



**Devizes Town Council  
Constitution,  
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The following Standing Orders recognise the importance of the National Code of Local Government Conduct. The Council, its Committees, Sub-committees and Members must observe the Code at all times.

*Standing Orders which are featured in italics are statutory and cannot be varied or suspended*

## **CONSTITUTION**

### **Title and Area**

The Council shall be called Devizes Town Council and operate in the area specified in S.I.1973 No 1110 Local Government (Successor Parishes) Order 1973 as amended by S.I. 2009 No 531 The County of Wiltshire (Electoral Changes) Order 2009 as further amended by The Wiltshire Council (Reorganisation of Community Governance) Order 2016

### **Functions**

The functions of the Council shall be:

- a) To exercise such powers and duties as are laid upon it by statute
- b) To exercise such powers and duties as are laid upon it by delegation from Wiltshire Council
- c) To maintain and improve, where possible, the character of the town for residents and visitors
- d) To promote and encourage improvements to the town's environment
- e) To support the delivery of accessible health and fitness facilities for the community
- f) To provide high quality, cost effective services that support the Council's Mission
- g) To ensure our public services are equally accessible to everyone in the community
- h) To provide a focus for the cultural and civic traditions which contribute to the unique identity of Devizes

### **Constitution**

The Council shall consist of:

21 Members elected by the electors of the Parish of Devizes

For the purposes of the elections referred above the area of the Council shall be divided into four wards, each electing Members as specified below

East Ward	5 Members
North Ward	5 Members
South Ward	5 Members
Roundway Ward	6 Members

All Councillors shall retire together in every ordinary year of election on the fourth day after the ordinary day of election. The newly elected Councillors shall come into office on the day on which their predecessors retire.



## **Part 1**

### **RULES RELATING TO MEETINGS OF THE COUNCIL**

1. *The Statutory Annual Meeting of the Council shall be held:*
  - (a) *In a year which is an election year, the Statutory Annual meeting shall be held on or within fourteen days following the day on which councillors take office*
  - (b) *In any other year the Statutory Annual Meeting shall be held on such day in May as the Council may determine.*
2. *The three other statutory meetings shall be held in accordance with the Calendar of Meetings approved by the Council from time to time.*
3. Extraordinary meetings of the Council may be called:
  - (a) by the Town Mayor at any time
  - (b) upon signed requisition by two members, to the Town Mayor and stating the business to be transacted.
4. Meetings of the Council shall normally be held on Thursday commencing at 7pm in the Council Chamber, Town Hall, St John's Street, Devizes, but may be rearranged by prior notice of the Town Clerk having first consulted with the Town Mayor.
5. Members shall stand when speaking unless permitted by the Presiding Chairman to sit on account of infirmity

### **Chairman**

6. The Town Mayor shall preside at the meeting of the Council
7. In the absence of the Town Mayor, the Deputy Town Mayor or in their absence, *the person elected to preside at the meeting shall exercise all the powers and duties of the Town Mayor in relation to the conduct of the meeting.*

### **Quorum**

8. *The Quorum for meetings of the Council shall be one third of the whole number of members of the Council.*
9. If, during any meeting of the Council, the Mayor, after counting the number of members present, declares that there is not a quorum, the meeting shall stand adjourned and any business not transacted at the meeting shall be transacted at the next meeting or on such day as the Mayor may fix.



## **Part 1**

### **Order of Business**

10. *At each Annual Meeting the first business shall be:*
  - (a) *to elect a Town Mayor;*
  - (b) *to receive the Town Mayor's declaration of acceptance of office or, if not then received, to decide when it shall be received.*
  - (c) *In the ordinary year of election of the Council to fill any vacancies left unfilled at the election by reason of insufficient nominations*
  - (d) *to decide when any declarations of acceptance of office which have not been received as provided by law shall be received*
  - (e) *to elect a Deputy Town Mayor*
11. *At every meeting of the Council other than the Annual Meeting, the first business shall be to appoint a Chairman if the Town Mayor and Deputy Town Mayor be absent and to receive such declarations of office (if any) as are required by law to be made, or if not then reviewed to decide when they shall be received.*
12. *After the first business has been completed, the order of business shall be as follows:*
  - (a) *After consideration, to approve the signature of the Minutes, by the presiding Chairman, as a correct record.*
  - (b) *to deal with business expressly required by statute to be done*
  - (c) *to receive the Mayor's announcements*
  - (d) *to answer any questions which have been submitted by Members in writing having given four days notice.*
  - (e) *to dispose of any business remaining under the last meeting*
  - (f) *to receive, for information, minutes of Committees*
  - (g) *to consider matters referred by Committees*
  - (h) *to consider motions in the order in which they have been notified*
  - (i) *to consider other matters specified in the summons (including reports and recommendations from Officers of the Council)*
  - (k) *to authorise the sealing of documents*



## Part 1

(l) to invite questions from Members which may either be answered at the Meeting or referred to a Committee, but are not the subject of further debate Every question shall be relevant to some matter in relation to which the Council has powers or duties or which affects the Town.

### Questions

13. *A short time is allowed at the discretion of the Chairman for councillors to ask questions on matters which are not on the current agenda but which are related to matters which have been previously discussed on an agenda relevant to the committee.*

*At least 24 hours' notice must be given to officers of the intended question. All other matters should be raised on an agenda and the request should be submitted through the Town Clerk.*

14. Subject to points (a) and (b) of Standing Order 12 not being displaced, the order of business at a meeting may, with the permission of the Town Mayor be varied on the grounds of urgency or convenience.

### Notice Of Motions

15. (a) Notice of every motion (other than a motion moved without notice under Standing Order 61) shall be given in writing, signed by the member or members of the Council giving the notice, and delivered to the Town Clerk at least seven clear days before the next Council meeting

(b) The Town Clerk shall date and number each motion in the order in which it was received and enter it in a book, which shall be open to the inspection of every member of the Council.

