

You are requested to attend a meeting of the Corporate Governance Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 27 September 2010 at 18:15.

Agenda

- 1 a) Appointment of Chairman
b) Apologies
- 2 Minutes of the meeting of the Corporate Governance Committee held on 28 June 2010 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 5 Audit Commission Annual Governance Report 2009/2010 - report of the Strategic Director (attached)
Reporting Officer: Shirlene Adam
- 6 Internal Audit Plan Progress Report - report of the Internal Audit Manager (attached)
Reporting Officer: Chris Gunn
- 7 Health and Safety Update - report of the Health and Safety Advisor (attached)
Reporting Officer: David Woodbury
- 8 Risk Management - report of the Performance and Client Lead (attached)
Reporting Officer: Dan Webb
- 9 Update to various parts of the Constitution - Report of the Legal and Democratic Services Officer and Councillor Denington, Chair of Constitutional Sub-Committee (attached)
Reporting Officer: Tonya Meers

Legal and Democratic Services Manager

24 September 2010

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

If a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: www.tauntondeane.gov.uk



Lift access to the John Meikle Room and the other Committee Rooms on the first floor of The Deane House, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available off the landing directly outside the Committee Rooms.



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

For further information about the meeting, please contact Democratic Services on 01823 356382 or email d.durham@tauntondeane.gov.uk

If you would like an agenda, a report or the minutes of a meeting translated into another language or into Braille, large print, audio tape or CD, please telephone us on 01823 356356 or email: enquiries@tauntondeane.gov.uk

Corporate Governance Committee Members:-

Councillor B Denington

Councillor A Govier

Councillor R Henley

Councillor J Thorne

Councillor A Beaven

Councillor A Wedderkopp

Councillor N Wilson

Councillor J O'Brien

Councillor S Coles

Councillor L James

Councillor T Hall

Corporate Governance Committee – 28 June 2010

Present: Councillors Beaven, Coles, Govier, Hall, Henley, Miss James, O'Brien, Thorne, A Wedderkopp, and Wilson.

Officers: Mr R Holwill (Accountant), Ms M Hammond (Strategic Finance Officer), Mr P Fitzgerald (Financial Services Manager), Mr C Gunn (Group Auditor, South West Audit Partnership), Mrs T Meers (Legal and Democratic Services Manager), Mr D Webb (Client and Performance Officer) and Miss N Williams (Administrative Officer)

Also Present: Councillors Morrell, Stuart-Thorn, Mrs Whitmarsh and Williams.
Mr T Brown

(The meeting commenced at 6.15 pm)

27. Appointment of Chairman

Resolved that Councillor O'Brien be appointed as Chairman of the Corporate Governance Committee for the remainder of the Municipal Year.

28. Appointment of Vice-Chairman

Resolved that Councillor Coles be appointed as Vice-Chairman of the Corporate Governance Committee for the remainder of the Municipal Year.

29. Apology/Substitution

Apology: Councillors Denington.

Substitution: Councillor Mrs Allgrove for Councillor Denington.

30. Minutes

The minutes of the meeting held on 24 May 2010 were taken as read and were signed.

31. Statement of Accounts 2009/2010

Considered report previously circulated, concerning the annual Statement of Accounts for 2009/2010 which was required to be approved by the Corporate Governance Committee prior to the accounts being signed by the Council's Section 151 Officer and by the Chairman of the Committee, Councillor O'Brien. The statutory deadline for the signing of the accounts was the end of June.

The 2009/2010 Accounts presented were subject to audit which would shortly be undertaken by the Audit Commission.

The format of the Statement of Accounts had not changed substantially from last year with only some technical accounting amendments when compared to 2008/2009.

A brief presentation was made to Members by the Strategic Finance Officer, Maggie Hammond and the Temporary Accountant, Richard Holwill, on the Statement of Accounts which included information on the following topics:-

- Income and Expenditure Account;
- Statement of Movement on the General Fund Balance;
- Statement of Recognised Gains and Losses;
- Balance Sheet;
- Cash Flow Statement.

It was reported that following the conclusion of the audit to be undertaken by the Audit Commission, the Committee would be informed if any significant amendments had arisen.

Resolved that:-

- 1) The Statement of Accounts for 2009/2010 be approved;
- 2) The following determinations in respect of the year ended 31 March 2010 be made:-

Section 42(2)(g) – that £4,220,000 of expenditure for capital purposes, which was financed by grant, be capitalised.

32. Risk Management

Considered report previously circulated, which gave details of the Council's updated Risk Management Strategy.

The original Risk Management Strategy had been approved by the Committee in 2006 and had been reviewed and updated in order to continue the encouragement of best practice in this area. Two new risks had been identified and included, and one had been removed. A new section had been added that would enable planned actions to be included as well as existing control measures.

Details of the updated Risk Management Strategy were submitted for discussion.

Resolved that:-

- 1) the Corporate Risk Register be reviewed
- 2) Progress with Risk Management, the Internal Audit review and the actions planned be noted.

33. Corporate Improvement Plan

Considered report, previously circulated, giving details of the progress made against the Corporate Governance Action Plan.

Each year the Council received a number of reports and assessments which resulted in recommendations for improvement. Individual action plans had proved challenging to manage and monitor and, therefore, an aggregated plan provided the details of the scale of improvements required and progress against them in one place.

The Corporate Governance Action Plan listed 70 actions, details of which were submitted.

Good progress had been made and there were no items off target and a significant increase in the number of actions completed.

Categories where doubts had been expressed about achieving improvement by the target dates were submitted and included the following:-

- Business Continuity – (a) To formulate plans for service delivery in the event of the loss of facilities. These followed on from the plans developed in the event of Pandemic flu; (b) To address the weaknesses identified by Internal Audit in the Council's disaster recovery arrangements; (c) To ensure there was an up to date generic corporate business continuity plan and service level plans, and that these were tested at least annually;
- Corporate Governance – Update the procurement strategy to bring it in line with current practices;
- Equalities and Diversity – To improve the access to buildings for disabled people;
- Managing Finances – (a) To fully review the Financial Regulations; (b) To ensure that the programme of service reviews cover all service areas;
- Transformation – To continue to monitor Southwest One's delivery, to ensure that benefits realisation and the transformation of services was delivered on time and within budget;

- Service Improvement – Ensure that the programme of service reviews covered all service areas;
- Value for Money – (a) The use of benchmarking more systematically to challenge service costs and delivery arrangements; (b) Targeting efficiency savings at those areas which currently provided poor value for money compared to other Councils; and
- Workforce Planning – (a) To prepare an up to date workforce plan; (b) To continue to monitor progress in reducing sickness absence rates.

Resolved that the Corporate Improvement Plan be noted.

34. Internal Audit Plan

Considered report previously circulated, which provided an update on the significant findings and recommendations for the period April to June 2010.

Details were also reported of the operational audits and managed audits completed since **March 2010** which included the main issues raised and the management responses thereto.

Details of the reviews currently in progress were also provided.

Resolved that the report be noted.

35. Regulation of Investigatory Powers Act 2000

Considered report previously circulated, concerning the new list of Authorising Officers in respect of the Regulations of Investigatory Powers Act 2000 (RIPA).

On the 6 April 2010 a range of statutory instruments came into force and the rank of authorising officer was given further clarification in terms of the level of officer who was permitted to grant authorisations under RIPA.

The regulations stipulated that only the Chief Executive, Director, Head of Service or service manager or their equivalent were permitted to grant authorisations under this legislation.

Therefore following the Core Council Review, the levels of posts were reviewed in order to ensure that the Council's policy complied with the regulations and to take into account those officers who had left the Council.

Resolved that the new list of authorising officers in respect of RIPA be noted.

36. Amendments to Standing Order 16 Petitions

The Constitutional Sub-Committee had recently reviewed the Powers and Procedure Rules for Overview and Scrutiny and the recommendations were presented to Members by the Legal and Democratic Services Manager, Mrs Tonya Meers.

Members discussed the recommended amendments and agreed the changes proposed by the Sub-Committee.

Resolved that Council be recommended to agree the proposed amendments to the Standing Orders.

37. Health and Safety across the Organisation

Reported that the information requested by the Committee was currently unavailable due to problems with SAP. There were however no significant incidents to report. The Accident and Incident Report would be circulated to Members between now and the meeting due to be held in September 2010.

(The meeting ended at 8.25 pm).

Declaration of Interests

Corporate Governance Committee

- Members of Somerset County Council – Councillors Govier and Henley

TAUNTON DEANE BOROUGH COUNCIL

CORPORATE GOVERNANCE COMMITTEE 27 SEPTEMBER 2010

Report of the Strategic Director, Shirlene Adam

Executive Summary

This short covering report introduces the Annual Governance report prepared by our external auditors the Audit Commission.

The report, which will be presented by our external auditors, summarised the findings from the 2009/10 audit.

The report has been accepted by officers and is a fair reflection of the audit findings.

1. Background

- 1.1 The Council has received an “unqualified” opinion, subject to satisfactory clearance of outstanding matters on the 2009/10 accounts.
- 1.2 The arrangements for securing the economy, efficiency, and effectiveness in the use of resources received an unqualified opinion.
- 1.3 The preparation and audit of accounts has been particularly challenging this year due to the implementation issues with the SAP system. This has meant significantly more time has been spent by both officers and external auditors on this than normal. This has been necessary to provide sufficient assurance that the internal controls that protect the organisations accounting systems are in place and working.
- 1.4 Significant progress has been made in ensuring the SAP system is working effectively and we are confident that future years accounts preparation and audit will be less resource intensive.

2. Key Messages

- 2.1 There are several issues that have emerged from the audit process that will help us improve our procedures for future years. These are captured in the action plan set out in Appendix 6. The Strategic Director, Shirlene Adam will take responsibility for ensuring this is progressed.
- 2.2 The completed action plans for the Annual Governance Report and the Value for Money Report will be presented to the next meeting of this committee.

3. Financial Issues / Comments

- 3.1 The unadjusted misstatements in Appendix 3 are not of material value.
- 3.2 The additional external audit fee of £15,000 will have to be met from existing approved budgets as part of the budget monitoring process.

4. Legal Comments

- 4.1 There are no legal implications of this report.

5. Links to Corporate Aims

- 5.1 No direct implications.

6. Environmental and Community Safety Implications

- 6.1 No implications.

7. Equalities Impact

- 7.1 No implications.

8. Risk Management

- 8.1 The issues flagged in the action plan will be reviewed and if appropriate, entered in service risk registers.

9. Partnership Implications

- 9.1 The financial services team within Southwest One have worked hard to ensure the accounts preparation and audit went as smoothly as possible. Despite best efforts, there have been some difficulties in terms of working papers, and source documentation not being available.
- 9.2 The Financial Services Manager, Paul Fitzgerald has already put in place significant improvements to processes, and has committed to running a lessons learned exercise in the autumn for all involved in the process (including external audit). This is welcomed and will hopefully allow a more streamlined approach for the audit of 2010/11 accounts.

8. Recommendations

- 8.1 Members are requested to:
- Consider matters raised in the report and take note of the unadjusted misstatements in the Accounts set out in Appendix 3.
 - Approve the letter of representation on behalf of the Council as set out in Appendix 4.
 - Note the action plan as set out in Appendix 5.

Contact Officers:

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Annual Governance Report

Taunton Deane Borough Council

Audit 2009/10

September 2010

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Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/ members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
 - any third party.
-

Ladies and Gentlemen

2009/10 Annual Governance Report

I am pleased to present the final version of my report on the results of my audit work for 2009/10.

I discussed and agreed a draft of the report with the responsible Strategic Director on 15 September 2010 and updated it as issues have been resolved.

My report sets out the key issues that you should consider before I complete the audit.

It asks you to:

- consider the matters raised in the report before approving the financial statements (pages 7 to 10);
- take note of the adjustments to the financial statements set out in this report (Appendix 2);
- consider adjusting the errors in the financial statements I have identified, which management has declined to amend or set out the reasons for not amending the errors; (Appendix 3);
- approve the letter of representation on behalf of the Council before I issue my opinion and conclusion (Appendix 4); and
- agree your response to the proposed action plan (Appendix 6).

Yours faithfully

Brian Bethell
District Auditor

September 2010

Key messages

This report summarises the findings from the 2009/10 audit which is substantially complete. It includes the messages arising from my audit of your financial statements and the results of the work I have undertaken to assess your arrangements to secure value for money in your use of resources.

Financial statements	Results	Page
Unqualified audit opinion	Yes	7
Financial statements free from material error	Yes	7
Adequate internal control environment	Yes	8
Value for money	Results	Page
Adequate arrangements to secure value for money	Yes	11

Audit opinion

- 1 I expect to issue an unqualified audit opinion on the financial statements.

Financial statements

- 2 No significant amendments have been made to the financial statements since they were approved by the Corporate Governance Committee on 28 June 2010.

Value for money

- 3 I expect to issue an unqualified conclusion on your arrangements to secure economy, efficiency and effectiveness in your use of resources.

