

**ARTICLE 6 – THE EXECUTIVE****6.1 Role/Terms of Reference**

- (a) The Executive is responsible for the discharge of those executive functions allocated to it by the Leader.
- (b) It will take the lead on recommending to Full Council matters as identified in the Policy Framework and Budgetary Framework – Part 2 of the Constitution.

**6.2 Membership**

- (a) The Executive will consist of the Leader together with at least 2, but not more than 9, Members appointed to the Executive by the Leader.
- (b) The following Members shall not be appointed to the Executive:
  - (i) the Chair and Vice-Chair of Full Council; and
  - (ii) any Member appointed for the time being to any Overview and Scrutiny Committee.
- (c) The quorum of the Executive is 3.

**6.3 Appointment of Chair and Vice-Chair**

The Leader shall be the Chair of the Executive. The Deputy Leader shall be the Vice-Chair of the Executive.

**6.4 Meetings**

- (a) The number of ordinary meetings of the Executive each year will normally be determined by the Executive.
- (b) The Leader shall have the power to call one or more special meeting(s) of the Executive.
- (c) The Leader may determine that a meeting should be cancelled for insufficient business.

**6.5 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the relevant parts of the Council and Committee Procedural Rules and the Executive Procedural Rules - Part 2 of this Constitution.

**6.6 Substitutes and Lead Members**

- (a) There shall be no power to appoint substitutes to the Executive.
- (b) The Leader shall be entitled to appoint up to six members of the controlling group as lead members.
- (c) Lead members are not members of the Executive but are appointed to work alongside the Executive, providing additional leadership capacity and support for Executive members.
- (d) Lead members may also be members of an overview committee but shall not be appointed to a scrutiny committee.

## 6.7 The Leader

- (a) An election to the office of Leader will usually be held by the Council at the post-election annual meeting but may be held at an earlier meeting of Council if at such an earlier meeting Members expressly resolve otherwise.
- (b) The Leader will be elected by a simple majority of Members present at the Full Council meeting at which the election takes place. In the event of a tie, the Member chairing the meeting will have a casting vote.
- (c) The Leader's term of office starts on her/his day of election as Leader.
- (d) Unless Full Council resolve otherwise, the Leader's term of office will normally be annual, expiring at the start of the next annual meeting of the Council following his/her previous election.
- (e) Full Council can resolve to remove the Leader by a simple majority vote at any time. In this case, the Leader's term of office ends on the day of his/her removal. In the event that Council by resolution removes the Leader, the Council will normally seek to elect a new Leader at the same meeting at which the Leader is removed but may do so at a subsequent meeting.
- (f) The Leader remains a member of the Council during his/her term of office as Leader however the Leader may cease to be a councillor in certain circumstances including disqualification and resignation.
- (g) The Leader has the powers as set out in Part 3 – Functions of the Council, of the Constitution.

## 6.8 The Deputy Leader

- (a) The Deputy Leader's key role is to deputise for the Leader when s/he is unable to act and/or to act as the Leader if the post of Leader is vacant.
- (b) The Leader shall at all times ensure that one of the Members appointed by him/her to the Executive is appointed as Deputy Leader.
- (c) The Leader may at any time (and from time to time) remove the appointed Deputy Leader from office. Upon the removal of a Deputy Leader the Leader must appoint another person in her/his place.
- (d) The Leader shall ensure that the Head of Paid Service is notified in writing without delay as to the identity of the Deputy Leader upon her/his appointment or replacement (as the case may be).
- (e) Unless the Deputy Leader resigns, is removed by the Leader or ceases to be a Member, the Deputy Leader shall hold office until the end of the term of office of the Leader.
- (f) If, for any reason, the Leader is unable to act or the office of Leader is vacant, the Deputy Leader must act in her/his place.
- (g) The Deputy Leader has the powers as set out in Part 3 – Functions of the Council of this Constitution.