(c) The Town Clerk shall set out in the summons for every meeting of the Council all motions of which notice has been duly given in the order in which they have been received, unless the member giving such a notice intimated in writing when giving it that s/he proposed to move it at some later meeting, or has since withdrawn it in writing.

(d) Any motion thus set out in the summons which is not moved either by a member who gave notice thereof or by some other member on his/her behalf shall, unless postponed by consent of the Council be treated as withdrawn and shall not be moved without fresh notice





## **Part 1**

(e) If the subject matter of any motion to Council of which notice has been duly given comes within the province of any Committee or Committees, it shall, upon being moved and seconded stand referred without discussion to such Committee as the Council may determine, for decision. In the event of urgency the Town Mayor may allow the motion to be dealt with at the meeting at which it was moved

(f) Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the Town.

### **Seniority of Councillors**

16. For the purposes of all council and civic business, seniority of councillors will be calculated on the following basis –

(a) Seniority is calculated on the basis of years and months service accrued

(b) split service is counted as consecutive for the purposes of calculating years of service.

(c) Where two, or more members have the same level of service but one is split and the other consecutive, then consecutive service ranks the higher.

(d) Where two, or more members have the same level of service seniority is alphabetical by surname.



## **Part 2**

### **RULES RELATING TO COMMITTEES**

#### **Constitution of Standing Committees**

17. The Council shall appoint the following Committees which shall be the Standing Committees of the Council and shall consist of the number of members as indicated

<u>Committee</u>	<u>Number of Members</u>
Community & Civic Resources	12
Personnel Committee	7
Planning	21
Recreation & Properties	12

18. The Council shall not appoint any member of a committee so as to hold office later than the next Annual Meeting of the Council.
19. The Council may, at any time, dissolve a committee or alter its membership

#### **Appointment to Committees**

20. The selection of Members to Committees will be made by the Community & Civic Resources Committee, except in an election year when the appointments will be made by a meeting of the Council.
21. The Town Mayor the Deputy Town Mayor and Outgoing Mayor shall be a member of every Committee In the situation when the outgoing Mayor is no longer a member of the Council, then the Full Council will nominate a person to sit on both committees.
22. For the Personnel Committee members will be selected as a minimum two years with no more than 4 members changing in any one year
23. All other Members will be appointed to either the Community & Civic Resources or the Recreation & Properties Committee, but not both.
24. As far as is practicable, appointments to Committees will be made proportionate to the political make-up of the Council.



## **Part 2**

### **Quorum**

25. The quorum for meetings of Committees shall be one third of the total members of the Committee.

### **Decision Making Powers of Committees**

26. Committees are empowered to make decisions in accordance with the 'Duties and Powers of Council, Committees and Sub-Committees contained at Part 4
27. Matters may be referred to full Council for decision in the event of a majority vote of Committee Members present.

### **Order of Business**

28. At its first meeting, the first business of every Committee and Sub-committee shall be to elect a Chairman and a Vice Chairman who shall hold office until the next Annual Meeting of the Council
29. At every meeting other than the first meeting, the first business shall be to elect a Chairman for the meeting if the Chairman and Vice Chairman are absent
30. After the first business has been completed, the order of business shall be as set out in the agenda.  
No item of business shall be considered unless it is included in the agenda or by reason of special circumstance. It shall be specified in the minutes that the Chairman is of the opinion that the item should be considered at the meeting as a matter of urgency

### **Meetings**

31. Meetings of the Committees of the Council shall be held in accordance with the calendar of meetings approved by the Council from time to time
32. Extraordinary meetings of a Committee may be called by the Chairman of that Committee at any time. The summons to an Extraordinary meeting shall set out the business to be considered and no other business shall be transacted at that meeting
33. Agendas and supporting papers for all meetings of Committees will be sent to all Members of the Council.



## **Part 2**

### **Appointment of Sub-committees**

34. Every Committee may appoint Sub-committees for the purposes to be specified by the Committee
35. The Committee will make the appointment of Members to Sub-committees.
36. Sub-committees will operate in accordance with the Standing Orders that apply to the Committee

### **First meeting of all committees**

37. The first meeting of all committees will be convened at the first convenient date where the first item of business will be the election of chairman and vice chairman, and in the case of the Community and Civic Resources Committee, the Personnel Panel.

### **Election of Chairman to Committees**

38. The Mayor will sit in the chair to conduct the election of chairman to all committees and, if not a member of the committee, has no vote except a casting vote in the event of a tied vote.

### **Presence of Non Members of Committees at Committee Meetings**

39. Any Member of the Council shall, unless the Council otherwise orders, be entitled to be present as a spectator at the meetings of any Committee or Sub-committee of which s/he is not a member and may, if the Chairman so permits, speak but not vote on a specific matter or matters under consideration.



## **Part 3**

### **RULES APPLYING TO BOTH COUNCIL AND COMMITTEES**

#### **Voting**

40. Voting shall be by show of hands.
- (a) *If a member so requires the Town Clerk shall record the names of the members who voted on any question so as to show whether they voted for or against it or abstained. Any such request must be made prior to the vote being taken.*
- (b) Following a vote, a member may request that his/her individual vote or abstention is recorded
41. (a) *Subject to (b) and (c) below, the Committee Chairman may give an original vote on any matter put to the vote and in the case of an equality of votes may give a casting vote even if s/he gave no original vote;*
- (b) *If the person presiding at the Annual Meeting would have ceased to be a Member of the council but for the statutory provisions which preserve membership of the Mayor and Deputy Mayor until the end of their term of Office s/he may not give an original vote in an election for Mayor;*
- (c) *The person presiding must give a casting vote whenever there is an equality of votes in an election of Mayor*

#### **Voting on Appointments**

42. Where more than two persons have been nominated for any position to be filled by the Council or Committees and of the votes given there is not an absolute majority in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote taken, and so on until a majority of votes is given in favour of one person.