Audit fees

- 4 In my Audit Opinion Plan for the 2009/10 audit presented to the Corporate Governance Committee on 24 May 2010 I highlighted the likelihood that our fee previously notified to the Council on 21 April 2009 may need to be increased. This was because of widespread failure to operate key controls in significant financial systems run on the new SAP platform introduced during 2009/10.
- 5 The fee notified to the Council in April 2009 was £105,600 with £74,200 relating to the audit of the statement of accounts. Because of significant additional testing required at audit as a result of systems weaknesses in SAP based systems it has been necessary to increase the fee by £15,000 to £120,600 in total.

Key messages

Independence

- 6 I can confirm that the audit has been carried out in accordance with the Audit Commission's policies on integrity, objectivity and independence.

Next steps

This report identifies the key messages that you should consider before I issue my financial statements opinion, value for money conclusion, and audit closure certificate. It includes only matters of governance interest that have come to my attention in performing my audit. My audit is not designed to identify all matters that might be relevant to you.

7 I ask the Corporate Governance Committee to:

- consider the matters raised in the report before approving the financial statements (pages 7 to 10);
- take note of the adjustments to the financial statements which are set out in this report (Appendix 2);
- consider adjusting the errors in the financial statements I have identified that management has declined to amend or set out the reasons for not amending the errors (Appendix 3);
- approve the letter of representation on behalf of the Council before I issue my opinion and conclusion (Appendix 4); and
- agree your response to the proposed action plan (Appendix 6).

Financial statements

The Council's financial statements and annual governance statement are important means by which the Council accounts for its stewardship of public funds. As Council members you have final responsibility for these statements. It is important that you consider my findings before you adopt the financial statements and the annual governance statement.

Opinion on the financial statements

- 8 Subject to satisfactory clearance of outstanding matters, I plan to issue an audit report including an unqualified opinion on the financial statements. Appendix 1 contains a copy of my draft audit report.
-

Errors in the financial statements

Creditors

- 9 Included within the creditors balance, we identified that the amount due to HMRC for March of £350,000 has been incorrectly classified in the supporting notes to the accounts. This has no impact upon the reported revenue outturn.
- 10 Initial testing on April 2010 payments identified items of expenditure amounting to £20,000 which related to 2009/10 which had not been accrued. As a result of this error, additional testing was carried out and from which we conclude that the creditors balance is understated in total by £215,000. This understatement relates to capital expenditure. It has no impact upon the General Fund balance reported in the statements.

Debtors

- 11 My testing of debtors found that a credit balance of £223,000 was included representing the balance on the DWP Housing Benefit Subsidy return. This is in fact repayable to the Department and so should be included in creditors rather than debtors. The impact of this error is that both debtors and creditors are understated by £223,000 but this had no impact upon the reported revenue outturn.
- 12 As part of my review of the debtor balance, I identified two amounts totalling £151,000 that are not now collectable. However, I am satisfied that the provision for doubtful debts is not materially misstated. This has no impact upon the reported revenue outturn.

Income and Expenditure Account

- 13** As a result of a number of duplicate payments during March 2010 the Income and Expenditure Account net cost of services is overstated by £20,000. The General Fund balance is understated by the same amount. Debtors are understated by this amount as the balance does not recognise the repayments due to the Council at 31 March 2010.

Collection Fund

- 14** I reviewed the year end journal postings of the council tax and business rates systems to SAP as part of the accounts audit. It was identified that there were significant differences between the information derived from these systems to that posted into SAP. There was a net difference of £340,000 for business rates and £289,000 for council tax. The Council have been unable to provide an evidenced explanation for these differences and should ensure that in future it maintains a proper audit trail to demonstrate that the systems fully reconcile.

Recommendations	
R1	As part of the year end process the Council should instigate a robust review of its accruals to ensure that expenditure is accounted for in the correct period.
R2	The Council should review its debtor balances to ensure that the amounts included are receivable and whether the amounts should be considered for write off.
R3	Update the master data file for suppliers to remove duplicate entries for the same suppliers.
R4	A proper audit trail should be maintained to demonstrate that the council tax and business rates systems fully reconcile to the general ledger.

Important weaknesses in internal control

- 15** I assessed the controls for each of the financial information systems within SAP. As a result of problems implementing SAP, many of the key controls have not operated effectively for the whole year. Internal audit's work on the key financial systems confirms this view. The systems affected were the general ledger, accounts payable, accounts receivable and fixed assets.
- 16** Consequently I was unable to rely on system controls for my audit assurance. Therefore I carried out a substantive audit testing approach. This involves testing a sample of individual transactions, to gain assurance that the balances in the accounts are not materially misstated.
- 17** In addition I assessed the risk of material misstatement of figures in the accounts resulting from weaknesses in system access controls. These controls were not fully effective throughout 2009/10. However, my substantive testing approach has provided assurance that the accounts are not materially misstated.

Financial statements

- 18 Walkthrough testing carried out on housing benefit, business rate, council tax and rent systems confirmed that the systems have not changed significantly during the year. I am therefore able to rely on controls testing to provide appropriate audit assurance for figures derived from these systems.

Recommendation

- R5** Sufficient system access controls should be operated to identify and address any unauthorised access. Evidence of review of this control should be documented to provide assurance that it is working effectively.

Letter of representation

- 19 Before I issue my opinion, auditing standards require me to ask you and management for written representations about your financial statements and governance arrangements. Appendix 4 contains the draft letter of representation.

Key areas of judgement and audit risk

- 20 In planning my audit I identified specific risks and areas of judgement that I have considered as part of my audit.

Table 1 Key areas of judgement and audit risk

Issue or risk	Finding
Following the introduction of the new financial system, SAP, there has been a widespread failure to operate key controls in the system and failures to undertake reconciliations with the feeder systems throughout the year.	To support my opinion, additional substantive testing of year end transactions has been completed. I have not identified any material misstatement of the financial statements.

Accounting practice and financial reporting

- 21 I consider the non-numeric content of your financial reporting. Table 2 contains the issues I want to raise with you.

Table 2

Issue or risk	Finding
Collectability of debtors	<p>As part of my review of the debtor balance, I identified two amounts totalling £151,000 that are not now collectable.</p> <p>However, I am satisfied that the provision for doubtful debts is not materially misstated.</p> <p>This has no impact upon the reported revenue outturn.</p>
Valuer Terms of Reference	My review of the fixed assets, and particularly the valuations determined that there are no formal terms of reference or instructions passed to the valuer.
Limited narrative attached to transactions in SAP provides insufficient assurance to the viewer that the transaction is correctly posted in the accounts.	My work found that there is limited or no narrative attached to a significant number of transactions within SAP. Additional audit time has been spent tracing the source of the transaction and obtaining assurance that the transaction has been correctly recorded.
Loan Authorisation	I was unable to locate supporting documentation for the authorisation of a loan with the Public Works Loan Board (PWLB). Agreement to notification from the PWLB provided assurance that the loan was taken out on behalf of the Council and that it was outstanding at the 31 March 2010.
Related Party Transactions	<p>My review of the registers of interests did not provide us with conclusive evidence that the registers were up to date and complete.</p> <p>I do not have complete assurance that the disclosure for related party transactions is entirely accurate.</p>

Recommendations

- R6** All transactions on the SAP financial systems should contain sufficient narrative to identify the purpose of the transaction, timing and source.
- R7** The arrangements between the Council and the Valuer should be formalised. This is important given the move to IFRS, and the additional work that the Valuer will be instructed to complete in order to assist the Council prepare its accounts under IFRS.
- R8** All loans and investments taken out on behalf of the Council should be supported by appropriate documentation.
- R9** All registers of interest should be kept up to date.

Value for money

I am required to decide whether the Council put in place satisfactory corporate arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the value for money conclusion. I have based my conclusion on my work on the use of resources judgement.

Value for money conclusion

- 22** I assess your arrangements to secure economy, efficiency and effectiveness in your use of resources against criteria specified by the Audit Commission. I have shown my conclusions on each of the areas in Appendix 5.
- 23** I intend to issue an unqualified conclusion stating that the Council had adequate arrangements to secure economy, efficiency and effectiveness in the use of resources. Appendix 1 contains my draft report.

Glossary

Annual governance statement

24 A statement of internal control prepared by an audited body and published with the financial statements.

Audit closure certificate

25 A certificate that I have completed the audit following statutory requirements. This marks the point when I have completed my responsibilities for the audit of the period covered by the certificate.

Audit opinion

26 On completion of the audit of the accounts, auditors must give their opinion on the financial statements, including:

- whether they give a true and fair view of the financial position of the audited body and its spending and income for the year in question;
 - whether they have been prepared properly, following the relevant accounting rules; and
 - for local probation boards and trusts, on the regularity of their spending and income.
-

Qualified

27 The auditor has some reservations or concerns.

Unqualified

28 The auditor does not have any reservations.

Value for money conclusion

29 The auditor's conclusion on whether the audited body has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

Appendix 1 – Independent auditor’s report to Members of Taunton Deane Borough Council

Opinion on the accounting statements

I have audited the Authority and Group accounting statements and related notes of Taunton Deane Borough Council for the year ended 31 March 2010 under the Audit Commission Act 1998. The Authority and Group accounting statements comprise the Authority and Group Income and Expenditure Account, the Authority Statement of Movement on the General Fund Balance, the Authority and Group Balance Sheet, the Authority and Group Statement of Total Recognised Gains and Losses, the Authority and Group Cash Flow Statement, the Housing Revenue Account, the Statement of Movement on the Housing Revenue Account, the Collection Fund and the related notes. These accounting statements have been prepared under the accounting policies set out in the Statement of Accounting Policies.

This report is made solely to the members of Taunton Deane Borough Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 49 of the Statement of Responsibilities of Auditors and of Audited Bodies published by the Audit Commission in April 2008.

Respective responsibilities of the Responsible Financial Officer (Strategic Director) and auditor

The Responsible Financial Officer’s (Strategic Director) responsibilities for preparing the accounting statements in accordance with relevant legal and regulatory requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2009: A Statement of Recommended Practice are set out in the Statement of Responsibilities for the Statement of Accounts.

My responsibility is to audit the accounting statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the Authority and Group accounting statements give a true and fair view, in accordance with relevant legal and regulatory requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2009: A Statement of Recommended Practice, of:

- the financial position of the Authority and its income and expenditure for the year; and
- the financial position of the Group and its income and expenditure for the year.

I review whether the governance statement reflects compliance with ‘Delivering Good Governance in Local Government: A Framework’ published by CIPFA/SOLACE in June 2007. I report if it does not comply with proper practices specified by CIPFA/SOLACE or if the statement is misleading or inconsistent with other information I am aware of from my audit of the accounting statements. I am not required to consider, nor have I considered, whether the governance statement covers all risks and controls. Neither am I required to form an opinion on the effectiveness of the Authority’s corporate governance procedures or its risk and control procedures

I read other information published with the Authority and Group accounting statements, and consider whether it is consistent with the audited Authority and Group accounting statements. This other information comprises the Explanatory Foreword. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the Authority and Group accounting statements. My responsibilities do not extend to any other information.

Basis of audit opinion

I conducted my audit in accordance with the Audit Commission Act 1998, the Code of Audit Practice issued by the Audit Commission and International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the Authority and Group accounting statements and related notes. It also includes an assessment of the significant estimates and judgments made by the Authority in the preparation of the Authority and Group accounting statements and related notes, and of whether the accounting policies are appropriate to the Authority’s circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the Authority and Group accounting statements and related notes are free from material misstatement, whether caused by fraud or other irregularity or error. In forming my opinion I also evaluated the overall adequacy of the presentation of information in the Authority and Group accounting statements and related notes.

Opinion

In my opinion:

- the Authority accounting statements give a true and fair view, in accordance with relevant legal and regulatory requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2009: A Statement of Recommended Practice, of the financial position of the Authority as at 31 March 2010 and its income and expenditure for the year then ended; and
- the Group accounting statements give a true and fair view, in accordance with relevant legal and regulatory requirements and the Code of Practice on Local Authority Accounting in the United Kingdom 2009: A Statement of Recommended Practice, of the financial position of the Group as at 31 March 2010 and its income and expenditure for the year then ended.

Conclusion on arrangements for securing economy, efficiency and effectiveness in the use of resources

Authority’s responsibilities

The Authority is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance and regularly to review the adequacy and effectiveness of these arrangements.

Auditor’s responsibilities

I am required by the Audit Commission Act 1998 to be satisfied that proper arrangements have been made by the Authority for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the Audit Commission requires me to report to you my conclusion in relation to proper arrangements, having regard to relevant criteria for principal local authorities specified by the Audit Commission and published in May 2008 and updated in October 2009. I report if significant matters have come to my attention which prevent me from concluding that the Authority has made such proper arrangements. I am not required to consider, nor have I considered, whether all aspects of the Authority’s arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

Conclusion

I have undertaken my audit in accordance with the Code of Audit Practice and having regard to the criteria for principal local authorities specified by the Audit Commission and published in May 2008 and updated in October 2009, and the supporting guidance, I am satisfied that, in all significant respects, Taunton Deane Borough Council made proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2010.

Certificate

I certify that I have completed the audit of the accounts in accordance with the requirements of the Audit Commission Act 1998 and the Code of Audit Practice issued by the Audit Commission.