## 6.9 Other Executive Members

- (a) Every other member of the Executive shall remain in office until s/he:-
  - (i) resigns from office;
  - (ii) is suspended from being a Member;
  - (iii) ceases to be a Member; or
  - (iv) is removed from office by decision of the Leader. Such removal should be notified in writing to the Head of Paid Service. The removal will be assumed to be effective upon receipt of such notice by the Head of Paid Service unless the Leader specifies otherwise in such notification.
- (b) The Leader shall be responsible for identifying from the Executive any Member who will perform a Cabinet Member role. The number of Cabinet Member posts shall be determined by the Leader and may be varied by him/her at any time and from time to time.
- (c) A Cabinet Member will have responsibility for one or more areas of the Council's work. The specific responsibilities for each Cabinet Member will be decided by the Leader.
- (d) In the event that a Cabinet Member is absent or otherwise unavailable to act then the Leader may act in their place, exercising all of the powers and responsibilities of the Cabinet Member.

## 6.10 Executive Member Advisory Panels

- (a) The Leader and/or any other Executive Member may from time to time arrange for the appointment of one or more Advisory Panels with whom s/he may consult for the purposes of helping to inform him/her in relation to the discharge of his/her portfolio responsibilities.
- (b) In particular, this may include:
  - (i) a planning advisory panel to provide advice in relation to issues arising in connection with the formulation and review of local plans;
  - (ii) other policy advisory panels which may involve members of the relevant overview and scrutiny committee and other non-Executive Members to assist in relevant policy formulation.
- (c) The membership of any Advisory Panel may include Members, Officers and/or any other persons. The Executive Member creating the Advisory Panel shall have absolute discretion in determining the size of any Advisory Panel and its membership (including whether Members are drawn from one or more political groups). However, in considering such membership, the Executive Member should have regard to the potential benefits associated with involving a range of representation. The Executive Member or his/her nominee shall chair the Advisory Panel. An Advisory Panel shall be informal, have no decision-making power and shall not constitute a Committee or Sub-Committee of the Council. The Executive Member can determine whether the

public and/or other Members shall be allowed to attend a meeting of the Advisory Panel s/he has arranged and/or be part of any circulation list for documents prepared in relation to it.

- (d) The Executive Member shall notify the Head of Paid Service and the Monitoring Officer of any Advisory Panel and its membership. The Monitoring Officer shall maintain a list of such Advisory Panels which shall be open to public inspection.

#### **6.11 Member rights to attend at and request items to be considered by the Executive**

The Executive Procedure Rules in conjunction with the Council and Committee Procedure Rules - Part 2 of this Constitution contains rules relating to the rights of individual Members to:

- (a) attend and speak at the Executive; and
- (b) request an item be considered by the Executive.

#### **6.12 Delegated powers and powers to recommend**

- (a) The Leader will maintain an up to date list setting out the responsibilities of the following for the purpose of exercising and/or having the power to delegate or the power to make recommendations on the exercise of any executive powers:
  - (i) the Deputy Leader;
  - (ii) an Executive Member;
  - (iii) the Executive;
  - (iv) any Executive Committee; and
  - (v) any Area Committee.

This list shall form part of the Constitution and the Leader shall make arrangements to ensure that at all times an up to date version is provided to the Head of Paid Service and to the Monitoring Officer.

- (b) Arrangements agreed by the Leader for the general discharge of executive functions by Officers are normally incorporated within The Officer Scheme of Delegations - Part 3(2) of the Constitution. The Leader shall ensure that the Head of Paid Service and Monitoring Officer are notified of any change to such arrangements. Any general executive delegation to an Officer for a period in excess of 6 months shall normally be recorded in the Officer Scheme of Delegations. However, where an executive delegation to an Officer relates to a specific task or matter, then to the extent this delegation forms part of a recorded resolution relating to that task or matter and is not recorded in the Officer Scheme of Delegations then the record of resolution shall be deemed to form part of the Officer Scheme of Delegations and the Constitution.