#### **Rules of Debate**

43. These rules of debate are applicable to meetings of the Council, Committees and Sub-committees.
44. No discussion shall take place upon the Minutes except upon their accuracy. Corrections if any, to the Minutes shall be made by resolution and must be initialled by the Chairman



### **Part 3**

45. A motion or amendment shall not be discussed unless it has been proposed and seconded and it shall, if required by the Chairman, be put into writing and handed to the Chairman before it is further discussed or put to the meeting.
46. The mover of a motion shall have a right to reply immediately before the motion is put to the vote. If an amendment is proposed, the mover of the amendment shall be similarly entitled to reply. A member exercising a right to reply shall not introduce a new matter.
47. After the right of reply has been exercised or waived, a vote shall be taken without further discussion.
48. A member may, with the consent of the seconder, move amendments to their own motion.
49. A member when seconding a motion or amendment may, if he/she then declares his/her intention to do so, reserve his/her speech until a later period of the debate.
50. A member shall direct his/her speech to the question under discussion or to a personal explanation or to a question of order.
51. The speech of a member moving a motion shall not exceed five minutes and all other speeches shall not exceed five minutes, except by consent of the Chairman.
52. An amendment shall be either:
  - (a) to leave out words
  - (b) to leave out words and insert or add others
  - (c) to insert or add words
53. An amendment shall not have the effect of negating the motion before the Council.
54. If an amendment is carried, the resolution, as amended shall take the place of the original resolution and shall become the resolution upon which any further amendment may be moved.
55. A further amendment shall not be moved until the Council has disposed of every amendment previously moved.
56. The mover of a resolution or an amendment shall have a right of reply not exceeding five minutes



### **Part 3**

57. A member, other than the mover of a resolution, shall not, without leave of the Chairman speak more than once on any resolution (except to move an amendment or further amendment, or on a point of order or in personal explanation or to move the closure)
58. A member may make a point of order or personal explanation. A personal explanation shall be confined to some material part of a former speech that they have made which may have been misunderstood.
59. A motion or amendment may be withdrawn by the proposer with the consent of the Chairman, which shall be signified without discussion and no member may speak upon it after permission has been asked for its withdrawal, unless such permission has been refused.
60. When the motion is under debate, no other motion shall be moved except the following:
  - (a) to amend the motion
  - (b) to proceed to the next business
  - (c) to adjourn the debate
  - (d) that the question be now put
  - (e) that a member (named) be not further heard
  - (f) that a member (named) do leave the meeting
  - (g) that the motion be referred to a Committee or to Council (as appropriate)
  - (h) to exclude the public and press
  - (i) to adjourn the meeting

### **Closure**

61. At the end of any speech a member may, without comment, move “that the question be now put”, “that the debate be now adjourned” or “that the Council does now adjourn”. If such a motion is seconded and if the Committee Chairman is of the opinion that the question before the Council has been debated sufficiently they shall forthwith put the motion.
62. If the motion “that the question be now put” is carried, he/she shall call upon the mover to exercise or waive their right of reply and shall put the question immediately after the right has been exercised or waived.



### **Part 3**

The adjournment of a debate or of the Council shall not prejudice the mover's right of reply at the resumption.

#### **Disorderly Conduct**

63. (a) No member shall at a meeting persistently disregard the ruling of the Presiding Chairman, wilfully obstruct business, or behave irregularly, offensively, improperly or in such a manner as to scandalise the Council or bring it into contempt or ridicule.
- (b) If, in the opinion of the Presiding Chairman, a member has broken the provision of paragraph (a) of this Order, the Presiding Chairman shall express that opinion to the Council and thereafter any member may move that the member named be no longer heard or that the member named do leave the meeting, and the motion, if seconded, shall be put forthwith and without discussion.
- (c) If either of the motions mentioned in paragraph (b) is disobeyed, the Presiding Chairman may suspend the meeting or take such further steps as may reasonably be necessary to enforce them.

#### **Motion Moved Without Notice**

64. Motions dealing with the following matters may be moved without notice:
- (a) To appoint a Chairman of the meeting
  - (b) To correct or approve the minutes
  - (c) To alter the order of business
  - (d) The referral of a matter to Council or to Committee
  - (e) Appointment to a Committee
  - (f) To proceed to the next business
  - (g) To close or adjourn the debate
  - (h) Not to adjourn
  - (i) That the question now be put
  - (j) To adopt a report
  - (k) To amend a resolution
  - (l) To authorise the sealing of documents
  - (m) To give leave to withdraw a resolution or an amendment
  - (n) To extend the time limit for speeches
  - (o) To suspend Standing Orders in accordance with Standing Order No 80
  - (p) To exclude the Public under Standing Order 66
  - (q) To silence or eject a Member named for misconduct
  - (r) To invite a Member having an interest in the subject matter under debate to remain
  - (s) To give consent of the Council where such consent is required by these Standing Orders





## **Part 3**

### **Rescission of Previous Resolution**

65. (a) No motion to rescind any resolution passed within the preceding six months and no motion or amendment to the same effect as one which has been rejected within the preceding six months shall be proposed unless the notice of Motion bears the names of at least six members of the Council
- (b) When any such motion or amendment has been disposed of by the Council, it shall not be open to any member to propose a similar motion within a further period of six months
- (c) This Standing Order shall not, however, apply to motions moved in pursuance of a recommendation of a Committee

### **Discussions and Motions Affecting Employees of the Council**

66. If at a meeting, there arises any question relating to the appointment, conduct, promotion, dismissal, salary or conditions of service of any person employed by the Council, it shall not be considered until the Council or Committee has decided whether or not the public shall be excluded.

### **Admission of the Public and Press to Meetings**

67. *The Public and the Press shall be admitted to all meetings of the Council and its Committees, which may however temporarily exclude the Public by means of the following resolution:*
68. "That in view of the confidential nature of the business about to be transacted, it is advisable in the public interest that the public be temporarily excluded and they are instructed to withdraw.
69. *The Town Clerk shall afford to the press reasonable facilities for taking their report of any proceedings at which they are entitled to be present.*

### **Confidential Business**

70. No member shall disclose to any person who is not a member of the Council, any business declared to be confidential by the Council, the Committee or the Sub-committee as the case may be.
71. The contents of any document or report which may be circulated to any member or members of the Council and which is marked "exempt" shall not be disclosed to any other person or persons.