Appendix 2 – Amendments to the draft accounts

I identified the following misstatements during my audit and managers have made the necessary adjustments. I bring these to your attention to aid you in fulfilling your governance responsibilities.

Table 3

		Income and Expenditure Account		Balance sheet	
Adjusted misstatements	Nature of adjustment	Dr £000s	Cr £000s	Dr £000s	Cr £000s
Creditors - Sundry Creditor/ Govt Depts	HMRC Creditor for March 2010 was incorrectly classified in the supporting note as Sundry Creditor when it should be classified as a Government Department creditor.			350	350
Debtor - DWP Subsidy	A credit balance of £223,000 was incorrectly included in the debtor balance. This is in fact repayable to the Department and so should be included in creditors rather than debtors. The impact of this error is that both debtors and creditors are understated by £223,000 but this had no impact upon the reported revenue outturn.			223	223

Appendix 3 – Unadjusted misstatements in the accounts

I identified the following misstatements during my audit, but management has not adjusted the financial statements. I bring them to your attention to help you in fulfilling your governance responsibilities. If you decide not to amend, please tell us why in the representation letter. If you believe the affect of the uncorrected errors, individually and collectively, is immaterial, please reflect this in the representation letter. Please attach a schedule of the uncorrected errors to the representation letter.

Table 4

Description of error	Accounts affected	Value of error £'000
<p>Duplicate payments</p> <p>As a result of a number of duplicate payments during March 2010 the Income and Expenditure Account, net cost of services, is overstated by £20,000 and the General Fund balance understated by the same amount. Debtors are understated by this amount as the balance does not recognise the repayments due to the Council at 31 March 2010.</p>	<p>Income & Expenditure Account</p> <p>Bank</p> <p>Debtors</p>	20
<p>Allocation of expenditure between financial years.</p> <p>Initial testing on April 2010 payments identified items of expenditure amounting to £20,000 which related to 2009/10 which had not been accrued. As a result of this error, additional testing was carried out and from which I conclude that the creditors balance is understated in total by £215,000.</p> <p>This understatement relates to capital expenditure. It has no impact upon the General Fund balance reported in the statements.</p>	<p>Fixed Asset Additions</p> <p>Creditors</p>	215

Appendix 4 – Draft letter of representation

Brian Bethell
District Auditor
Audit Commission,
Exchange House
12-14 The Crescent,
Taunton TA1 4EB

Taunton Deane Borough Council - Audit for the year ended 31 March 2010

I confirm to the best of my knowledge and belief, having made appropriate enquiries of other directors of Taunton Deane Borough Council, the following representations given to you in connection with your audit of the Council's financial statements for the year ended 31 March 2010. All representations cover the Group Accounts included within the financial statements.

Compliance with the statutory authorities

I acknowledge my responsibility under the relevant statutory authorities for preparing the financial statements in accordance with the Code of Practice for Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice which give a true and fair view of the financial position and financial performance of the Council and for making accurate representations to you.

Supporting records

All the accounting records have been made available to you for the purpose of your audit and all the transactions undertaken by the Council have been properly reflected and recorded in the accounting records. All other records and related information, including minutes of all Council and Committee meetings, have been made available to you.

Irregularities

I acknowledge my responsibility for the design and implementation of internal control systems to prevent and detect fraud or error.

There have been no:

- irregularities involving management or employees who have significant roles in the system of internal accounting control;
- irregularities involving other employees that could have a material effect on the financial statements; or
- communications from regulatory agencies concerning non-compliance with, or deficiencies on, financial reporting practices which could have a material effect on the financial statements.

I also confirm that I have disclosed:

- my knowledge of fraud, or suspected fraud, involving either management, employees who have significant roles in internal control or others where fraud could have a material effect on the financial statements; and
- my knowledge of any allegations of fraud, or suspected fraud, affecting the entity's financial statements communicated by employees, former employees, analysts, regulators or others.

Law, regulations, contractual arrangements and codes of practice

There are no instances of non-compliance with laws, regulations and codes of practice, likely to have a significant effect on the finances or operations of the Council.

The Council has complied with all aspects of contractual arrangements that could have a material effect on the financial statements in the event of non-compliance. There has been no non-compliance with requirements of regulatory authorities that could have a material effect on the financial statements in the event of non-compliance.

Fair Values

I confirm the reasonableness of the significant assumptions within the financial statements. For the financial instruments note, I confirm:

- the appropriateness of the measurement method;
- the basis used by management to overcome the presumption under the financial reporting framework;
- the completeness and appropriateness under the financial reporting framework; and that subsequent events do not require adjustment to the fair value measurement.

Tone Leisure

I have provided you with all information regarding the relationship with Tone Leisure. There are no assets or liabilities relating to the Council other than those disclosed in the Council's Group Accounts.

Assets

The following have been properly recorded and, where appropriate, adequately disclosed in the financial statements:

- losses arising from sale & purchase commitments;
- agreements & options to buy back assets previously sold; and
- assets pledged as collateral.

Compensating arrangements

There are no formal or informal compensating balancing arrangements with any of our cash and investment accounts. Except as disclosed in Note **Rachel** to the financial statements we have no other lines of credit arrangements.

Contingent liabilities

There are no other contingent liabilities, other than those that have been properly recorded and disclosed in the financial statements. In particular:

- there is no significant pending or threatened litigation, other than those already disclosed in the financial statements;
- there are no material commitments or contractual issues, other than those already disclosed in the financial statements; and
- no financial guarantees have been given to third parties.

Related party transactions

I confirm the completeness of the information disclosed regarding the identification of related parties.

The identity of, and balances and transactions with, related parties have been properly recorded and where appropriate, adequately disclosed in the financial statements

Post balance sheet events

Since the date of approval of the financial statements by the Council, no additional significant post balance sheet events have occurred which would require additional adjustment or disclosure in the financial statements.

Specific representations:

There are no other material amounts relating to unfunded liabilities, curtailments or settlements of past service costs relating to pension provision other than those which have been properly recorded and disclosed in the financial statements.

Signed on behalf of Taunton Deane Borough Council

I confirm that the this letter has been discussed and agreed by the Council on 27 September 2010.

Signed

Name

Position

27 September 2010

Appendix 5 – Value for money criteria

KLOE	Met
Managing finances	
Planning for financial health	Yes
Understanding costs and achieving efficiencies	Yes
Financial reporting	Yes
Governing the business	
Commissioning and procurement	Yes
Use of information	Yes
Good governance	Yes
Risk management and internal control	Yes
Managing resources	
Natural resources	Yes
Strategic asset management	Yes
Workforce	Yes

Appendix 6 – Action plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
Annual Governance Report 2009/10 - Recommendations						
8	R1 As part of the year end process the Council should instigate a robust review of its accruals to ensure that expenditure is accounted for in the correct period.					
8	R2 The Council should review its debtor balances to ensure that the amounts included are receivable, and if the amounts should be considered for write off.					
8	R3 Update the master data file for suppliers to remove duplicate entries for the same suppliers.					
8	R4 A proper audit trail should be maintained to demonstrate that the council tax and business rates systems fully reconcile to the general ledger.					

Appendix 6 – Action plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
9	R5 Sufficient system access controls should be operated to identify and address any unauthorised access. Evidence of review of this control should be documented to provide assurance that it is working effectively..					
10	R6 All transactions on the SAP financial systems should contain sufficient narrative to identify the purpose of the transaction, timing and source.					
10	R7 The arrangements between the Council and the Valuer should be formalised. This is important given the move to IFRS, and the additional work that the Valuer will be instructed to complete in order to assist the Council prepare its accounts under IFRS.					
10	R8 All loans and investments taken out on behalf of the Council should be supported by appropriate documentation.					
10	R9 All registers of interest should be kept up to date.					

The Audit Commission

The Audit Commission is an independent watchdog, driving economy, efficiency and effectiveness in local public services to deliver better outcomes for everyone.

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Taunton Deane Borough Council

Report of Internal Audit Activity
Quarter 2, 2010/11

Contents

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Summary

Our audit activity is split between:

- **Operational Audit**
- **Managed Audit**
- **Governance, Fraud & Corruption**
- **Special Reviews**

Role of Internal Audit

The Internal Audit service for Taunton Deane Borough Council is provided by South West Audit Partnership (SWAP). SWAP has adopted and works to the Standards of the Institute of Internal Auditors, but also follows the CIPFA Code of Practice for Internal Audit. The Partnership is also guided by the Internal Audit Charter approved by the Corporate Governance Committee at its meeting on 15th March . Internal Audit provides an independent and objective opinion on the Council's control environment by evaluating its effectiveness. Primarily the work includes;

- Plan of Operational Reviews
- Annual Review of Key Financial System Controls (Managed Audits) - scheduled for Quarter 3
- Annual review of key governance and fraud controls

Overview of Internal Audit Activity

Internal Audit work is largely driven by an Annual Audit Plan. This is approved by the Section 151 Officer, following consultation with the Corporate Management Team and External Auditors. This year's Audit Plan was reported to the Corporate Governance Committee at its meeting in March.

Audit assignments are undertaken in accordance with this Plan to assess current levels of governance, control and risk.

Internal Audit Work Plan - 2010/11

Quarter 2 Outturn:

We rank our recommendations on a scale of 1 to 5, with 1 being minor or administrative concerns to 5 being areas of major concern requiring immediate corrective action

Internal Audit Work Programme

The schedule provided at [Appendix A](#) contains a list of all audits as agreed in the Annual Audit Plan 2010/11. It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed.

Each completed assignment includes its respective “control assurance” opinions together with the number and relative ranking of recommendations that have been raised with management. The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as shown in [Appendix C](#).

Where assignments record that recommendations have been made to reflect that some control weaknesses have been identified as a result of audit work, these are considered to represent a less than significant risk to the Council’s operations. However, in such cases, the Committee can take assurance that improvement actions have been agreed with management to address these.

Internal Audit Work Plan - 2010/11

Quarter 2 Outturn:

Completed Audit Assignments In The Period

Operational Audits

Operational Audits are a detailed evaluation of a service's control environment. A risk evaluation matrix is devised and controls are tested. Where weaknesses or areas for improvement are identified, actions are agreed with management and target dated.

During the period three audits were completed, two to draft report stage (Procurement and Customer Services) and one to final report (Building Control). The final report on Building Control received a reasonable assurance. The two draft reports are currently being finalised.

One IT audit was scheduled (IT Security - Threat Protection) but has now been dropped in agreement with the client because a similar audit is being carried out on the South West One service provision at Somerset County Council.

Managed Audits

Managed Audits are completed to assist the External Auditor in their assessment of the Council's financial control environment.

During the period, no audits were undertaken. These are scheduled to start in September with most of the testing to be done in quarter 3.

Internal Audit Work Plan - 2010/11

Quarter 2 Outturn:

**Completed Audit
Assignments In The Period**

Governance, Fraud and Corruption Audits

Governance, Fraud and Corruption Audits focus primarily on key risks relating to cross cutting areas that are controlled and/or impact at a Corporate rather than Service specific level.

Four governance audits have been carried out these being :

- Data Quality (Performance Indicators)
- Register of Interests - Members
- Register of Interests – Officers
- Fees and Charges

A draft report has been issued for the Data Quality audit and the overall assessment is comprehensive. The draft report for Fees and Charges was issued with an overall audit assessment of reasonable.

Draft reports for the Register of Interests audits are currently being drafted.

Special Reviews

Special reviews have been carried out in several areas at client request. These were not included within the original plan. They are:

- Cash Handling – Licensing
- DLO Due Diligence

The DLO Due Diligence work was the largest commitment and it has been agreed to take the place of the audits of Choice Based Lettings and Property Services. An audit report is currently being drafted following this review. The Cash handling review has been completed with final report produced for TDBC Management.

Internal Audit Work Plan - 2010/11

We keep our audit plans under regular review, so as to ensure we are auditing the right things at the right time.

Future Planned Work

This is detailed in [Appendix A](#) and is obviously subject to any changes in agreement with the S151 officer.

Conclusions

For those audits still required by the client SWAP are on target to complete those audits in the first half of year as planned. For the audits completed to report stage each report contains an action plan with a number of recommendations which are given service priorities. Definitions of these priorities can be found in the Categorisation of recommendations section in [Appendix C](#).

SWAP have recently implemented a change to the audit process for operational reviews whereby an assessment on the management of each risk is included in reports. Any risks where the auditor's assessment of risk to the organisation is "Very High" will be reported to the Audit Committee.

Audit report findings which have priority scores 4 or 5 are highlighted in [Appendix B](#) together with recommendations and management responses.

TDBC management have responded positively to internal audit suggestions for improvements and corrective action has already been taken in a number of cases.