### 6.13 Executive Committees

- (a) The Leader and/or the Executive (unless the Leader otherwise directs) may appoint one or more Executive Committees and may arrange for the discharge of any of its functions/powers by any Executive Committee appointed by it.
- (b) An Executive Committee shall not discharge any functions other than those conferred on it by the Executive.
- (c) The Chair and Vice-Chair of an Executive Committee shall be appointed by the Executive Committee unless the Executive expressly determines otherwise.
- (d) The Executive shall normally determine the:
  - (i) terms of reference;
  - (ii) arrangements for the holding and frequency of meetings;
  - (iii) size of membership; and
  - (iv) quorum,

of any Executive Committee but in the absence of such determination such matters may be determined by the Executive Committee itself provided that in no circumstance shall a quorum be less than three (3) Executive Members.
- (e) The Executive has appointed the following Executive Committees and the terms of reference are set out in Articles 6.14 and 6.15:
  - (i) The Shareholder Committee for the Dorset Centre of Excellence
  - (ii) The Shareholder Committee for Care Dorset Holdings Limited.

## THE SHAREHOLDER COMMITTEE FOR THE DORSET CENTRE OF EXCELLENCE

### 6.14 Role/Terms of Reference and Membership

- (a) The Dorset Centre of Excellence Shareholder Committee shall be primarily responsible for the following delegated functions except where specific functions have been delegated to an Officer:
  - monitoring the performance of the DCOE (including in relation to Business Plans and associated budgets);
  - monitor the business affairs, finances, and accounts of the DCOE;
  - overseeing the strategic direction of the DCOE or proposed and adopted business plans and budgets for future years to be presented in draft as they are developed or the review of future service developments and opportunities;
  - considering the risks and opportunities faced by the DCOE and impact on the Council (including, for example, in relation to commercial factors, governance issues, and health and safety records);
  - monitoring DCOE compliance with relevant legislation;
  - assuring that DCOE status as a 'Teckal' company is maintained;

- taking decisions that relate to any matter identified as being reserved to be taken by the Shareholder (“Council Consent” matters) listed within Appendix 1, within the Articles of Associations and/or the Shareholder Agreement for the DCOE.
  - Provided that where a decision affects the Council budgetary framework the Shareholder Committee will consider the decision and provide a recommendation to Full Council.
  - exercising the Shareholders reserve power by Special Resolution (in accordance with item 5 of the Articles of Association).
  - reporting and making recommendations to the Cabinet on areas outside of the Shareholder Committee's delegated authority.
  - reporting to Cabinet annually on the performance of the trading activities of the DCOE.
  - reviewing these Terms of Reference annually and make any necessary recommendations to Cabinet.
- (b) The Shareholder Committee will not have operational control over the DCOE. All decisions regarding the day-to-day operation and management of DCOE rests the DCOE board of directors, which must ensure that DCOE business is conducted in accordance with the terms of the Shareholders’ Agreement entered into between the Council and DCOE (Shareholders’ Agreement) and in accordance with DCOE articles of association.
- (c) The Shareholder Committee shall comprise of 5 Members drawn from the Cabinet to be appointed by the Leader of the Council/Cabinet.
- (d) The quorum of the Shareholder Committee shall be 3 Members.
- (e) There shall be no power to appoint substitutes to the Shareholder Committee.
- (f) The Chief Executive, Section 151 Officer, Monitoring officer and Executive Director People – Children (or their nominees) will be advisors to the Shareholder Committee. Additional advisors and DCOE officers and directors may be invited to attend the Shareholder Committee as required.

#### **6.14.1 Appointment of Chair and Vice-Chair**

The Leader of the Council/Cabinet will appoint the Chair and Vice-Chair of the Shareholder Committee.

#### **6.14.2 Meetings**

- (a) The number of ordinary meetings of the Shareholder Committee each year will normally be quarterly unless otherwise determined by the Leader of the Council.
- (b) The Chair of the Shareholder Committee shall have the power to call one or more special meeting(s) of the Shareholder Committee.
- (c) The Chair of the Shareholder Committee may determine that a meeting should be cancelled for insufficient business.