## **Part 3**

### **Inspection of Documents**

72. (a) All Minutes and documents kept by the Council and by any Committee shall be open for the inspection by any member of the Council for any purpose of his/her duty, but not otherwise.

(b) The Minutes shall be open to inspection by any local government elector of the Town without charge unless they refer to business conducted in the absence of the public

### **Unauthorised Activities**

73. No member of the Council shall in the name of or on behalf of the Council

(a) inspect any land or premises which the Council has a right or duty to inspect, or

(b) issue orders, instructions or directions

unless authorised to do so by the Council or the relevant Committee or Sub-committee

### **Declaration of Interests**

74. If any member has an interest, within the meaning of the Code of Conduct as adopted by the council in accordance with the Localism Act 2011, in a matter to be decided, it must be declared at a meeting

Members who have a Disclosable Pecuniary Interest may, prior to the commencement of debate and discussion on the matter, make representations to the meeting to the extent that a member of the public would be allowed, and must leave the room prior to the commencement of such debate and discussion and during voting on the matter in question

75. *The Town Clerk shall record in a book to be kept for the purpose, particulars of any notice given by any member or any officer of the council of any interest in a contract, and the book shall be open during the reasonable hours of the day for the inspection of any member.*

76. If a candidate for any appointment under the Council is to his/her knowledge related to any member of or the holder of any office under the Council, he/she and the person to whom he/she is related shall disclose the relationship in writing to the Town Clerk. A candidate who fails so to do shall be disqualified for such appointment and, if appointed, may be dismissed without further notice. Where relationship to a member is disclosed the Standing Orders on Interests shall apply



## **Part 3**

### **Canvassing of and Recommendations By Members**

77. (a) Canvassing of members of the Council or of any committee, directly or indirectly, for any appointment under the Council shall disqualify the candidate for such appointment. The Town Clerk shall make known the purpose of this sub-paragraph of this Standing Order to every candidate.
- (b) A member of the Council or of any committee shall not solicit for any person any appointment under the Council or recommend any person for such appointment or promotion; but, nevertheless, any such member may give a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.
78. Standing Orders Nos 76 & 77 shall apply to tenders as if the person making the tender were a candidate for an appointment.

### **Sealing of Documents**

79. (a) A document shall not be sealed on behalf of the Council unless its sealing has been authorised by a resolution of the Council or Committee or is a requirement of the Council's activities
- (b) The Council's Common Seal shall alone be used for sealing documents. It shall be applied by the Town Clerk (or delegated senior officer in his/her absence)

### **Variation, Revocation and Suspension of Standing Orders**

80. Any part of the Standing Orders except those printed in italics may be suspended during the current meeting by resolution in relation to any specific item of business.
81. A resolution permanently to vary or revoke a Standing Order shall when proposed and seconded, stand adjourned without discussion to the next Ordinary meeting of the Council.

### **Liaison with County Councillors**

82. A notice of meeting shall be sent together with an invitation to attend to the County Councillor for the county division..
83. Unless the Council otherwise orders, a copy of each letter ordered to be sent to the County Council shall be transmitted to the County Councillor for the division.



## **Part 3**

### **Notice of Non Attendance at Meetings**

84. Otherwise than in the event of an unavoidable emergency, notice of non attendance at meetings should be notified to the Town Hall by 5pm latest on the day of the meeting.
85. No apologies will be recorded if, otherwise than in the event of an unavoidable emergency, if notification has not been made

### **Public Participation**

86. At all meetings of the Council or its Standing Committees there will be a short period allowed for questions from the Public. A question may be answered orally or in writing (which shall be circulated to all members of the Council) but shall not be the subject of further debate.



## **Part 4**

### **DUTIES AND POWERS OF COUNCIL AND COMMITTEES**

#### **Council**

87. The following matters shall be reserved for decision by the Council itself
- (a) Precepting a rate
  - (b) Borrowing Money
  - (c) Making, amending or revoking Standing Orders, Financial Regulations or Duties and Powers and proper Office provisions
  - (d) Making, amending or revoking Bye Laws
  - (e) Making of Orders under any statutory powers
  - (f) Important matters of principle or policy which have been referred directly by committees or officers
  - (g) Prosecution or defence in a court of law

#### **Remit of The Community & Civic Resources (12 Members)**

88. The Community and Civic Resources Committee shall be empowered to exercise and perform on behalf of the Council, all powers and duties of the Council in relation to the matters listed below, which is not exhaustive.

- The democratic process
- The appointment of Members to Outside Bodies, including school Governors
- To respond to consultation documents and projects generated by other organisations (unless the nature of the consultation falls within the operational remit of Recreation & Properties Committee)
- Crime Prevention and Community Safety
- Grants - to make payments of grants in accordance with Council policy and within the budget allocation
- Mayoralty, Civic Events and Insignia & Plate including Town Crest
- Communication & web site
- Twinning
- Christmas Lights
- Devizes Festival and Devizes Carnival
- Committee & Member Services



## **Part 4**

- Legal Services
- Financial procedures
- 

The Community and Civic Resources Committee can appoint Sub-Committees or any of its powers to a sub-committee. The Community and Civic Resources Committee is empowered to incur expenditure where it has an allocated budget provision.

### **Remit of Personnel Committee (7 Members)**

89. The Personnel Committee shall be empowered to exercise and perform on behalf of the Council all powers and duties of the Council in relation to the matters listed below. .