Appendix A

Directorate/Service	Audit Area	Quarter	Status	Opinion	No. of recs	Recommendations				
						1 = Minor ← → 5 = Major				
						1	2	3	4	5
Operational Audits	Building Control	April 2010	Final Report	Reasonable	8	0	0	6	2	0
Operational Audits	Property Services	April 2010	Deferred			0	0	0	0	0
Operational Audits	Customer Services	April 2010	Draft Report	Reasonable	5	0	0	3	2	0
Operational Audits	Choice Based Lettings	April 2010	Deferred			0	0	0	0	0
ICT - Policy	SWAP Information Security Group - SISG	April 2010	In Progress	Non Opinion		0	0	0	0	0
ICT - Security	Threat Protection	April 2010	Deferred			0	0	0	0	0
Governance, Fraud & Corruption	Data Quality - Performance Indicators	April 2010	Draft Report	Comprehensive	0	0	0	0	0	0
Governance, Fraud & Corruption	Procurement (Category Management)	April 2010	Draft Report	Partial	11	0	0	5	6	0
Governance, Fraud & Corruption	Risk Management (Risk Registers including Major Projects)	April 2010	In Progress			0	0	0	0	0
Client Support	Special Review - DLO Due Diligence	May 2010	Draft Report	Non Opinion		0	0	0	0	0
Operational Audits	Creditors	July 2010	In Progress			0	0	0	0	0
Operational Audits	Debtors	July 2010	In Progress			0	0	0	0	0
Operational Audits	Main Accounting	July 2010				0	0	0	0	0
ICT - Security	Corporate back up routines	July 2010				0	0	0	0	0
Governance, Fraud & Corruption	Equalities and Diversity - Impact Assessments	July 2010	In Progress			0	0	0	0	0
Governance, Fraud & Corruption	Health and Safety	July 2010	In Progress			0	0	0	0	0
Governance, Fraud & Corruption	Performance - NI 179 Efficiency Statements	July 2010				0	0	0	0	0
Governance, Fraud & Corruption	Performance - NI 188 Use of Natural Resources	July 2010	In Progress			0	0	0	0	0
Client Support	Special Review - Parking Services Stock	July 2010	Final Report	Non Opinion		0	0	0	0	0
Client Support	Special Review Licensing Cash Handling	August 2010	Final Report	Non Opinion		0	0	0	0	0
Operational Audits	Housing Benefits Fraud	October 2010				0	0	0	0	0
Operational Audits	Review of Core Council Agreements	October 2010				0	0	0	0	0
Managed Audits	Capital Accounting	October 2010				0	0	0	0	0
Managed Audits	Council Tax	October 2010				0	0	0	0	0
Managed Audits	Housing Benefits	October 2010				0	0	0	0	0
Managed Audits	Housing Rents	October 2010				0	0	0	0	0
Managed Audits	NNDR	October 2010				0	0	0	0	0
Managed Audits	Payroll	October 2010				0	0	0	0	0
Managed Audits	Treasury Management	October 2010				0	0	0	0	0
Operational Audits	Legal Services	January 2011				0	0	0	0	0
Operational Audits	Partnership Arrangements	January 2011				0	0	0	0	0
Operational Audits	Section 106 Agreements	January 2011				0	0	0	0	0
Operational Audits	Strategic Housing	January 2011				0	0	0	0	0
Governance, Fraud & Corruption	Business Continuity (Major Partnerships and Contractors)	January 2011				0	0	0	0	0
Governance, Fraud & Corruption	Gifts & Hospitality - Register of Interests - Members	January 2011	In Progress			0	0	0	0	0
Governance, Fraud & Corruption	Gifts and Hospitality - Register of Interests	January 2011	In Progress			0	0	0	0	0

Governance, Fraud & Corruption	Fees and Charges	January 2011	Draft Report	Reasonable	3	1	0	2	0	0
Governance, Fraud & Corruption	Income Collection (Analytical Review including Budgets and Methods of Payment	January 2011				0	0	0	0	0

Finding	Recommendation	Priority Score	Management Response	Responsible Officer	Implementation Date
Building Control					
Objective: Building Regulations are enforced in line with current legislation					
Risk: Inadequate target setting and performance monitoring and failure to ensure the service is continually reviewed to ensure efficient and competitive.					
2. 1a Absence of Service Level Plans.	I recommend the Building Control Manager create a service level plan, and include in the plan the objectives and aim of the service/plan, methods to achieving the objectives, performance and target dates for all functions of the service.	4 - Med/High	Agreed	Building Control Manager	December 2010
2. 2a Performance Indicators for recent and current years not available.	I recommend the Building Control Manager ensures performance indicators are kept up to date, monitored and actioned, and ensure an alternative Officer is responsible for compiling such information in the event of an absence of key Officers.	4 – Med/High	Agreed, with the introduction of the new Acolaid database only limited reports are available to monitor service levels and performance indicators. Further crystal reports required to be developed to provide the full suite for monitoring work.	Building Control Manager	December 2010

Audit Framework Definitions

Control Assurance Definitions

Comprehensive	▲ ★ ★ ★	I am able to offer comprehensive assurance as the areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
Reasonable	▲ ★ ★ ★	I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Partial	▲ ★ ★ ★	I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
None	▲ ★ ★ ★	I am not able to offer any assurance. The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

Categorisation Of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors, however, the definitions imply the importance.

Priority 5: Findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management.

Priority 4: Important findings that need to be resolved by management.

Priority 3: The accuracy of records is at risk and requires attention.

Priority 2: Minor control issues have been identified which nevertheless need to be addressed.

Priority 1: Administrative errors identified that should be corrected. Simple, no-cost measures would serve to enhance an existing control.

Definitions of Risk

Risk	Reporting Implications
Low	Issues of a minor nature or best practice where some improvement can be made.
Medium	Issues which should be addressed by management in their areas of responsibility.
High	Issues that we consider need to be brought to the attention of senior management.
Very High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.

Taunton Deane Borough Council Corporate Governance Committee - 27 September 2010

H & S Action Plan Update September 2010

Report of the Corporate H&S Advisor –(David Woodbury)

(This matter is the responsibility of Executive Councillor Ken Hayward)

1. Executive Summary

This is an interim report, the complete report will be submitted by e-mail once the content has been considered by the Corporate Management Team.

1. The Committee are asked to note the revised H&S Action Plan.
2. There are no significant risks or incidents to report.

2. Background

In addition to the regular attendance and delivery of verbal reports by the H&S Advisor to the Committee, this report is one of the twice yearly formal reviews of the H&S action plan and overall H&S performance of the Council's operations and partnerships.

There is an element of unavoidable duplication with the Corporate Improvement Plan - quarterly progress reports, however this reinforces the point that members should expect to see clear consideration of internal health and safety implications within reports.

Detailed accident statistics are currently being compiled and will be circulated as a separate document.

3. H & S Action Plan

Delivery of the H & S Action Plan is and will remain a continuous process:

- 3.1. The H&S management system is being simplified and populated with a new style of documentation. A document setting out the roles and responsibilities for each manager is being consulted on.
- 3.2. The Competency framework for all employees is currently being consulted on and will make an important benchmarking contribution to the DLO review.

- 3.3. Risk assessment is still not established consistently across all functions of the council. A request will be made to CMT to support a targeted action plan for all themes. This will set out the agreed timetable for presentations to the team meetings, where completion times for actions identified will be also agreed and set. Additional training needs will be fed back to CMT for inclusion in the training plan.
- 3.4. Kevin Toller is lead director and Ken Hayward Safety Champion.
- 3.5. An opportunity for developing a better H&S Operating Culture exists as the Themes move into their new ways of working, H&S needs to be fully integrated into the OD strategy for People Management Training.
- 3.6. The Consultative arrangements are in place and have the potential to make a strong contribution to the safety performance and culture of the council.
- 3.7. Accident investigation is still focused on the major incidents and there is continuing uncertainty over the SAP EH&S system. In the meantime transferable data is being collected and a report will be run shortly.
- 3.8. The simplification of the council's H&S policies and guidance means that internal compliance should improve and potential conflicts between partner organisations diminish. Revised documents are being loaded into Sharepoint site. Harmonisation of H&S policies and guidance between the SW One partners continues to be a worthy aim however complete harmonisation in the detail is unlikely. This is not a problem as there continues to be a clear commitment within the H&S partnership to avoid any gaps.
- 3.9. Ownership and commitment at the CMT level is ongoing.

For information and agreement with the Committee the subject headings for the full report have been included. The Committee may wish to request additional information for inclusion.

4. Partnerships

- 4.1. Somerset Waste Partnership (SWP)
- 4.2. South West Audit Partnership (SWAP)
- 4.3. SW One – 80/20% full time equivalent (FTE) split.
 - 4.3.1 Environment Health & Safety SAP (EH&S SAP)

5. Project Taunton

6. TDBC Accident Statistics

7. Health and Safety Executive (HSE) Activity

7.1. The HSE confirmed in an e-mail 3rd September 2010 that they did not intend to take any further action over the DLO Cherry Picker incident 30/07/2009, as they were satisfied with the Council's response. The decision was taken sometime ago but the HSE e-mail system failed. The DLO has arranged another set of NEBOSH training for supervisors and managers.

James Lucas is confirmed as the HSE inspector now covering Somerset.

8. Finance Comments

Any emerging issues or additional training will have to be funded from existing budgets. Line managers are expected to prioritise and refer any difficulties to Theme managers and CMT.

5. Legal Comments

Failure to meet or maintain minimum legal compliance will increase Corporate and individual risk, with the potential for increased criminal and civil actions

6. Links to Corporate Aims

Competent employees working safely in the delivery of the Council's services form an essential contribution to the Corporate Aims.

7. Environmental and Community Safety Implications

As in 6 above

8. Equalities Impact

The recommendations in this report have no equalities impact over and above those already identified in the Theme delivery plans.

9. Risk Management

Failure to meet minimum H&S statutory requirements has been identified in the Corporate Risk Register.

10. Partnership Implications

There are no partnership implications with respect to the recommendation of this report.

11. Recommendations

11.1. The Committee are asked to note the revised H&S Action Plan.

11.2. As there are no significant risks or incidents to report, the Committee are asked to maintain their interest across the Council's activities.

Contact:	Officer Name	David Woodbury
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	e-mail address	d.woodbury@tauntondeane.gov.uk

Taunton Deane Borough Council

Corporate Governance Committee – 27th September 2010

Risk Management

Report of the Performance & Client Lead

(This matter is the responsibility of Executive Councillor Terry Hall)

1. Executive Summary

- 1.1 This report provides an update on progress with Risk Management.
- 1.2 The Corporate Risk Register underwent a scheduled six monthly review in June by the Corporate Management Team (CMT) and Theme Managers group.
- 1.3 Each manager responsible for a corporate risk has updated the 'Control Measures' and 'Planned Actions' sections of the Corporate Risk Register in August – September. Risk scoring has also been updated to reflect the most up-to-date position.
- 1.4 A Risk Management Action Plan is in place to support the delivery of the strategy, and is largely on course. Current priorities are: audit & review of partnerships and projects risk management arrangements and status; completion of operational risk registers

2. Background

2.1 Introduction

Risk Management is the process by which risks are identified, evaluated and controlled and is one of the key elements of the Corporate Governance framework.

2.2 Definition

Risk management is an important element of management and in planning and providing the safe delivery of economic, efficient, and effective Council services. It is recognised as an integral part of good management practice. To be most effective, risk management should become part of the Council's culture. It should be part of the philosophy, practices and service planning rather than viewed as a separate initiative. When this is achieved, risk management becomes the business of everyone in the organisation and therefore is embedded.

2.3 Roles and responsibilities

2.3.1 The role of the Corporate Governance Committee

The Corporate Governance Committee is responsible for monitoring the corporate governance of the authority. It will receive regular reports on way risk is being managed in the authority.

Member's key tasks in relation to Risk Management are:

- Approving the Risk Management Strategy and implementation plan.
- Monitoring the effectiveness of the Council's risk management and internal control arrangements.
- Reviewing the Corporate Risk Register

2.3.2 The role of the Performance & Client Team

The Theme Manager for Performance and Client will be responsible to CMT for:





- Ensuring that risk management is embedded throughout the authority
- Ensuring that Corporate Risks are reviewed by CMT on a 6 monthly basis
- Ensuring services adequately manage risk and follow the corporate standard
- Assistance, advice and training
- Reporting to the Corporate Governance Committee on the management of risk
- Reporting concerns to the Chief Executive or CMT as appropriate
- Annually reviewing the risk management strategy
- Keeping abreast of developments in the field of Risk Management and identifying and implementing best practice

3. Report

3.1 Risk Management Action Plan

The Risk Management action plan has been updated to take into account priorities for 2010/11. Please refer to **Appendix A**.

The Risk Management Action Plan currently contains 13 actions. Progress against target dates has revealed the following:

Completed 	On Target 	Some Concern 	Off Target 	Not Due
3	8	1	0	1

3.1.1 The categories where doubts have been expressed about achieving actions **by the target dates** are as follows:

- Audit risk management status in partnerships

Please note - for the purpose of risk management, CMT has defined that the term "Partnerships" refers to the three major partner organisations, namely: Southwest One; Tone Leisure; Somerset Waste Partnership.