### **6.14.3 Delegated Powers and powers of recommendation of the Shareholder Committee**

- (a) The Shareholder Committee shall have the powers as set out in Functions of the Council - Part 3(1) of the Constitution.
- (b) For the avoidance of doubt the Shareholder Committee can delegate any of their powers to any Officer.

### **6.14.4 Council Consent Matters (Shareholder Agreement Schedule 1)**

**Set out in appendix 1 below.**

## **THE SHAREHOLDER COMMITTEE FOR CARE DORSET HOLDINGS LIMITED**

### **6.15 Role/Terms of Reference and Membership**

- (a) The Shareholder Committee for Care Dorset Holdings Limited shall be primarily responsible for the following delegated functions except where specific functions have been delegated to an Officer:
  - monitoring the performance of Care Dorset Holdings Limited (including in relation to Business Plans and associated budgets);
  - monitor the business affairs, finances, and accounts of Care Dorset Holdings Limited;
  - overseeing the strategic direction of Care Dorset Holdings Limited or proposed and adopted business plans and budgets for future years to be presented in draft as they are developed or the review of future service developments and opportunities;
  - considering the risks and opportunities faced by Care Dorset Holdings Limited and impact on the Council (including, for example, in relation to commercial factors, governance issues, and health and safety records);
  - monitoring Care Dorset Holdings Limited compliance with relevant legislation;
  - assuring that Care Dorset Holdings Limited status as a 'Teckal' company is maintained;
  - taking decisions that relate to any matter identified as being reserved to be taken by the Shareholder ("Reserved Matters") listed within Appendix 1, within the Articles of Associations and/or the Shareholder Agreement for Care Dorset Holdings Limited. Provided that where a decision affects the Council budgetary framework the Shareholder Committee will consider the decision and provide a recommendation to Full Council.
  - exercising the Shareholders reserve power by Special Resolution (in accordance with the Articles of Association).
  - reporting and making recommendations to the Cabinet on areas outside of the Shareholder Committee's delegated authority.
  - reporting to Cabinet annually on the performance of the trading activities of Care Dorset Holdings Limited.
  - reviewing these Terms of Reference annually and make any necessary recommendations to Cabinet.

- (b) The Shareholder Committee will not have operational control over Care Dorset Holdings Limited. All decisions regarding the day-to-day operation and management of Care Dorset Holdings Limited rests with the Care Dorset Holdings Limited board of directors, which must ensure that Care Dorset Holdings Limited business is conducted in accordance with the terms of the Shareholders' Agreement entered into between the Council and Care Dorset Holdings Limited (Shareholders' Agreement) and in accordance with Care Dorset Holdings Limited Articles of Association.
- (c) The Shareholder Committee shall comprise of 5 Members drawn from the Cabinet to be appointed by the Leader of the Council/Cabinet.
- (d) The quorum of the Shareholder Committee shall be 3 Members.
- (e) There shall be no power to appoint substitutes to the Shareholder Committee.
- (f) The Chief Executive, Section 151 Officer, Monitoring officer and Executive Director People – Adult (or their nominees) will be advisors to the Shareholder Committee. Additional advisors and Care Dorset Holdings Limited officers and directors may be invited to attend the Shareholder Committee as required.

#### **6.15.1 Appointment of Chair and Vice-Chair**

The Leader of the Council/Cabinet will appoint the Chair and Vice-Chair of the Shareholder Committee.

#### **6.15.2 Meetings**

- (a) The number of ordinary meetings of the Shareholder Committee each year will normally be quarterly unless otherwise determined by the Leader of the Council.
- (b) The Chair of the Shareholder Committee shall have the power to call one or more special meeting(s) of the Shareholder Committee.
- (c) The Chair of the Shareholder Committee may determine that a meeting should be cancelled for insufficient business.

#### **6.15.3 Delegated powers and powers of recommendation of the Shareholder Committee**

- (a) The Shareholder Committee shall have the powers as set out in Functions of the Council - Part 3(1) of the Constitution.
- (b) For the avoidance of doubt the Shareholder Committee can delegate any of their powers to any Officer.