- Review and development of staffing policies
- Work Force Strategy & Structure
- Disciplinary and appeal process  
*[All matters relating to discipline (including dismissal), grievances and recruitment in accordance with the Council's personnel policies and practices]*
- Office Arrangements and Requirements

### **Remit of Recreation & Properties Committee (12 Members)**

90. The Recreation & Properties Committee shall be empowered to exercise and perform on behalf of the Council, all powers and duties of the Council in relation to the matters listed, which is not exhaustive. The Recreation & Properties Committee can appoint Sub-Committees. The Recreation & Properties Committee can delegate any of its powers to a sub-committee. The Recreation & Properties Committee is empowered to incur expenditure where it has an allocated budget provision

- Hillworth Park (including café)
- The Green Lane Playing Fields
- Trees & Woodlands
- The Crammer Pond & The Greens
- Avon Road Playing Field
- Play Areas
- Allotments



## **Part 4**

- Bus Shelters and Street Furniture
- Horticultural Propagation & Grounds Maintenance
- Venues - Town Hall, Corn Exchange & Bookings
- Commercial Properties
- Monuments
- Floral Displays and Britain & Devizes in Bloom
- Devizes Cemetery
- Shambles
- Market Place
- Markets
- Town Centre Management

### **Remit of Planning Committee (21 Members)**

91. The Planning Committee shall be empowered to exercise and perform on behalf of the Council, all powers and duties of the Council in relation to the matters listed below, which is not exhaustive. The Planning Committee can appoint Sub-Committees. The Planning Committee can delegate any of its powers to a sub-committee. The Planning Panel is empowered to incur expenditure where it has an allocated budget provision

- Consultation on individual planning applications
- Planning Consultation (Structure Plan, Local Plan etc)
- Highway and traffic matters
- Matters which generally affect the built or rural environment of the town

### **PROPER OFFICER**

92. Where a Statute, Regulation or Order confers functions or duties on the Proper Officer of the Council in the following cases it shall be the Town Clerk or in his/her absence, an officer who is responsible for deputising for the post of Town Clerk.

- (a) To receive declarations of acceptance of office
- (b) to receive and record notices disclosing pecuniary interests
- (c) to receive and retain plans and documents
- (d) to sign Notices of other documents on behalf of the Council
- (e) to receive Bye Laws made by a District Council



## **Part 4**

- (f) to receive copies of Bye Laws made by the Council
- (g) to sign summonses to attend meetings of the Council and Committees
- (h) Recruitment (unless it was regarding the Town Clerk or at senior leadership team level.
- (i) Manage staffing levels within the pre-set budgets with the Personnel Committee being advised of any changes.
- (i) In any other case the Proper Officer shall be the person nominated by the Council and in default of nomination, the Town Clerk

### **DELEGATION TO OFFICERS**

93. The Town Clerk shall be empowered to exercise and perform on behalf of and in the name of, and without further reference to the appropriate Committee of the Council all powers and duties of the Council in relation to the following as described.
- a) The day to day administration of services and routine inspection and control
  - b) Staffing Matters
    - I. the day to day supervision of all employees and the maintenance of staff discipline including taking appropriate disciplinary action in accordance with the disciplinary procedure.
    - II. The maintenance and periodic review of contracts of employment and job descriptions for all employees and other records as may be required from time to time.
    - III. To fulfil, as necessary, the requirements of the grievance procedure
    - IV. To ensure a Safety Manual and safety procedures are maintained in compliance with the health and Safety at Work Act 1974 and take such action as to ensure its implementation
    - V. To decide upon requests from staff for compassionate leave
    - VI. To appoint temporary staff as considered necessary





## **Part 4**

- c) To exercise such powers and duties as laid down in the Financial Regulations



## **FINANCIAL REGULATIONS**

94. Section 151 of the Local Government Act 1972, together with Section 73 of the Local Government Act, 1985 and Section 114(1) of the Local Government Finance Act, 1988 requires that every local authority shall make arrangements for the proper administration of their financial affairs, and shall secure that one of their officers has responsibility for the administration of those affairs. The accounting, financial administration and financial control system of the Council shall be the specific responsibility of an officer - the Town Clerk - who shall maintain the integrity of the financial administration and control system.

### **Control - Regulation**

95. The Community and Civic Resources Committee shall be responsible to the Council for the regulation and control of all the finances of the Council.
96. The Town Clerk of the Council shall, for the purposes of Section 151 of the Local Government Act 1972, as supplemented by Section 73 of the Local Government Act 1985 and Section 114(1) of the Local Government Finance Act, 1988, be responsible, under the general direction of the Community and Civic Resources Committee, for the proper administration of the Council's financial affairs.

### **Accounting**

97. All accounts and accounting records of the Council shall be compiled by the Town Clerk or under his/her direction.

### **Audit**

98. The Town Clerk shall arrange for the adequate and effective system of internal audit of the accounting, financial control systems and other operations of the Council by a independent and competent person, to be undertaken on a quarterly basis whereby all of the council's finance & governance responsibilities are reviewed over the course of the year.
99. The Town Clerk, or his/her authorised representative, shall in pursuance of these duties, have authority to:-
- (a) enter at all reasonable times on any Council premises or land;
  - (b) have access to all records, documents and correspondence;
  - (c) require and receive such explanation as are necessary concerning any matter under examination; and



- (d) require any employee of the Council to produce cash, stores or any other Council property under their control.
100. The Town Clerk will be required to operate an internal audit service in accordance with the principles developed and recommendations made from time to time by the Auditing Practices Board.

### **Irregularities**

101. Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council or any suspected irregularity in the exercise of the functions of the Authority, the officer discovering the event (or any officer or member aware that the following procedures had not been effected) shall immediately report it to the Town Clerk, who shall take such steps as he/she considers necessary by way of investigation and report, and shall notify the Town Mayor and the Chair of the Community and Civic Resources Committee of the situation.