3.1.2 The Performance & Client Lead (Acting Head of Client) has summarised the current situation regarding the approach to risk management for each key partnership as follows:

Partner organisation	Risks of partnership to TDBC assessed?	Risk Mgt process in place within partner organisation?	Process in place to jointly assess risks to the partnership itself?	Notes
Southwest One	☺	☺	☺	Assessment of joint partnership risk has now been raised at SWOne Board, & to be discussed quarterly
Tone Leisure	☺	☹	☹	Client Team to review current Risk Mgt process with Tone, & explore joint risks (by Dec 2010)
Somerset Waste Partnership	☺	☺	☹	Client Team to explore joint risks with SWP (by Dec 2010)

3.2 Corporate Risk Register

3.2.1 The scheduled six monthly review of the Corporate Risk Register was completed in June by the Corporate Management Team (CMT) & Theme Managers group

3.2.2 A copy of the current Corporate Risk Register can be found in **Appendix B**. It is recommended that the Committee review the risks and control measures, making particular note of the high risk areas, identified by a score of 15 or higher.

3.3 Operational Risk Registers

3.3.1 Risk Registers have been produced for each Theme as part of the 2010/11 service planning process. Copies have been issued to the Performance & Client Lead (responsible for corporate risk management) and are being reviewed for consistency and compliance with the TDBC Risk Management Strategy, Policies & Guidance. A quarterly review of these risk registers is now included on the Theme Manager meeting forward plan.

3.4 Project Risk Registers

3.4.1 A summary of key corporate project risk registers in place is as follows:

Corporate Project	Owner	Risk Reg exists?	Date / version
LDF Core Strategy	SL	within Strategy service plan	May 10 (v4)
Housing Inspection project	SL	within Strategy service plan	May 10 (v4)
SAP implementation & re-launch	RS / AGS	within P & C service plan New Risk Reg drafted	May 10 Sept 10
Core Council Review	BC	Y	Nov 09
Project Taunton	JW	Y	Oct 09
DLO transformation	BC	Y	April 10
Housing Client review	JB	Y (draft)	Aug 10
Procurement transformation	PH	Client team risk & issues log	Monthly

3.5 Risk Management audit and inspection

3.5.1 Internal Audit – South West Audit Partnership (SWAP) are scheduled to conduct a Risk Management audit in late September. Findings and recommendations will be reported to the Committee in December.

3.5.2 External Audit – a draft ‘Value for Money’ conclusion report (2009/10) has been received following the external auditor’s work on assessment of the Council’s arrangements for securing economy, efficiency and effectiveness in it’s use of resources. This report confirms that TDBC has met the ‘Value for Money’ criteria for Risk Management, and includes the following statement:

“The Council refreshed its approach to corporate risk in January 2010 and introduced a new process for taking risk management action plans to the Corporate Governance Committee. There is now a lead officer for risk management, who updated the risk management strategy in 2009/10, and a Member champion. An internal audit review of project risk registers identified no areas of concern. Arrangements for service risk registers are developing by embedding risk action plans within service planning. Risk management training for Members and officers was deferred pending the implementation of the new arrangements.”

4. Finance Comments

4.1 Financial risk is explained in the Risk Management Strategy and considered within the Corporate Risk Register.

5. Legal Comments

5.1 Legal risk is explained in the Risk Management Strategy and considered within the Corporate Risk Register.

6. Links to Corporate Aims

6.1 As this report covers the Council-wide approach to managing risk, all Corporate Priorities are affected

7. Environmental and Community Safety Implications

7.1 These areas are considered within the Corporate Risk Register.

8. Equalities Impact

8.1 An Equalities Impact Assessment is not required. Equalities issues are considered within the Risk management process.

9. Risk Management

9.1 This report outlines all aspects of corporate Risk Management.

10. Partnership Implications

10.1 Partnership risk management is referred to in the Risk Management Strategy, Action Plan, and Corporate Risk Register.

11. Recommendations

11.1 It is recommended that the Corporate Governance Committee:

- Review the Corporate Risk Register
- Note progress with Risk Management and the actions planned

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TDBC RISK MANAGEMENT ACTION PLAN

September 2010

(Appendix A)

Item	Action	Responsible Person	Date for completion /review	Status	Notes
1	Review Risk Management arrangements with major Partners (NB – priority is for Cliented partners, ie: Southwest One; Tone Leisure; Somerset Waste Partnership)	Alison North / Dan Webb	April 10	Completed	Partnership Risk Mgt Tracker completed – identified that no joint approach in place for Tone Leisure & SWP
2	Audit Risk Management status in Partnerships	Alison North / Dan Webb	Dec 10		Client Team to agree approach for joint risk analysis with Tone & SWP
3	Audit Risk Management status in Projects (NB – ref Corporate Scorecard)	CMT	June 10	Complete	List of key corporate projects with risk registers compiled & copies sent to DW
4	Make Risk Management Strategy, Policy & Procedures available to all staff and other persons working on behalf of TDBC	DW / LP	July 10		Added to new Performance Intranet site.
5	Ensure all Themes / Services produce Risk Registers consistently adopting the agreed process & using revised template within Service Plans	DW	Themes 1, 2 & 4 – June 10	Completed	Operational Risk Registers (from Theme Service Plans) reviewed 1/4ly at Theme Manager meetings

Item	Action	Responsible Person	Date for completion /review	Status	Notes
6	6 monthly review of corporate risk register	CMT	June 2010 December 2010		June 10 review complete
7	Theme Managers quarterly review of all service level risks (operational risks) & escalate to CMT if appropriate	Theme Managers	8 September 10 6 December 2010	On-going	Operational Risk Registers (from Theme Service Plans) to be reviewed 1/4ly at Theme Manager meetings (last meeting 8 Sept)
8	Theme / Service risk registers – 6 month peer review	Theme Managers	September 2010	On-going	Part of 1/4ly review at Theme Mgr meetings (as above)
9	Quarterly RM report to Corporate Governance Committee	DW	28 June 27 September 20 December 14 March		
10	On-going training & development in risk management to enhance knowledge and implement best practice - Attendance to ALARM regional meetings & workshops	DW & LP	ALARM meetings: Jan, April, July, Sept, November		DW & LP attending ALARM (SW) meetings – last meeting 10 Sept (re Business Continuity planning)
11	Research RM software products & complete costs & benefits analysis	DW	Oct 10		DW to visit Pam Pursley (SCC)

Item	Action	Responsible Person	Date for completion /review	Status	Notes
12	Review and revise Risk Management Strategy, Policy & Procedures	DW	March 2011	Not due	
13	Risk Mgt Internal audit <ul style="list-style-type: none"> – provide info & evidence as required – review report findings – include agreed recommendations in Risk Mgt action plan 	DW	Oct 10		Audit commences 20 Sept

Risk No.	Risk & descriptions	Responsible CMT Member	Consequences	Existing Control Measures	Current Score		Score	Planned actions	Target Score		Score	Date identified	Status	Comments
					Impact	Probability			Post Control Impact	Post Control Probability				
1	Change Programme does not achieve objectives and the organisation has no obvious Plan B	Penny James	<ul style="list-style-type: none"> * Organisation not fit for purpose, and cannot meet the demands of the Government in terms of community engagement and place shaping. * Organisation has no sustainable MTFP * Organisation unable to identify & capture tangible benefits. * Organisation unable to deliver projected benefits (may impact on quality of service delivery &/or MTFP) * Organisation fails to implement SAP and/or realise benefits 	<ul style="list-style-type: none"> * Dedicated Risk Register for Projects * Regular communication with Members – CCR Member Steering Group. Maintaining dialogue, Good quality Member input, External speakers * SAP Project management & resourcing DLO Review meetings for DLO Portfolio Holder & Shadow PFH * Group Leaders briefed on Theme 5 - report to MSG 21 Sept 10 	Major	Likely	16		Major	Feasible	12	Feb-10	Open	
	a) Core Council Review does not deliver													
	b) Organisation does not drive benefits realisation of change projects (leadership)													
	c) Members do not embrace the changes and resist proposals													
2	Failure to manage the growth agenda	Joy Wishlade / Simon Lewis	<ul style="list-style-type: none"> * Loss of external funding Reputation damaged Inappropriate development (in the wrong places) * TDDB becomes a dormitory region - with residents working and finding recreational activities outside of the Deane * Local economy does not develop - lack of quality jobs created / redundancies * Transport infrastructure becomes more gridlocked * TDDB will not be able to compete with other regions in terms of attracting business growth 	<ul style="list-style-type: none"> * Effective project management of LDF * Member engagement by LDF Steering Group * Good member involvement * Talking to HCA and developers * Managing the community's expectations/communications strategy * Appointment of 2 temporary Officers until Jan 11 * Agreement to push back submission by 3 months Approval of housing and employment numbers to replace RSS * Received full Growth Points Funding for 2010/2011 	Major	Feasible	12		Major	Feasible	12	Feb-10	Open	We are largely on track to deliver the Core Strategy and are addressing issues such as 5 year supply and robust evidence bases.
	a) Failure to deliver a sound Core Strategy within reasonable timescales													
	b) Unsustainable development proposals permitted due to lack of 5 year land supply													
	c) Community resist growth agenda													
	d) TDDB organisationally is not resourced to support this growth and the place shaping agenda													
	e) New local growth targets following abolition of the RSS could threaten planned development and overall growth.													
3	Failure to address the corporate aims ('TRAC')	Penny James	<ul style="list-style-type: none"> * Areas of deprivation remain * Communities in these areas are not given the support and priority they need to improve and activity may be misdirected * Potential for further areas to slip into deprivation 	<ul style="list-style-type: none"> * Corporate Aim Delivery Plan (CAD plan) drafted 	Major	Likely	16		Major	Feasible	12	Feb-10	Open	
	a) Tackling Deprivation & Sustainable Community Development - Failure to produce coherent programme / lack of strategic vision & planning to address/mitigate deprivation - Lack of awareness (outside of 2 areas in Taunton) of the other "rising hotspots" within the Deane													
	b) Regeneration - Failure to produce coherent strategy and delivery plan													
	c) Affordable Housing - Failure to produce coherent strategy and delivery plan													
	d) Climate Change - Failure to have coherent programme to address impact of climate change - No plans in place to reduce carbon footprint of the organisation or the community - Failure to gain LSP partners' support													
	e) Failure to effectively deploy resources to deliver priorities (capacity) - Insufficient resources to meet expectations - Inappropriate use of resources													
4	Failure to agree sustainable MTFP that delivers Corporate Strategy (General Fund and Housing)	Shirlene Adam / Maggie Hammond	<ul style="list-style-type: none"> * Potential budget shortfall in 2011/12 * Potential adverse impact on Council's limited reserves (and financial standing score in UoR). * Potential negative Reserve Forecast * Unable to deliver priority projects * Until this figure is known the gaps to close are unknown 	<ul style="list-style-type: none"> * MTFP updated regularly to reflect financial position Quarterly Monitoring Reports to Members Regular communication with Members on challenges ahead 	Major	Very Likely	20		Major	Feasible	12	Feb-10	Open	
	a) Insufficient capital resources to fund Corporate Strategy objectives													
	b) Impact of Project Taunton on revenue streams from car parks to be resolved													
	c) Unclear on impact of economic downturn on Council's finances													
	d) Unclear on impact of concessionary scheme going "national"													
	e) Comprehensive Spending Review figure for following 3 years unknown													