#### **6.15.4 Reserved Matters (Shareholder Agreement Schedule 1) as set out in appendix**



**Appendix 1****THE SHAREHOLDER COMMITTEE FOR THE DORSET CENTRE OF EXCELLENCE****Council Consent Matters (Shareholder Agreement Schedule 1)**

- 1 No Company shall, unless it has Council Consent:
  - 1.1 vary in any respect its articles of association or the rights attaching to any of its shares/ members; or
  - 1.2 appoint any person as a director of the Company; or
  - 1.3 permit the registration of any person as a member/ shareholder of the Company; or
  - 1.4 issue any loan capital or enter into any commitment with any person with respect to the issue of any loan capital; or
  - 1.5 make any borrowing; or
  - 1.6 propose that its members pass any resolution for its winding up or present any petition for its administration (unless the Company has become insolvent); or
  - 1.7 engage in any business other than as set out in the Company's Business Plan or defraying any monies other than in good faith for the purposes of or in connection with the carrying on of such business; or
  - 1.8 form any Subsidiary or acquire shares in any other company or participate in any partnership or joint venture (incorporated or not); or
  - 1.9 amalgamate or merge with any other company or business undertaking; or
  - 1.10 alter its name or registered office; or
  - 1.11 enter into any transaction or arrangement of any nature whatsoever with any of the Company's members or directors or any person who is connected (within the meaning of sections 1122 and 1123 of the Corporation Tax Act 2010) to any of its members or directors whether or not any other person shall be party to such transaction or arrangement; or
  - 1.12 enter into any arrangement, contract, or transaction outside the normal course of the Company's Business or otherwise than on arm's length terms; or
  - 1.13 create or permit to be created any mortgage, charge, encumbrance, or other security interest whatsoever on any asset or its business in whole or in part; or
  - 1.14 adopt or amend its annual Business Plan save in accordance with clause 2.4 of the Shareholder Agreement, or enter into any contract or commitment not provided for in the Business Plan under which it may incur costs in excess of £100,000; or
  - 1.15 change its financial year end; or
  - 1.16 make any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit (other than in the normal course of trading); or

- 1.17 give any guarantee, suretyship, or indemnity to secure the liability of any person or assume the obligations of any person; or
- 1.18 factor or assign any of the book debts of the Company; or 1.19 establish or amend any profit-sharing, share option, bonus, or other incentive scheme of any nature for directors, officers, or employees; or
- 1.20 establish or amend any pension scheme or grant any pension rights to any director, officer, employee, former director, officer or employee, or any member of any such person's family other than in accordance with the Remuneration Policy; or
- 1.21 dismiss any director, officer, or employee in circumstances in which it incurs or agrees to bear redundancy or other costs in excess of £10,000; or
- 1.22 agree to remunerate (by payment of fees, the provision of benefits-in-kind or otherwise) any director, employee or consultant to the Company save in accordance with the Remuneration Policy; or
- 1.23 make any agreement with any revenue or tax authorities or make any claim, disclaimer, election, or consent exceeding £25,000 for tax purposes in relation to the Company or its business; or
- 1.24 breach the terms of the Company's Code of Conduct; or
- 1.25 issue or allot any share capital; or
- 1.26 amend, in any material respect, the terms and conditions on which any employee of the Company is employed, save in accordance with the Remuneration Policy; or
- 1.27 change the nature of the Business or commence any new business by any Group Member which is not ancillary or incidental to the Business; or
- 1.28 make or permit to be made any change in the accounting policies and principles adopted in the preparation of its audited or management accounts except as may be required to ensure compliance with relevant accounting standards under the Companies Act 2006 or any other generally accepted accounting principles in the United Kingdom; or
- 1.29 appoint or remove the Chair; or
- 1.30 institute, settle or compromise any material legal proceedings instituted or threatened against it or submitting any dispute to arbitration or alternative dispute resolution, save in relation to any legal proceedings, arbitration or alternative dispute resolution between the Company and the Council; or
- 1.31 make any acquisition, disposal, or structural modifications of any material asset(s), leases, or land interests; or
- 1.32 allow any of its employees, agents, or officers to reside within the premises unless specified within the service contract between the Council and the Parent Company; or
- 1.33 give notice of termination of any arrangements, contracts, or transactions in excess of £50,000 in value, or materially vary any such arrangements, contracts, or transactions; or
- 1.34 consent to proceed with capital development of any material asset(s) such as on the land it operates; or
- 1.35 enter into an agreement to do any of the above.