### **Insurances**

102. The Town Clerk shall affect all insurance cover and negotiate all claims in consultation with other officers where necessary.
103. Officers shall give prompt notification to the Town Clerk of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.
104. Officers shall notify the Town Clerk of any loss, liability or damage or any event likely to lead to a claim, and the police shall be informed unless otherwise decided.
105. All employees of the Council who have access or handle cash shall be included within in a suitable fidelity guarantee insurance.
106. The Town Clerk shall annually, or at such other period as may be considered necessary, review all insurances in consultation with other Officers.
107. The Town Clerk shall ensure that all contractors have adequate employer and third party liability insurance before contracts are carried out on behalf of the Council and recorded in a register.

### **Capital Expenditure**

108. Upon the approval by the Council of a programme of capital expenditure the Town Clerk shall be authorised:-



- (a) to submit a scheme to the appropriate spending committee and shall incorporate a statement, showing estimated cost and the probable initial and ultimate revenue charge as well as the method of financing recommended.
  - (b) to take steps to enable land required for the purposes of the programme to be acquired in due time; and
109. Where a capital scheme is likely to exceed the approved budget by more than £2,500 it will be the responsibility of Town Clerk to seek a virement, or if necessary a supplementary estimate from the appropriate Committee or Council.
110. If, during the progress of the scheme, it becomes apparent that the original tender sum is likely to be materially varied, either up or down, the Town Clerk shall report the facts immediately to the appropriate committee, as part of the normal project progress procedure.
112. In order that the Council can react to changed circumstances in a timely manner the Council's Management Team shall monitor progress on capital schemes with a view to recommending the course of action appropriate both in respect of Regulation 34 and in the event of changes in the timescale during which capital works are likely to be carried out.

### **Contracts**

#### *COMPLIANCE WITH STANDING ORDERS AND EUROPEAN (EU) DIRECTIVES ETC*

111. Every contract made by the Council or by a committee, sub-committee, or officer acting on their behalf shall comply with the EU Treaty and with any relevant Directives of the EEC for the time being in force in the United Kingdom and, except as hereinafter provided, within these Financial Regulations.
112. (a) It shall be a condition of any contract between the Council and any person, not being an officer of the Council, who is required to supervise a contract on their behalf that, in relation to such contract, s/he shall comply with the requirements of the Council's Standing Orders and Financial Regulations as if s/he were an officer of the Council.
- (b) On occasions, particularly when the Council is contractually bound as an agent on behalf of some other statutory body, it will be necessary for the standing orders and rules and regulations of that body to have precedence over these standing orders in order that the Council may carry out its obligations to/on behalf of that body.



(c) Exemption from any of the following provisions of these Financial Regulations may be made by direction of the Council or a committee or sub-committee duly authorised in that behalf where they are satisfied that the exemption is justified in special circumstances.

(d) A record of any exemption made shall, be minuted in the minutes of the appropriate committee or Council.

### **Tenders & Quotations**

113. For the purposes of these Financial Regulations the term “Quotation” refers to any invitation to contract not exceeding £49,999 and the term “Tender” refers to any invitation to contract exceeding £49,999.

114 Where the estimated value or amount of the contract for goods, services or materials does not exceed £4,999 the contract may be let at the discretion of the Town Clerk. In making arrangements for the supply of such goods, services or materials, the Town Clerk shall endeavour to ensure that the cost is competitive.

### **Invitation to and Acceptance of Quotations**

115. (a) Where the estimated value or amount of a proposed contact exceeds £4,999, but does not exceed £49,999 quotations shall be invited from a minimum of four suppliers/contractors.

(b) Provided that at least two quotations are received by the date and time stipulated, the Town Clerk in conjunction with the Chair of the spending Committee concerned shall have power to accept an appropriate quotation.

(c) Where officers, in conjunction with the Chair of the spending Committee concerned do not accept the lowest quotation a written report will be submitted on the circumstances to the next meeting of the appropriate committee. Acceptance must be in writing and supported by a copy of the appropriate quotation document setting out terms and conditions, where applicable.

(d) This Financial Regulation does not apply in respect of the appointment of consultants which is provided for in Financial Regulation 128

116. (a) Where an invitation for a quotation is made, every invitation shall state that no quotation will be received unless it is enclosed in a plain sealed envelope which shall bear the work ‘Quotation’ followed by the subject to which it relates but no other name or mark indicating the sender.

(b) The quotations shall be kept in the custody of the Town Clerk or such other authorised officer until the time and date specified for their opening.



- (c) No quotation received after the time and date specified in the invitation shall be accepted or considered under any circumstances.
117. (a) Quotations received under Financial Regulation 113 shall be opened at one time and only in the presence of the Town Clerk and an appropriate officer.
- (b) All quotations received shall be recorded in a register, which shall be kept available for inspection during normal office hours. All persons present at the opening shall sign the Register.
- (c) Quotations shall only be accepted by the Council, or by a committee or sub-committee or by an officer duly authorised in that behalf.

### **Invitation to and Acceptance of Tenders**

118. Where the estimated value or amount of the contract exceeds £49,999, or less if deemed appropriate by the relevant spending Committee, public notice shall be given:
- (a) in at least one local newspaper, and
- (b) in at least one newspaper or journal circulating among such persons or bodies who undertake such contracts,
119. At least 14 days' public notice shall be given and the notice shall express the nature and purpose of the contract and/or state where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.
120. (a) Where an invitation to tender is made, every invitation shall state that no tender will be received unless it is enclosed in a plain sealed envelope which shall bear the word 'Tender' followed by the subject to which it relates but no other name or mark indicating the sender.
- (b) The tenders shall be kept in the custody of the Town Clerk or such other authorised officer until the time and date specified for their opening.
- (c) No tender received after the time and date specified in the invitation shall be accepted or considered under any circumstances.
121. (a) Tenders received under Financial Regulation 116 shall be opened at one time and only in the presence of a Member (or Members) of the Council, the Town Clerk and an appropriate officer.
- (b) All tenders received shall be recorded in a register which shall be kept available for inspection during normal office hours. All persons present at the opening shall sign the Register.



(c) Tenders shall only be accepted by the Council, or by a committee or sub-committee or by an officer duly authorised in that behalf.