Risk No.	Risk & descriptions	Responsible CMT Member	Consequences	Existing Control Measures	Current Score	Score	Planned actions	Target Score	Score	Date identified	Status	Comments					
5	Failure to have coherent plan for dealing with Council's assets moving forward	Richard Sealy / Brian James (SW1)	<ul style="list-style-type: none"> * Funds not released to resource capital programme * Funds tied up in assets we do not know if we need or if they are performing * Uncertainty for staff around location of workplace * Unsustainable MTFP post 2012 (impact of Project Taunton) 	<ul style="list-style-type: none"> * Approved Asset Management Strategy * Asset Management Plan developed and in place 	Significant	Slight		Significant	Slight	6	Feb-10	Open					
	a) Insufficient management information on Council's assets and the influence they have on corporate priorities																
	b) No clear property strategy for TDBC public buildings and depots																
	c) No plan to deal with SW1 partnership property aspirations																
6	New administration at TDBC or SCC has different priorities which results in SCC or TDBC attempting to alter or end the contract with SW1	Richard Sealy	<ul style="list-style-type: none"> * Threats to SW1 partnership if partners have different priorities and attempt to alter or end the contract with SW1 * Breakdown in Officer or Member relationships between the Councils 	<ul style="list-style-type: none"> * Maintain communications with SCC partner. * Joint Client Board 	Significant	Feasible		Significant	Slight	6	Feb-10	Open					
7	Failure of partnerships to deliver Council's objectives	Richard Sealy	<ul style="list-style-type: none"> * Financial loss * Adverse impact on Council reputation * Adverse impact on customers * Reduction in support to core council services (SW1 only) 	<ul style="list-style-type: none"> * Contracts in place. Monitoring of contracts. * Key Performance Indicators & targets agreed (& penalties process) 	Major	Feasible	12	<ul style="list-style-type: none"> * Implement new Partnership management framework 	Major	Slight	8	Feb-10	Open	Recent SWOne issues have increased the risk			
	a) Southwest One																
	b) Tone Leisure																
	c) Somerset Waste Partnership																
8	Failure to have comprehensive & effective Business Continuity Plans & arrangements in place for TDBC	James Barrah	<ul style="list-style-type: none"> * Negative impact on corporate support services (eg: IT; Communications; Data Security) * Essential services may be reduced / not delivered * General services may be reduced / not delivered * May not be compliant with civil contingencies requirements / obligations on TDBC * Failure to respond effectively to local/major civil emergency or incident Consequent adverse impact on Council reputation 	<ul style="list-style-type: none"> * All BCPs completed for all services (incl SW1) * All preparedness recommendations implemented 	Major	Slight	8	<ul style="list-style-type: none"> * BCP to be tested for effectiveness * Lessons learnt from testing of BCPs to be included in ongoing schedule of regular review of plans 	Major	Slight	8	Feb-10	Open				
	a) No detailed plan for how the Council would operate in terms of major emergencies																
	b) No awareness of plan by staff/management/members																
9	The organisation does not proactively manage health & safety	Kevin Toller	<ul style="list-style-type: none"> * H & S incidents occur that could have a negative impact on the Council's reputation, management and staff involved. * Negative impact on relationship with Unison & staff. 	<ul style="list-style-type: none"> * H & S Committee. * H & S action plan * New H & S policies & guidance simplified with regular monitoring via CMT * H & S Committee meet regularly (once every 2 months) * Accident investigation focused on any major incidents * H & S training fully integrated into OD Strategy for organisation 	Significant	Likely	12	<ul style="list-style-type: none"> * New H & S Policies & Training for Managers * SAP Environment, Health & Safety system under consideration 	Significant	Slight	6	Feb-10	Open				
10	Failure to address the issues arising from the 2010 Staff Survey (Low morale and negative views of CMT leadership, management of change & visibility)	Penny James	<ul style="list-style-type: none"> * reduced effectiveness & productivity of staff Increased sickness absence & staff turnover 	<ul style="list-style-type: none"> * Survey results communicated widely * Staff briefings & discussions 	Significant	Likely	12	<ul style="list-style-type: none"> * Staff work groups. * liP. * Survey action plans approved 	Significant	Feasible	9	Jun-10	Open	Work commenced on agreed planned actions			
11	Failure to manage the impact of the change of administration both locally and nationally	Penny James	<ul style="list-style-type: none"> * Change in council priorities. * Impact on external funding. * Impact on Partners. * Reduced levels of direct TDBC funding - further savings needed 	<ul style="list-style-type: none"> * Track Central Govt policy announcements. * Met new Executive to confirm existing priorities. 	Minor	Likely	8	<ul style="list-style-type: none"> * Track central Govt policies & legislation, & plan to deal with. * Work with both major groups on potential manifestos for May 2011 	Minor	Slight	4	Jun-10	Open	Planned actions ongoing			
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GUIDANCE FOR USING RISK REGISTER

Step	Action	Column
1	Allocate a Risk Number to each risk identified	1
2	Record the risk	2
3	Identify the potential consequences of the risk	4
4	Describe the risk (this may have more than one element)	5
5	Insert the Corporate Priority attached to the risk	6
6	Click on the box in column 7 a drop down box will appear. Select the potential impact that the risk could lead to if uncontrolled	7
7	Repeat in column 8 selecting the probability of the risk being realised if uncontrolled	8
8	The uncontrolled risk score will be automatically generated in column 9	9
9	Repeat steps 6 & 7 taking into account the proposed control measures	10&11
10	The controlled risk score will now be automatically generated in column 12	12
11	Identify the control measures to be put in place	13
12	Identify the level where the risk will be managed	14
13	Identify and insert the responsible CMT member	3
14	Insert the date the risk was identified	15
15	Insert risk status eg open /closed transferred etc	16
16	Insert any comments	17
17	Collate the risks for each responsible person and copy them onto the individual Management Action Plans (MAPs)	MAPs

PROBABILITY (A) (Likelihood)	5 Very Likely	5	10	15	20	25
	4 Likely	4	8	12	16	20
	3 Feasible	3	6	9	12	15
	2 Slight	2	4	6	8	10
	1 Very Unlikely	1	2	3	4	5
		1 Insignificant	2 Minor	3 Significant	4 Major	5 Critical
IMPACT (B) (Consequence)						

Taunton Deane Borough Council

Corporate Governance Committee – 27th September 2010

Update of various parts of the Constitution

Report of the Legal & Democratic Services Manager and Councillor Bryan Denington (Chair of the Constitutional Sub Committee)

(This matter is the responsibility of the Leader of the Council)

1. Executive summary

To approve the changes to part 3 of the Constitution in light of the changes following the Core Council Review and to approve the minor changes to articles 6 and 15 and the Budget and Policy Framework Procedure rules.

2. Background

- 2.1 The Council recently undertook a Core Council Review to re-structure the Authority in order to ensure that it is fit for purpose and able to carry out its functions for the future.
- 2.2 As a result of the changes part 3 of the constitution requires updating to ensure that it reflects the new structure and that the delegations now sit with the correct member or officer.
- 2.3 The proposed changes are set out in Appendix 1 of this report.
- 2.4 A recent Court of Appeal case has illustrated the importance of ensuring that councils constitutions comply with the voting procedures set down in section 39 of Schedule 12 of the Local Government Act 1972. This case stated that councils should not be setting down different voting principals in their constitutions to deal with different situations, i.e. stating that the vote needs a two thirds majority or giving a number of votes required.
- 2.5 Articles 6 and 15, attached at Appendix 2, have been amended to ensure that when decisions are voted upon they comply with section 39 of Schedule 12 in that any decision made is based on a majority of those present and voting.
- 2.6 Attached at Appendix 3 is an update to the Budget and Policy Framework Procedure Rules to ensure that any alternative budget proposals that may be put forward are properly costed by the section 151 officer.

3. Finance comments

- 3.1 There are no financial implications in this report.

4. Legal comments

- 4.1 The Council is required to keep an up to date constitution in order to ensure that its decision making processes and procedures are lawful.

5. Links to corporate aims

- 5.1 There are no specific links to the corporate aims.

6. Environmental and community safety implications

- 6.1 There are no implications for the environment or community safety.

7. Equalities impact

- 7.1 An impact assessment is not required in respect of this report.

8. Risk management

- 8.1 If the constitution is not kept up to date it can affect the lawfulness of decision making which is a serious risk to the Authority.

9. Recommendations

- 9.1 Members are recommended to approve the changes detailed in Appendix 1 to this report.
- 9.2 Members are recommended to approve the changes detailed in Appendix 2 to this report
- 9.3 Members are recommended to approve the changes detailed in Appendix 3 to this report.

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APPENDIX 1

PART THREE -

**RESPONSIBILITY
FOR
FUNCTIONS**

Part 3 Responsibility for Functions

1.0 Scheme of Delegations

- 1.1 Legally a local authority depends upon a series of statutes which in some cases give it a power (that is, a discretion,) to do something - or - in others - a duty to carry out that function or service. Each power or duty is often made subject to various limits as to just how it is to be exercised.
- 1.2 Because of this statutory foundation for the work of local councils, it is important that we are always specific as to which statute we are using to achieve our purposes. Unless we make that clear, then it is difficult if not impossible for the community to hold us to account.
- 1.3 Apart from this “what and how”, we also need to say - for transparency and accountability purposes - “who” it is within the Council - that has the power to do something. This means that we must produce a “Delegation Scheme” describing these formal responsibilities.

2.0 Who?

- 2.1 To help understand what follows, there are a number of levels of decision-making under our Constitution. Each of these is reflected by the tables which follow later in this section.
- 2.2 First is Full Council itself. Full Council retains a range of higher level decisions - many relating to our overall strategies - or to the setting of our annual budget and of Council Tax. Some of these functions can legally only be undertaken at this highest level. With others, it has been this Council’s own choice to do so.
- 2.3 Next is the Executive. The law requires that the great majority of the Council’s decision-making must only be carried out by or through the Executive - either meeting together – or, in some cases, on an individual basis. The Act prevents other councillors making such decisions.
- 2.4 Individual Executive Councillors also have decision-making powers delegated to them.
- 2.5 Next comes a group of “regulatory” functions. Broadly, these are roles where the Council has the task of controlling the activities of individuals - often on an application-by-application basis. To deal with these detailed controls, parliament decided that special committees should be retained - outside the Executive. In our case this means we have, for instance, a Planning Committee and a Licensing Committee made up of elected members and which meet in public so as to hear the various opinions expressed about individual cases before them.

2.6 The Corporate Governance Committee has certain limited decision-making powers delegated to it by the Council. These powers are described later in Section 4 Appendix 1 Part J

2.7 Finally are the officers. The great bulk of day-to-day operational decision-making is delegated by the Council, or the Executive, or the Planning and Licensing Committees to our professional staff. They need these powers so as to enable them to provide the services of the Council in the most economic, efficient and effective way.

3.0 What?

3.1 Attached are a number of tables setting out the broad areas of our statutory powers and the activities and functions we are involved in.

3.2 Section 1 is a list of those matters which remain either with the Full Council itself for decision or which are within its control - because the law either requires or permits it. The section also shows to whom these powers have been delegated (if at all) - whether to a committee or to an officer.

3.3 Section 2 sets out those powers and duties which the law excludes from Executive decision-making - such as planning, licensing and staffing issues. These are listed as delegated to a committee or to an officer with any limits on those delegations also included.

3.4 Section 3 lists those powers and duties which are ones which only the Executive can deal with - itself - or through the officers or area or joint committees. This covers the great majority of our powers and duties - with most operational decision-making continuing to be delegated to the Officers.

3.5 This part also lists these functions across a series of Portfolios. These reflect the current responsibilities of each of the current members of the Executive for the setting of the overall direction for these services. The extent of these Portfolios can be varied at the discretion of the Leader. The electronic version of this Constitution will describe the current positions.

3.6 Section 4 describes the delegation arrangements to the Officers and the individual Executive Councillors. As with our current Delegation Scheme, most of the operational decision-making under these powers and duties is delegated on to the officers.

3.7 Section 4 Appendix I Part A sets out the current decisions delegated by the Planning Committee to the Growth and Development Manager or in his absence the Development Management Lead or the Building Control Manager

3.8 Section 4 Appendix I Part B describes the similar delegations made by the Licensing Committee to the Community Services Manager or in his absence the Licensing Manager.

3.9 Section 4 Appendix I Parts C&D set out similar delegations made by the Committee to the Community Services Manager and in his absence the Environmental Health Lead .

3.10 Section 4 Appendix I Part E sets out similar delegations made by the Council

3.11 Section 4 Appendix I Parts F G H and I describe powers that are only exercisable by Full Council.

3.12 Section 4 Appendix I Part J sets out the powers and duties of the Corporate Governance Committee.

3.13 Section 4 Appendix I Part K sets out the Proper Officers in respect of various Public Health Acts and Regulations.

Section 1 The Powers of Full Council

- 4.0 The functions statutorily reserved to the Council are set out below in Column 1. Column 2 shows who else is involved - either as having full statutory powers delegated to them or as being the source of a recommendation to full Council.
- 4.1 Where a power is shown as delegated to an officer then that officer shall also have the power to re-delegate that power to another officer of the authority or to refer or remit it to another regulatory body of the Council for it to decide.
- 4.2 Where a regulatory power is shown as delegated to an officer, that power shall include the authority to enforce those regulatory powers using all the formal powers available to the Council under the relevant legislation.
- 4.3 Where a reference to a statutory power is made, then that reference shall include any secondary legislation and to any subsequent consolidating, amending or substituting legislation.

	Function	If delegated - then to whom?
1	To set the " <i>Policy Framework</i> " and the " <i>Budget</i> " within which the Executive must operate. [Both these terms are defined below.]	Council - on the recommendation of the Executive or of the Scrutiny Committees.
2	In a limited range of cases - to make decisions about the discharge of an "executive function". This applies <u>only</u> to those cases where the decision-maker is considering an issue - which is not only:- (a) covered by the Policy Framework or the Budget, but also - (b) where the decision-maker is inclined to make it in a manner which:- <ul style="list-style-type: none"> • would be contrary to that Framework, or • would be contrary to/or not wholly in accordance with the Budget. 	Council - on the recommendation of the Executive, an Executive Councillor or of the Scrutiny Committees.
3	To exercise - through delegated powers - those "regulatory functions" (these are listed in detail at Appendix 1) which must not be within the remit of the Executive:- (a) Development Control; Building Control. Appendix 1 – Part A	Planning Committee; Growth & Development Manager, Development Management Lead, <u>Building Control Manager</u> , Solicitor to the Council.