**THE SHAREHOLDER COMMITTEE FOR CARE DORSET HOLDINGS LIMITED****Reserved Matters (Shareholder Agreement Schedule 1)**

**As set out below**

**Matters requiring Shareholder Consent (Reserved Matters)**

1 The following matters must be determined by the Shareholder for the Company:

- 1.1 issue or allot any share capital;
- 1.2 alter or amend the articles of association
- 1.3 issue or amend any share or shareholder rights
- 1.4 appoint the Director to act as Chair; (and provide any written objections to the appointment of Chair of Care Dorset)
- 1.5 make any commercial loan or grant any credit or giving any guarantee or indemnity other than in accordance with the Business Plan or in the normal course of business; or
- 1.6 make any borrowing (other than normal trade credit);
- 1.7 change its financial year end;
- 1.8 create or permit to be created any mortgage, charge, encumbrance or other security interest whatsoever on any asset or its business in whole or in part;
- 1.9 adopt or amend save in accordance with clause 8 (Business Plan), or engage in activity outside of its annual Business Plan or enter into any contract or commitment not provided for in the Business Plan under which it may incur costs in excess of £100,000 (one hundred thousand pounds);
- 1.10 form any Subsidiary or acquire shares in any other company or participate in any partnership or joint venture (incorporated or not);
- 1.11 amalgamate or merge with any other company or business undertaking;
- 1.12 alter its name;
- 1.13 relocate its principal place of business or head office outside of the Dorset Council area;
- 1.14 approval of the Remuneration Policy and any subsequent variations (save any minor or technical changes that would be reported to the next shareholder committee meeting) to the Remuneration Policy. Remuneration Policy to include:
  - 1.14.1 any profit-sharing, share option, bonus or other incentive scheme of any nature for directors, officers or employees;
  - 1.14.2 amending in any material respect the terms and condition on which any employee of the Company is employed;
  - 1.14.3 except where the restructure is approved in the Business Plan, dismiss any director, officer or employee in circumstances in which it incurs or agrees

to bear redundancy or other costs in excess of £40,000 (forty thousand pounds);

- 1.15 agree to amend remuneration (by payment of fees, the provision of benefits-in-kind or otherwise) any director, employee or consultant to the Company save in accordance with the Remuneration Policy;
- 1.16 make any agreement with any revenue or tax authorities or make any claim, disclaimer, election or consent exceeding £25,000 for tax purposes in relation to the Company or its business;
- 1.17 change the nature of the Business or commence any new business except where the new business is included in the Business Plan;
- 1.18 make or permit to be made any change in the accounting policies and principles adopted in the preparation of its audited or management accounts except as may be required to ensure compliance with relevant accounting standards under the Companies Act 2006 or any other generally accepted accounting principles in the United Kingdom;
- 1.19 Subject to 1.19.1 and 1.19.2, institute, settle or compromise any material legal proceedings instituted or threatened against it or submitting any dispute to arbitration or alternative dispute resolution exceeding £20,000 (twenty thousand pounds).
  - 1.19.1 This provision shall not apply to any legal proceedings, arbitration or alternative dispute resolution between the Company and the Council;
  - 1.19.2 This provision shall not prevent or restrict the Company pursuing the collection of debts due to the Company
- 1.20 make any acquisition, disposal, or structural modifications of any property asset(s), leases or land interests except where these are set out in the Business Plan or creating a liability of less than £100,000 (one hundred thousand pounds);
- 1.21 enter into an agreement to do any of the above.