(d) The relevant spending Committee shall be authorised to accept any tender. If the lowest tender is not accepted a report explaining the circumstances will be submitted to the Council.

### **Register of Contracts**

122. *A register of all contracts of a value in excess of £4,999 placed by the Council shall be kept and maintained under the direction of the Town Clerk. The register shall for each contract, specify the name of the contractor, the works to be executed or the goods to be supplied and the contract value. The register shall be open to inspection by any member of the Council.*

### **Contract Conditions**

123. Every contract shall be in writing and:-

Whilst tenders may be sought from companies which have previously been unknown to the Council where the work is of a specialist nature, for smaller work companies from an approved register should be used.

The register should be regularly updated and reviewed.

(a) if it does not exceed £49,999 shall be signed by the Town Clerk on behalf of the Council (or by someone duly authorised to sign on their behalf).

(b) if it exceeds £49,999 in value, be signed (or sealed as the case may be) by Town Mayor and the Town Clerk ( or by someone duly authorised to sign on their behalf)

(c) specify the goods materials or services to be supplied and the work to be executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties; and

(d) Where the Town Clerk or spending committee considers it necessary, due to the nature of the contract or any other particular circumstances provide for the payment of liquidation damages by the contractor where he/she fails to complete the contract within the time specified.

124. (a) Where the Town Clerk or the spending Committee considers it necessary due to the nature of the contract or any other particular circumstances, shall there be a requirement for the contractor to enter into a bond for its due performance, or into such other arrangements as





may be approved by the Town Clerk, in the sum of 10% of the contract amount. This must be identified in advance and stated in the tender documents.

(b) In cases where a bond is required, the tender documents shall make reference to this, but it be stated in the documentation that, if the contractor has not produced the required form of bond prior to the date set for commencement of the work, then 10% of the contract sum will be deducted from the first or, if this is not sufficient, from subsequent interim payments.

(c) Where the Town Clerk or the spending Committee considers it necessary due to the nature of the contract or any other particular circumstances, there will be a provision for the Council to make a retention of 10% for an agreed period to ensure the satisfactory completion of the contract.

### **Special Equipment or Services Etc**

125. Financial Regulations 113, 116 and 117 shall not apply in respect of the supply of specialist equipment or the carrying out of specialist works which can, in the opinion of Town Clerk, be obtained only from a limited number of suppliers or contractors or where the price of the equipment works supplied/carried out are wholly controlled by trade organisations or government order etc and no reasonably satisfactory alternative is available. Town Clerk shall, in every such case, certify that the goods or services required are of such a specialist nature. Contracts of a specialist nature, which are deemed not to be subject to tender or quotations, will be reported to the relevant committee.

### **British Standards**

126. Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current at the date of the tender, every contract shall require that all goods and materials used or supplied, and all the workmanship shall be at least of the standard required by the appropriate British Standards Specification or Code of Practice.

### **Cancellation of Contract**

127. There shall be inserted in every written contract a clause empowering the council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relating to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour





or disfavour to any person in relation to the contract or any other person employed by him or acting on his/her behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council, have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972.

### **Appointment of Consultants**

128. (a) tenders for consultancy work be invited only from the membership list of the appropriate professional body and not from public advertisement. Having consulted the membership list of the relevant professional body, preference should be given to firms in the locality. Where no professional body exists qualifications, experience and evidence of work undertaken must be sought to establish credibility.
- (b) the full terms of the appointment should be made known to tenderers at the time tenders are invited;
- (c) in appropriate cases, tenders should be sought on an annual or longer
- (d) term basis, with a maximum of five years at any one time, but discretion on the length of the contract within the maximum should be left to the Town Clerk in conjunction with the Chair of the appropriate Spending Committee or Council.
- (e) the Town Clerk should be empowered to appoint consultants for preliminary advice (e.g. for project feasibility studies) without the delay and expense of tendering, subject to there being appropriate provision within the approved capital estimates.

### **Management of Contracts**

129. Payments to contractors on account of contracts shall be made only on a certificate issued by the qualified professional advisor (where such has been engaged by the Council) or by the Town Clerk in conjunction with the Chair of the spending Committee.
130. Subject to the provisions of the contract in each case every extra or variation shall be authorised in writing by Town Clerk in conjunction with the Chair of the spending Committee.
131. Any such variation, the estimated additional cost of which exceeds 5%, shall be reported to the appropriate spending committee as soon as practicable.



132. The final certificate of completion of any contract shall not be issued until the appropriate officer, private architect, engineer or consultant has produced a detailed statement of account, and all relevant documents if required.
133. Claims for contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Council's legal advisors for consideration of the authority's legal liability and, where necessary, Chair of the appropriate spending Committee for financial consideration before a settlement is reached.
134. Where the completion of a contract is delayed by more than one-sixth of the original contract period, it shall be the duty of the Supervising Officer or professional technical advisor concerned to report the delay, and the reasons therefore to the appropriate committee.
135. Where completion of a contract is delayed after the completion or extended completion date and the contract so provides, it shall be the duty of the supervising officer to certify under the contract whether, and if so how much, should be deducted as liquidated and ascertained damages, and to notify the Town Clerk and Chair of the spending Committee accordingly, or on failing to do so report the same to the appropriate committee.

### **Annual Estimates**

136. The Council shall consider the estimates of all committees together with such summaries, statements, reports and recommendations in relation thereto as they may consider desirable for the information of the Council. The Council will decide the rate to be levied for the ensuing year.
137. The Council's approval of the estimates shall be deemed approval for the incurring by the appropriate committee of expenditure on each of the items detailed therein.
138. It shall be the duty of the Administration & Finance Manager to report any anticipated or actual over-spending or shortfall in income to the Town Clerk so that the appropriate steps can be taken to correct the situation.
139. Expenditure or income in excess of £2,500 allocated in the estimates for particular purposes shall only be diverted to other purposes with the agreement of the appropriate Committee or Council.
140. The Town Clerk shall furnish the Community and Civic Resources Committee with periodical statements of receipts and payments under each head of approved estimate and such other relevant information as is available.