	Function	If delegated - then to whom?
	(b) Licensing and Registration Appendix 1 - Part B (c) Food Safety Appendix 1 - Part C (d) Health and Safety at Work (this relates only to those functions which the Council exercises <u>other than</u> as employer) Appendix 1 - Part D (e) Electoral services Appendix 1 - Part E (f) Corporate Governance Appendix 1 - Part J	The Licensing Committee; Community Services Manager, the Licensing Manager and the Environmental Health Lead Officer Community Services Manager or Environmental Health Lead Community Services Manager. Electoral Registration Officer and Returning Officer. Monitoring Officer and S151 Officer
	(g) Staffing matters (other than those dealt with in Part 4H of the Constitution - the Standing Orders as to Employment of Officers). (h) Ceremonial and Miscellaneous matters Appendix 1 - Part G	Head of Paid Service; the Strategic Directors; Head of HR, the relevant Unit Managers and the Staffing Panel. Council <u>on the recommendation of the Corporate Governance Committee</u>
4	To agree and/or to make significant changes to the terms of reference of the Planning Committee, the Overview and Scrutiny Committees	Council - on the recommendation of the Overview & Scrutiny Committees or the Planning Committee.
5	To decide on the number of seats to be allocated to each Party Group (or to independent councillors) in accordance with the "proportionality" rules in the Local Government and Housing Act 1989.	Council - on the recommendation of the Monitoring Officer.
6	To agree the arrangements for the appointment of the Head of Paid Service and to note the Appointment Panel's decision	Council - on the recommendation of the relevant Appointments Panel set up for that purpose.
7	To agree the arrangements for the appointment of the Monitoring Officer and the Section 151 Officer and to note the Appointment Panels' decisions.	Council - on the recommendation of the Head of Paid Service.
8	To confirm the dismissal of the Head of Paid Service, the Monitoring Officer or the Section 151 Officer.	Council - at the recommendation of the relevant Disciplinary Panel set up for that purpose and the recommendation of an appointed Independent Person (as referred to in paragraph 6 of the Officer Employment Procedure (Rule 8 - Part 4-H4).
9	To appoint the Leader of the Executive.	Council - on the recommendation of the controlling political group or groups of the Council.

Deleted: .

	Function	If delegated - then to whom?
10	To decide on the number of Executive Portfolios which the Leader may allocate.	Council - on the recommendation of the Leader.
11	To remove the Leader or other members of the Executive.	Council - in accordance with the procedure in Article 7.
12	To adopt the Constitution and to agree any major changes to it.	Council - on the recommendation of the Corporate Governance Committee
13	To approve any application to the Secretary of State in respect of a Housing Land Transfer.	Council - on the recommendation of the Executive.
14	To appoint and dismiss representatives to those outside bodies whose role is <u>not</u> closely linked to an Executive function.	The Legal and Democratic Services Manager - acting on the advice of the relevant Scrutiny Committee.
15	To adopt/modify a Members' Allowances Scheme.	Council - on the recommendation of a Panel of external members.
16	To change the name of the area, to confer the title of Honorary Alderman or the Freedom of the Borough.	Council - on the recommendation of the Leader of the Council
17	To make, amend, revoke, re-enact or adopt bylaws and to promote or oppose the making of local legislation.	Council - on the recommendation of one of the Overview & Scrutiny Committees whose role covers the services affected.
18	To adopt any plan or strategy (whether statutory or non-statutory) which the Council has decided should be undertaken by itself rather than by the Executive.	Council - on the recommendation one of the Scrutiny Committees using the "call-in" mechanism in Part 4E of the Constitution.
19	To deal with any other matters which, by law, must be reserved to Council.	Council <u>on the recommendation of the Monitoring Officer</u>

4.2 The Council's Policy Framework

This is defined in Article 4 of the Constitution. It consists of a series of important plans and strategies which form the basis for many of its services. Each is a substantial document in itself which is regularly reviewed and updated. They are not therefore included in this Constitution but current copies are always available at the Deane House.




4.3 The Budget

Includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its Capital Expenditure.

4.4 Whilst decisions on the framing of the Budget itself are ones for the full Council, many of the operational issues relating to monitoring and to virement are delegated to either the Executive, to Executive Councillors or to the Officers - subject always to the approval of the Section 151 Officer.

Section 2 Regulatory Powers of the Council

5.0 In order to carry out the Council's "regulatory powers" the following committees be constituted:-

- Planning Committee 
- Licensing Committee - from whom individual Licensing Panels are appointed to deal with individual applications 
- Staffing Panel - pool of members from whom individual Panels/Sub Committees are drawn as and when necessary in relation to appointment and disciplinary matters
- Corporate Governance Committee 

5.1 The powers and duties of these committees are set out in Appendix 1.

Section 3 Executive Powers

6.0 The majority of the decision-making of the Council relates to areas which are defined as “Executive matters” within the law and can therefore only be dealt with via the Executive. This means that:-

- (a) those members who are not “Executive Councillors” cannot make those decisions; [the exception to this general rule is in (f) below];
- (b) Full Council itself cannot make Executive decisions either;
- (c) nor can the Overview & Scrutiny Committees;
- (d) the Executive meeting as a body can do so;
- (e) so too can individual Executive Councillors - unless the Council has identified a particular power as one which should only be taken by the Executive acting together;
- (f) area committees can be given delegated powers to take both “Executive” and “non-Executive” decisions - if the Council wants them to;
- (g) the great majority of operation decision-making within policy and the budget is the responsibility of the officers - through this Delegation Scheme - subject to the limitations included here;
- (h) the need for both transparency and accountability require that decision-making of this type under the Act must be carefully controlled and recorded and that all councillors together with the press and public have full access to those decisions - not only at the time - but also before and after - they are made;
- (i) certain types of decisions - “key decisions” have even greater levels of safeguards placed upon them and require (for instance) consultation with the Council’s Review side before being progressed.

6.1 This Delegation Scheme has therefore been based on the following features:-

- (a) most day to day operational decision-making powers are delegated to the Council’s officers;
- (b) the role of the Executive - meeting as a body - has been designed to avoid such operational decisions coming to it unless they are key decisions or are otherwise of real significance across the Council’s services;
- (c) the Executive’s major role will be in defining and reviewing the Council’s strategies and significant policies and in advising the Council on these matters and as to the Budget;

- (d) where decisions can be made at a lower level, then the Executive will ensure that this Scheme is designed, implemented and modified so as to achieve that purpose;
- (e) before accepting an item for the Executive's agenda, the relevant Executive Councillor, together with the Legal and Democratic Services Manager, will satisfy themselves that the issue could not be otherwise properly dealt with under delegated powers;
- (f) where a matter arises - which involves a range of detailed issues - but is of such significance that it must nevertheless be taken to the Executive - then the Executive Councillor responsible for that service must assess whether the matter is of such urgency that it would not be practicable for the advice to be first obtained from:-
 - (i) the Overview & Scrutiny Committees; or
 - (ii) an officer; or
 - (iii) a committee of the Executive itself.
- (g) so as to make sure that its strategic role is clearly identified and maintained, reports to the Executive will be written in such a form that ensures that:-
 - (i) unnecessary detail is excluded,
 - (ii) policy factors are clearly identified and analysed,
 - (iii) impact upon our Corporate Priorities is identified,
 - (iv) all necessary consultation as to its content has taken place, and
 - (v) the issues for decision by the Executive are justified as ones which could not reasonably be taken elsewhere.

Section 4 Delegations to Executive Councillors and Officers

7.1 Principle 1

The overriding principle upon which the Council's Delegation Scheme is founded is:-

All the Council's statutory powers and duties in relation to the functions and activities (listed in the following table) are delegated to the Executive and from there (as shown) to the Corporate Management Team. Those listed include all such incidental and ancillary powers as are needed in order to carry out those functions together with all statutory powers delegated to the Executive by another Local Authority by virtue of an agreement under the Local Government Acts.

7.2 The consequent powers to make all operational decisions as to the Council's services are delegated to the Head of Paid Service, to the S.151 Officer and the Monitoring Officer (these are referred to as the "statutory officers"), together with the Strategic Directors and the Theme Managers (the "Corporate Management Team"), so long as the decision:-

- (a) falls within the Council's Policy Framework; and
- (b) is otherwise within our approved policies; and
- (c) complies with the law, Financial Regulations, Standing Orders, Contract Standing Orders and the other controls within this Constitution; and
- (d) is wholly in accordance with the budget for the current and following year, and
- (e) has not been disapproved by any of the "statutory officers"; and
- (f) has not been the subject of a request from the responsible Executive Councillor for the decision to be remitted to the Executive.

7.3 Principle 2

Even where a statutory power has been delegated, the delegatee still retains a discretion as to how the decision is to be taken. Either:-

- (a) to deal with it him/herself;
- (b) to "remit" the decision - "upwards" (that is - in order to seek endorsement of a proposed decision) - in the case of "executive matters" to the Executive, or in the case of a non-executive matter to the Council or to the Planning Committee or to an Overview & Scrutiny Committee ;
- (c) to further delegate that power;
- (d) to consult others before exercising the power;

(e) to take the decision jointly with other Executive Councillors or officers.

7.4 Principle 3

It is expected that, within these delegations, the officers will keep Executive Councillors fully briefed as to the services for which they are responsible and that they will consult with the relevant Executive Councillor on issues where either believe that this is needed. Built upon this foundation, It is anticipated that this will mean that a number of otherwise delegated decisions will, in practice, be taken either by - or in consultation with - the Executive Councillor where s/he believes the matter to be one of particular sensitivity or corporate significance.

7.5 Principle 4

So as to avoid any misunderstandings as to the exercise of these powers, each member of the Corporate Management Team will agree with the appropriate Executive Councillor a general approach towards the working arrangements they intend to adopt between them as to:-

- (a) service briefing;
- (b) decision-making;
- (c) consultation with the Executive Councillor;
- (d) the scope for joint decisions;
- (e) the way those decisions will be formally recorded.

7.6 Principle 5

Any further general delegation of specific statutory powers by Corporate Management Team to an officer under Principle 2 shall be made in writing and shall record its extent and any limitations on the exercise of those powers.

A copy of any such delegation shall be provided to the Monitoring Officer who - as "proper officer" - when so required has the duty to formally certify the existence and validity of those statutory powers - in any legal proceedings - or to sign formal agreements on the Council's behalf giving effect to those decisions.

7.7 Within these principles the following table lists the range of functions for which all the Council's statutory powers and duties are delegated to the Executive and thence to the Corporate Management Team. The

table shows the current services portfolios, each of which is held by an Executive Councillor as responsible for the overall policy direction for that service. The table also shows the “lead officer” who is primarily responsible for the delivery of that service. Any limits upon the delegations to the officers (other than those listed above) are shown here.

(Note: both the extent of the portfolio held by an Executive Councillor and the identity of the “lead officer” are subject to change at the discretion of the Leader and the Chief Executive respectively. The electronic version of this Constitution will show the position as is then current).

FUNCTION	LEAD OFFICER
<i>Leader of the Executive</i>	
Chairmanship of the Executive	CHIEF EXECUTIVE (CE)
Advice to Council on overall strategy and core policies	CE
Overall financial corporate management of the Council	Section 151 OFFICER (S151) and CE
Budget development and proposals to Council	S151 and CE
Budget monitoring	S151
Review of virement and spending limits	S151
Audit of the Council's financial affairs	CE
Allocation, reallocation and variation, of portfolios to Executive Councillors	CE
Liaison with the Chairs of the Overview & Scrutiny Committees as to programme of policy development and review	CE
The Executive's four months advance programme	CE
Allocating issues not falling within a portfolio to other Members of the Executive	CE
Duties in relation to urgent decisions and the call-in mechanism	CE/MONITORING OFFICER (MO)
Emergency planning	CE
Constitutional issues	CE/MO
<i>Communications and Community Leadership</i>	
Community leadership	Strategic Director (SD)
Area Working	SD
Parish liaison	SD
Support for community groups	SD

FUNCTION	LEAD OFFICER
Voluntary welfare grants	SD
Crime reduction	SD
Social inclusion	SD
Equal opportunities	SD
Youth	SD
Environmental awareness and strategy	SD
Sustainability	SD
Communications	SD
Public relations	SD
<i>Economic Development and the Arts</i>	
Economic development	SD
Rural affairs	SD
Tourism	SD
Livestock marketing facility	SD
Taunton Town Centre Company	SD
Wellington Economic Partnership	SD
Shopmobility	SD
Street trading controls	SD
Management of corporate property portfolio	SD
Arts development	SD
<i>Environmental Services</i>	
Waste collection and recycling	SD
Health promotion	SD
Land drainage and flood prevention	SD
Waterways	SD
Pest control	SD
Conveniences	SD
Dog wardens	SD
Street sweeping	SD
Environmental Health – policy	SD
Health and Safety - policy	SD
Food Control – policy	SD
Licensing – policy	SD
Cemeteries and Crematorium	SD

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FUNCTION	LEAD OFFICER
<i>Housing Services</i>	
Housing Strategy	SD
Rent rebates/allowances	SD
Homelessness	SD
Property Services	SD
Housing Management	SD
Elderly Services	SD
Lettings and Advice	SD
Housing Act advances	SD
Improvement grants	SD
Housing Standards	SD
Deane DLO	SD
<i>Corporate Resources</i>	
Deane House Central Support Services	SD
Mayoral support	SD
Civic functions	SD
Democratic Services	SD/MO
Land Charges	SD
E-Government	SD
Freedom of information	SD/MO
Electoral registration	SD/RETURNING OFFICER (RO)
Corporate personnel issues	SD
Information technology	SD
Council tax and benefits	SD
<i>Sports Parks and Leisure</i>	
Parks and playing fields	SD
Council's leisure facilities	SD
Allotments	SD
Leisure grants	SD
Sports development	SD
Leisure link with Tone Leisure	SD
<i>Planning and Transportation</i>	
Local/regional planning	SD
Countryside	SD

FUNCTION	LEAD OFFICER
Development Control – policy	SD
Building Control – policy	SD
Transport strategy	SD
Town centre strategy	SD
On and off-street parking - strategy (including DPE and residents' parking)	SD
Community transport	SD
Concessionary travel	SD
Car park operations	SD
CCTV operations	SD

APPENDIX 1

POWERS AND DUTIES OF REGULATORY COMMITTEES

Planning Committee

Whilst planning policy is an “Executive function”, the process for dealing with individual planning applications (and other development control activities) is “non-Executive”.

