusively contained within Part 9 of this Constitution.

11 Article 11: Officers

11.1 Management Structure

11.1.1 The Council will employ such officers as it considers necessary to carry out its functions.

11.1.2 The Council will appoint persons for the following posts, who will be designated Chief Officers:

Post	Functions and areas of responsibility
Chief Executive	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision making process. Representing the Council on partnership and external bodies (as required by statute or the Council). Acting as the Council's Electoral Registration Officer, Returning Officer and Acting Returning Officer for all relevant electoral purposes
Director of Governance and Licensing	Services include Legal, Democratic Services, Licensing and Information and Complaints
Director of Finance	Services include Accountancy and Audit, Benefits, Revenue Collection. Responsible for asset management, car parking and major projects
Director for Housing, Health and Environment	Services include Housing, Environmental Health, Streetscene and Countryside and Leisure

11.1.3 In addition to the above the Council may appoint one or more further Directors or equivalent to assist the Chief Officers; together with the Chief Officers this shall be the Senior Management Team.

11.1.4 All other staff will be appointed by a Chief Officer or by one of their managers.

11.1.5 **Head of Paid Service, Monitoring Officer and Chief Financial Officer** – The Council will designate the following posts to assume the appropriate statutory responsibilities and these post holders shall be referred to as the Statutory Officers:

Post	Statutory Designation
Chief Executive	Head of Paid Service
Director of Governance and Licensing	Monitoring Officer
Director of Finance	Chief Finance Officer (S151 Officer)

11.1.6 **Structure.** The Head of Paid Service will determine and publicise (within this Constitution) a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This will be set out at Part 7 of this Constitution.

11.2 Functions of the Head of Paid Service

11.2.1 **Discharge of functions by the Council.** The Head of Paid Service will report to Full Council on:

- a) the manner in which the discharge of the Council's functions is co-ordinated;
- b) the number and grades of officers required for the discharge of functions;
- c) the organisation of the officers; and
- d) the appointment and proper management of the authority's staff.

11.2.2 Restrictions on functions - The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

11.3 Functions of the Monitoring Officer

11.3.1 **Maintaining the Constitution:** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

11.3.2 **Ensuring lawfulness and fairness of decision making:** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an executive function) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

11.3.3 **Supporting the Standards Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

11.3.4 **Conducting investigations:** The Monitoring Officer will conduct investigations into Standards matters and where appropriate make reports or recommendations in respect of them to the Standards Committee.

11.3.5 **Proper officer for access to information:** The Monitoring Officer will ensure that decisions of the Cabinet, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

11.3.6 **Advising whether executive decisions are within the budget and policy framework:** The Monitoring Officer (together with the Chief Finance Officer) will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

11.3.7 **Providing advice:** The Monitoring Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, issues relating to probity and the policy framework.

11.3.8 **Acting as the Corporate Complaints Officer.**

11.3.9 **Contributing to corporate management:** The Monitoring Officer will contribute to the corporate management of the Council.

- 11.3.10 **Maintaining the Corporate and District / Parish Register of Council Members' Interests.**
- 11.3.11 **Monitoring and Reviewing the Constitution:** The Monitoring Officer (together with the Head of Paid Service) will monitor and review the operation of the Constitution in accordance with the contents of Article 14.
- 11.3.12 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

- 11.4 **Functions of the Chief Finance Officer**
- 11.4.1 **Ensuring lawfulness and financial prudence of decision making:** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- 11.4.2 **Administration of financial affairs:** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 11.4.3 **Contributing to corporate management:** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 11.4.4 **Providing advice:** The Chief Finance Officer will provide advice on financial impropriety, and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- 11.4.5 **Give financial information:** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

- 11.5 **Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**
- 11.5.1 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

- 11.6 **Conduct**
- 11.6.1 Officers will comply with the Officers' Code of Conduct set out in Part 5 of this Constitution and any Member/Officer Protocol/Code of Conduct and policies as the Council may from time to time adopt.

- 11.7 **Employment**
- 11.7.1 The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution and such other relevant standing Orders as from time to time may be required.

12 Article 12: Decision Making

12.1 Responsibility for Decision Making

12.1.1 The Council will issue and keep up to date a record of what part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

12.2 Principles of Decision Making

12.2.1 All decisions of the Council will be made in accordance with the following principles:

- a) within legal and financial parameters;
- b) proportionality (i.e. the action must be proportionate to the desired outcome);
- c) due consultation and the taking of professional advice from officers;
- d) respect for human rights;
- e) a presumption in favour of openness (including explaining what options were considered and giving the reasons for decisions);
- f) clarity of aims and desired outcomes;
- g) promotion of equality;
- h) reduction in crime and disorder;
- i) sustainability;
- j) compliance with Members' and Officer Codes of Conduct

12.3 Types of Decision

12.3.1 Decisions reserved to Full Council: Decisions relating to the functions listed in Article 4 (policy framework and budget) will be made by the Full Council and not delegated.

12.3.2 Key decisions: A "key decision" means an executive decision which is likely:

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area:
 - (i) In accordance with section 38 of the Local Government Act 2000, in determining the meaning of "significant" regard shall be had to any guidance for the time being issued by the Secretary of State
 - (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

12.4 Decision making by the Full Council

12.4.1 Subject to Article 12.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.5 Decision making by the Executive

12.5.1 Subject to Article 12.8, the Cabinet will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.6 Decision making by Overview and Scrutiny Committees

12.6.1 The Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.7 Decision making by other committees and sub-committees established by the Council

12.7.1 Subject to Article 12.8, other Council committees (and sub-committees) will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

12.8 Decision making by Council bodies acting as Tribunals

12.8.1 The Council, its committees, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

13 Article 13: Finance and Contracts

13.1 Financial Management

13.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Part 4 of this Constitution.

13.2 Contracts

13.2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

14 Article 14: Review and Revision of the Constitution

14.1 Duty to monitor and review the constitution

14.1.1 The Monitoring Officer (together with the Head of Paid Service) will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

14.2 Protocol for monitoring and review of the Constitution by Monitoring Officer

14.2.1 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer will:

- a) Observe meetings of different parts of the Member and officer structure;
- b) Undertake an audit trail of a sample of decisions;
- c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- d) Compare practices in the Council with those in other comparable authorities, or national examples of best practice.

14.3 Changes to the Constitution

14.3.1 Only Full Council can approve changes to the Constitution.

15 Article 15: Suspension, Interpretation and publication of the Constitution

15.1 Suspension of the Constitution

15.1.1 Suspension of the Articles: The Articles of this Constitution may not be suspended

15.1.2 Suspension of the Rules of Procedure: A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors entitled to attend the meeting in question is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

15.2 Interpretation

15.2.1 The ruling of the Chair of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1 and to relevant professional advice.

15.3 Publication

15.3.1 The Chief Executive will make the Constitution available electronically to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

15.3.2 Copies of this Constitution will be available for inspection at Council offices and other appropriate locations. Copies of the full Constitution may be purchased by members of the local press and the public on payment of a reasonable fee.

15.3.3 A summary of the Constitution will be regularly maintained and kept up to date and be freely available within the district of East Devon.

16 Schedule 1: Description of Executive Arrangements

16.1 The following parts of this Constitution constitute the executive arrangements:

16.1.1 Article 6 (The Cabinet) and the Executive Procedure Rules.

16.1.2 Article 7 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules.

16.1.3 Article 10 (Joint arrangements).

16.1.4 Article 12 (Decision making) and the Access to Information Procedure Rules.

16.1.5 Part 3 (Responsibility for Functions).