### **Annual Reports**

141. The Council shall produce annual reports on the affairs of the Authority in respect of each financial year, which shall include such information as is prescribed by statute or relevant codes of practices as follows:-

Statement of Accounts  
(Code of Practice on Local Authority Accounting in Great Britain).

142. The Statement of Accounts shall be published by the 30th June following the year ending 31st March, and shall be considered by the Council at its meeting before that date.

### **Control of Expenditure – Orders for Work & Goods**

143. The Administration & Finance Manager shall be responsible for the purchase and issue of all order books.
144. A list of officers authorised to sign orders will be approved by the Town Clerk.
145. All orders for goods or work shall be issued under terms agreed by the Town Clerk and expenditure must be within the legal powers and duties of the Council. Authorised officers shall ensure that verbal orders are kept to the minimum and are confirmed by written orders the same day.

### **Stocks and Stores and Inventories**

146. The Town Clerk and other department managers shall be responsible for the custody and physical control of the stocks and stores of the Council.
147. Every officer shall supply the Administration & Finance Manager with stores records as may be required for the accounting, costing and financial records of the Council.
148. Inventories of all plant, equipment, furniture shall be maintained in respect of each establishment of the Council and departmental manager shall ensure that such inventories are kept up-to-date and that an annual check of all items on the inventory is maintained.
149. Sales of surplus and obsolete stores, furniture and equipment shall be authorised by the Town Clerk. For items with an estimated value of £500 or less, the sale price will be determined by the Town Clerk. For items with an estimated value of more than £500 by competitive tender, the extent and mechanism for which will be decided by the Town Clerk in conjunction with the Chair of the relevant Committee.



### **Security**

150. The Town Clerk and departmental managers are responsible for maintaining proper security at all times for all buildings, stocks, stores, furniture, equipment, cash, etc., under their control.
151. The Administration & Finance Manager is responsible for maintaining a register of all keys issued.

### **Payment of Accounts**

152. The normal method of payment of money due from the Council, apart from petty cash and other payments from imprest accounts, shall be by cheque, Standing Order, Direct Debit or BACS drawn on the Council's banking account.
153. Payments drawn on the Council's banking accounts shall be authorised by two councillors of Devizes Town Council. and an authorised officer. Where payments are made by variable Direct Debit, the instructions are to be signed by two members and an authorised officer.
154. If thought appropriate by the Town Clerk or another senior officer, payments can be made for certain items via an internet banking transfer to the value of £250 per single transaction, provided evidence is retained showing which officer approved the payment. For payments greater than £250 authorisation must be given by two members.
155. (a) If thought appropriate by the Town Clerk or another senior officer, payments can be made for items via an internet banking transfer to the value of £250 per single transaction, provided evidence is retained showing which officer approved the payment. For payments greater than £250 authorisation must be given by two members.
155. (b) A credit card will be held in the name of Devizes Town Council and will be under the control of the Town Clerk. Single transactions will be restricted to £500 unless authorised by 2 members. The monthly balance on the Credit card will be settled at the end of each month.
156. Before certifying an account for payment, the Administration & Finance Manager shall, have satisfied him/herself that:-
  - (a) the work, goods, or service to which the account relates have been received, carried out, examined and approved.



- (b) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct.
  - (c) the relevant expenditure has been properly incurred, is within the relevant estimate provision.
  - (d) the account has not been previously passed for payment and is a proper liability of the Council.
  - (e) The VAT regulations have been complied with
157. Schedules of payments made, will be presented to the Community and Civic Resources Committee for information.

### **Salaries & Wages**

158. The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees of the Council shall be made or under arrangements approved and controlled by the Town Clerk, complying with all relevant regulations in respect of PAYE and NI.
159. Each Manager shall notify the Administration & Finance Manager as soon as possible and in the form prescribed, of all matters affecting the payment of such emoluments, and in particular, absences from duty for sickness or other reason, and any overtime or duty payments.
160. Appointments of all employees shall be made in accordance with the approved establishments, grades and rates of pay.

### **Travelling, Subsistence, Attendance and Financial Loss Allowance**

161. All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted, signed by the Claimant and certified by the appropriate manager.
162. Payments to members, including co-opted members of the Council or its committees who are entitled to claim travelling or other allowances will be made upon receipt of the claim. All claims for a financial year are to be submitted within one month of 31st March.
163. Officers' claims submitted more than six months after the expenses were incurred will be paid only with the express approval of the Town Clerk.

### **Control of Income**



164. The collection of all money due to the Council shall be under the supervision of the Town Clerk.
165. Where cash is received in payment of any debt an official receipt must be given at the time of payment to the payer.
166. Personal cheques shall not be cashed out of the money held on behalf of the Council.
167. Sums due to the Council not exceeding £150.00 shall not be written off in the books of account without the approval of the Town Clerk. Sums in excess of £150.00 shall not be written off without the approval of the appropriate Committee of the Council.

### **Estates**

168. The Administration & Finance Manager will maintain a schedule of all properties owned by the Council, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.
169. The Town Clerk shall have the custody of all title deeds under secure arrangements.

### **Banking Arrangements**

170. The Council's banking services shall be subject to competitive tendering procedures on a regular basis, with a maximum contract term of five years.
171. All arrangements with the Council's bankers shall be made by or under arrangements approved by the Administration & Finance Manager in conjunction with the Town Clerk, who shall be authorised to operate such banking accounts, as they may consider necessary.
172. All new cheques books shall be ordered only on the authority of Town Clerk or Administration & Finance Manager, who shall make proper arrangements for their safe custody.
173. The Council will maintain a £20 cash float. All cash received must be banked weekly or if more than £2000 is held on the premises.
174. Officers will prepare a monthly reconciliation of the Council's bank accounts which will be reviewed by the Administration & Finance Manager