In Taunton Deane, these functions have been delegated to a Planning Committee and to the Council’s Development Control Manager.

The current extent of delegation of functions to the Committee and then to the officers is set out below. As these are subject to change, the up to date list of such delegations is to be found on the e-version of this Constitution on the Council’s website

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Part A - Regulatory Powers of Planning/Growth and Development Manager

Exceptions to the Officer Delegations

All proposals should be determined under delegated powers other than where one of the six criteria set out below are met.

Criterion 1: In the opinion of the Growth & Development Manager (or Chair of the Planning Committee) the application is considered to be a significant, controversial or sensitive nature.

Criterion 2: The application is from an elected member or member of staff (or partner thereof) and is recommended for approval.

Criterion 3: The application is accompanied by an Environment Statement (EIA).

Criterion 4: The application is a significant departure and is recommended for approval.

Criterion 5: Where there are conflicting views (giving clear planning reasons) from a Town/Parish Council, Parish Meeting or Ward Member as well as from four or more individuals.

Criterion 6: Applications will be delegated to the Growth & Development Manager to refuse if S106 agreements are not signed within 8, 13 or 16 week timescales.

Criterion 7: Discharge of the Council's duty under s91(2) of the Building Act 1984 (enforcement of Building Regulations) in its area shall be delegated to the Building Control Manager.

In addition, any application which is not referred to Committee, but where conflicting representations have been received, is referred to the Chair/Vice Chair of the Planning Committee before a decision is made.

Licensing Committee

Unless otherwise indicated, the following powers are delegated to the Community Services Manager and in his absence the Licensing Manager.

Part B – Regulatory Powers of Licensing and Registration Functions	
1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875 , and section 15 of the Transport Act 1985 ; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963, <u>as saved for certain purposes by article 3(3)(e) of the Gambling Act order</u>
7. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 <u>[as saved for certain purposes by article 4(2)(l) and (m) of the Gambling Act Order].</u>
8. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 <u>[as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order].</u>

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9.	Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 [as saved for certain purposes by article 5(2)(d) and (5) of the Gambling Act Order] .
10.	Power to license premises selling or supplying alcohol; providing regulated entertainment; selling hot food or drinks between 11pm and 5am.	Licensing Act 2003
11.	Power to issue Personal licences.	Licensing Act 2003.
12.	Power to license sex shops and sex cinemas and Sexual Entertainment Licences .	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
13.	Power to license performances of hypnotism.	The Hypnotism Act 1952
14.	Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.
15.	Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907
16.	Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982
17.	Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.
18.	Power to register premises for the preparation of food.	Section 19 of the Food Safety Act 1990.
19.	Power to license motor vehicle salvage operators	Motor Salvage Operators Regulations 2002
20.	Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.

21.	Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970 and 1970; section 1 of the Breeding of Dogs Act 1973 and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
22.	Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.
23.	Power to license zoos.	Section 1 of the Zoo Licensing Act 1981
24.	Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976
25.	Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999
26.	Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939
27.	Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993

Part C - Regulatory Powers of Community Services Manager		
1.	Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994
2.	Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995
3.	Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995
4.	Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993
5.	Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995

6. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991.
7. Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.
8. Power to enforce offences relating to the display of no-smoking signs.,	Section 6(5) of the Health Act 2006
9. Power to enforce offences relating to smoking in smoke free places.	Section 7(4) of the Health Act 2006
10. Power to enforce offences of failing to prevent smoking in smoke-free places	Section 8(4) of the Health Act 2006
Power to transfer enforcement functions to another enforcement authority	Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368)

Part D - Functions relating to Health and Safety at Work

Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the Authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974
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Part E - Regulatory Powers of Electoral Registration Officer/Returning Officer

Functions relating to Elections

1. Duty to appoint an Electoral Registration Officer.	Section 8(2) of the Representation of the People Act 1983
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2.	Power to assign officers in relation to requisitions of the Registration Officer.	Section 52(4) of the Representation of the People Act 1983.
3.	Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.
4.	Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.
5.	Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.
6.	Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7.	Duty to provide assistance at European Parliamentary elections.	Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978
8.	Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.
9.	Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
10.	Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
11.	Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12.	Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
13.	Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14.	Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15.	Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.

16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000

Parts F G H I - Powers exercisable only by full Council:-

Part F - Functions relating to name and status of areas and individuals	
1. Power to change the name of a district.	Section 74 of the Local Government Act 1972.
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972.
3. Power to confer title of Honorary Alderman or to admit to be an Honorary Freeman.	Section 249 of the Local Government Act 1972.
4. Power to petition for a charter to confer Borough status.	Section 245 of the Local Government Act 1972.

Part G - Miscellaneous functions	
1. Duty to approve authority's Statement of Accounts,	The Accounts and Audit Regulations 1996
2. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972
3. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
4. Power to take decisions about matters such as the creation of parishes and their electoral arrangements	Chapter 3 of Part 4 of the Local Government and Public Involvement in Health Act 2007
Part H - Power to make, amend, revoke or re-enact byelaws	
Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978	
<u>Part I - Power to promote local Bills.</u>	

Section 239 of the Local Government Act 1972.

Part J – Powers and Duties of Corporate Governance Committee

Review and challenge the action plans arising from the Audit Commission's annual management letter.

Oversee the Council's use of risk management

Monitor and review the Council's internal and external audit functions

Review and approve the Statement of Accounts

Monitor and review the Council's systems of internal control

Part I – Proper Officers under the Public Health Acts

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Dr K Kumaran, Consultant in Communicable Disease Control, Dorset and Somerset Health Protection Unit;

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Dr Mark Salter, Consultant in Communicable Disease Control, Dorset and Somerset Health Protection Unit;

Dr Sue Bennett, Consultant in Communicable Disease Control, and Director, Dorset and Somerset Health Protection Unit;

Dr Faiza Khan, Acting Consultant in Communicable Disease Control, Dorset and Somerset Health Protection Unit

<u>Legislation</u>	<u>Part, Section or Regulations</u>	<u>Effect</u>
<u>Public Health (Control of Disease) Act 1984</u>	<u>Parts II and III</u>	<u>Notifications and control powers for Communicable Diseases</u>
<u>Public Health (Infectious Diseases) Regulations 1988</u>	<u>Regulations 6,8,9,10 Schedules 3 and 4</u>	<u>Additional powers to the above</u>
<u>Public Health Act 1936</u>	<u>Sections 84 and 85</u>	<u>Cleansing of filthy or verminous articles, persons or clothing</u>
<u>Public Health Act 1961</u>	<u>Section 37</u>	<u>Disinfestation of verminous articles offered for sale</u>

Dr Caroline Gamlin, Joint Director of Public Health, NHS Somerset and Somerset County Council; and

Dr Ulrike Harrower, Consultant in Public Health, Somerset Primary Care Trust

<u>Legislation</u>	<u>Part, Section or Regulations</u>	<u>Effect</u>
<u>Public Health (Control of Disease) Act 1984</u>	<u>Parts II and III</u>	<u>Notification and control powers for Communicable</u>

		<u>Diseases</u>
<u>Public Health (Infectious Diseases) Regulations 1988</u>	<u>Regulations 6,8,9,10 Schedules 3 and 4</u>	<u>Additional powers to the above</u>
<u>National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951</u>	<u>Section 47</u>	<u>Removal of persons to suitable accommodation in certain circumstances</u>
<u>Public Health Act 1936</u>	<u>Sections 84 and 85</u>	<u>Cleansing of filthy or verminous articles, persons or clothing</u>
<u>Public Health Act 1961</u>	<u>Section 37</u>	<u>Disinfestation of verminous articles offered for sale.</u>

All of the doctors named above for the purposes of section 35 of the Public Health (Control of Disease) Act 1984

Appendix 2

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Article 6 The Executive

6.1 Role

The Executive will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

6.2 Form and composition

The Executive will consist of the Leader together with eight councillors ("Executive Councillors") appointed to the Executive by the Leader with the agreement of the controlling Party Group or Groups.

6.3 Leader

The Leader will be a councillor elected to that position by the full Council. Subject to the exceptions in Article 6.4 below, the Leader will hold office for twelve months at a time with his or her appointment requiring renewal at each year's Annual Council Meeting.

6.4 Term of Office – Exceptions

Events which will result in the Leader's term of office ending prematurely are:-

- (a) he or she resigns from the office; or
- (b) he or she is suspended from being a councillor (under Part III of the Local Government Act 2000); or
- (c) he or she is no longer a councillor; or
- (d) he or she is removed from office by special resolution of the Council (using the procedure set out in Article 6.8).

6.5 Other Executive members

Other Executive members shall hold office until:-

- (a) the happening of any of the events set out in Article 6.4; or
- (b) they are removed from office by the Leader who must give written notice of any removal to the Chief Executive and to the Executive

Councillor. The removal will take effect two working days after receipt of the notice by the Chief Executive.

6.6 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.

6.7 Responsibility for functions

(a) The Executive

It shall be the function of the Executive meeting together to design and allocate Portfolios to each of their number.

(b) The Leader

It will be the duty of the Leader to:-

- (1) Redefine, clarify and update the list of these Portfolios set out in Part 3 of this Constitution.
- (2) Similarly note the names of those Executive Councillors to whom those portfolios have been allocated by him/her.
- (3) Note those Executive functions which have been similarly allocated to the officers, to any Area Committees or to joint arrangements.

6.8 “Special Resolution”

This is the process referred to in 6.4 and 6.5 above whereby - in exceptional circumstances - the Leader or a member of the Executive may be removed by full Council.

Fourteen days written notice of the intended moving of such a resolution at a Council meeting must be given to the Democratic Services Manager, the Chief Executive, the Leader and to any member of the Executive named in the notice. The notice shall require the signatures of at least one half of the Council.

It shall be placed on the agenda of the next ordinary Council meeting unless an extraordinary council meeting has been requisitioned. The proposal having been debated, shall be voted upon. It shall be approved by the full council with a majority of the members of the Authority present and voting at the meeting. If approved:-

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- (a) a proposal shall be immediately laid before the same Council meeting as to the appointment of a new Leader; and
- (b) such a proposal shall require a simple majority, and if passed;
- (c) the change of Leadership shall take effect immediately on the passing of that resolution.

Deleted: require the votes of more than one half of the membership of the Council (that is, the votes of at least 29 councillors) to be approved.

Appendix 2

Article 15 Review and Revision of the Constitution

15.1 Duty to Monitor and Review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution and submit reports when necessary to the Constitutional Sub-Committee to ensure that the aims and principles of the Constitution are given full effect.

15.2 Changes to the Constitution

(a) **Approval**

Subject to paragraph (b) below, changes to the Constitution will be approved by the full Council with a majority of the members of the Authority present and voting at the meeting, after consideration of the proposal by the Constitutional sub- Committee

(b) **Minor Changes**

Detailed changes of a limited significance (as agreed by the Monitoring Officer) to Parts 3-8 of this Constitution may be agreed by the Chairman of the Constitutional sub- Committee. Such minor changes will be notified to all councillors and updates of the full Constitution will be circulated to members annually.

4 **Disagreements as to the Budget**

- (a) The procedures set out in section 3 above shall also apply to disagreements which may arise between the Executive and full Council as to the Budget.
- (b) For the purposes of this section the Budget means the proposals which the Executive submits to full Council in February/March of each year as to various estimates, amounts, calculations and precepts relating to the Council's financial plans and requirements for the following financial year.
- (c) Where the Executive submits its Budget to full Council before 8th February in any financial year then the mechanism set out in section 3 (above which limits the full Council's powers to object to an Executive proposal) shall also apply to those Budget recommendations from the Executive. This should be done by substituting the word 'Budget' for 'plan' each time it occurs in section 3 and by making any other necessary consequential amendments.
- (d) Where (as is the norm) the Executive submits its Budget proposals to full Council on or after 8th February then those limits on full Council's powers shall not apply. In those circumstances full Council shall, at its Council Tax setting meeting, have the unrestricted right to approve, amend or to reject the proposals from the Executive - subject always to the statutory duty of the Council to set the level of Council Tax by 11th March in any year - as required by the Local Government Finance Act 1992.
- (e) A decision by full Council which complies with the above procedure shall require only a simple majority of votes cast at that meeting and shall take effect immediately.
- (f) In approving the Budget, the Council will also specify any changes it wishes to make to the currently approved extent of virement within the Budget which may be undertaken without reference to full Council.
- (g) The Section 151 Officer shall at each stage of the budgetary process, have the right to comment upon budget proposals and any substantive changes intended to be made to them before any such

decision has been put to the vote. All budget amendments shall be costed by the s151 Officer.