

PROCEDURES COMMITTEE

2 May 2024

Present:-

Councillors J Hart, J Hodgson, S Hughes, C Whitton, P Prowse (Chair),
Y Atkinson, F Letch MBE and M Wrigley

Councillor F Biederman (Remote Attendance)

Apologies:-

Councillors C Leaver

* 57 **Declarations of Interest**

The Chair reminded Members they should declare any interests they may have in any item to be considered, prior to any discussion taking place on that item. The details of District and or Town and Parish Twin Hatters was on the attached list - [A list of county councillors who are also district, borough, city, parish or town councillors](#)

* 58 **Minutes**

RESOLVED that the minutes of the meeting held on 1 February 2024 be signed as a correct record.

* 59 **Items requiring urgent attention**

There was no item raised as a matter of urgency.

* 60 **Notices of Motion - Amendments to Standing Orders (Section 4a) (Paragraphs 6-10)**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/19) which proposed amendments to Standing Orders (Section 4a) (Paragraphs 6-10) in relation to Notices of Motion at Council Meetings, following a review by the Governance Working Group.

The Report highlighted that a wholesale review of Motions had been undertaken, the aim being to ensure Motions submitted to Council meetings were focussed, related to the Devon, that the Council meeting was not overwhelmed, to improve the current process to give more focus to those moving Notices of Motion and to safeguard the Council's position in terms of legal and / or financial implications that a motion might have.

The Governance Working Group held a number of discussions and considered numerous different options, over 5 separate meetings.

The matters reviewed by the group included the following, which were outlined in detail in the Report including the rationale for the recommended change, where appropriate.

- i) Submission of Notices of Motion
- ii) Scope
- iii) 6-Month Rule
- iv) Presentation of Motions on Agenda
- v) Numbers and limits
- vi) Budget Meeting and AGM
- vii) Special Meetings
- viii) Process at meeting - Introduction of Motion
- ix) Process at Meeting – Referral of Motions
- x) Process at meeting - Discussion of motions on the day
- xi) Process at meeting - Timescale for debate
- xii) Motions Returning to the Council

The proposed revised working practice for motions returning to the Council was outlined in appendix 1.

Members commented that motions on the same matter coming to the same meeting could be merged if Members agreed. Officers confirmed this happened where possible and worked with Members accordingly.

It was proposed that the procedures for dealing with Notices of Motion at section 4a of the Constitution (sections 6 - 10), be amended as follows, with additional text shown in purple and red (the red text being what was additionally agreed at the meeting).

6. Notices of Motion: At County Council

- 1) A member who wishes to place a motion on the agenda of a meeting of the Council must give notice, in writing, to the Chief Executive by 9.00am on the eighth working day before the meeting of the Council at which it is to be considered. The Chief Executive will keep a record of all such motions received which may be inspected by any Member of the Council.
- 2) This standing order does not apply to motions which can be moved without written notice in accordance with standing order 11.
- 3) All motions submitted under this standing order will be set out on the agenda for the meeting of the Council in the order they were received. A motion may only be withdrawn — in writing — by the member who originally submitted it.

- 4) A motion which has been placed on the agenda must be formally moved at the meeting of the Council by the member who submitted it or, with his/her written consent, by another member. If it is not moved it will be regarded as withdrawn unless the Council agrees to postpone it.
- 5) The mover may if the Council agrees, without discussion, alter a motion provided that the alteration could have been made as an amendment under standing order 14(7).
- 6) The Council shall only consider a motion if it relates to some matter on which the Council has powers or duties, or which directly affects the County as a whole. Members are expected to demonstrate the impact on or for Devon in the wording of the motion. Motions will be rejected where they:
 - a. do not relate to a matter for which the Council has a responsibility, or is accountable for, or which do not affect the Council's administrative area or those living in that area;
 - b. are defamatory, frivolous, offensive, vexatious or unlawful;
 - c. relate to any non-determined planning application;
 - d. name or identify individual service users, Council staff or staff of partner agencies; or
 - e. are considered by the Monitoring Officer (in consultation with the Chair and relevant Group Leader) to place the Council at risk and / or undermines the purposes of the Constitution.
- 7) At any ordinary meeting of the Council, a motion shall, after being formally moved and seconded, be passed to the Cabinet. The mover shall be permitted to briefly introduce their motion after it has been moved and seconded. The time allowed will be one minute, although this can be extended at the discretion of the Chair. There will be no debate at this stage, as the motion has been referred to the Cabinet.
- 8) If the motion is on a matter for which the Cabinet has no remit, then it shall be passed to the relevant Committee (Local Authorities (Functions and Responsibilities) (England) Regulations 2000).
- 9) However, and subject also to standing orders 9 and 29, the Council may decide to discuss a motion at the meeting to which it is submitted if, in its view, there is sufficient reason to do so. The Council needs to ensure the action proposed is within the gift of the Council and there are no significant legal and / or financial issues that require further research. The final decision must be made having consulted the Monitoring Officer, Leader and Chair.
- 10) There is no restriction on the number of motions per Member or per meeting and Motions will be printed on the agenda in the order received. However, if a Member submits more than one motion, the

first motion will be prioritised and subsequent motions will be placed at the end of the agenda item.

- 11) At the start of the meeting, the Chair will determine how much time will be permitted to debate motions, up to a maximum of 2 hours.
- 12) Motions will not be permitted at Special meetings of the Council.

7. Notice of Motion: To Rescind a Previous Resolution

Any Notice of Motion which would negate, cancel or revoke an earlier decision taken by the Council on a motion submitted under standing order 6 during the previous six months can only be considered if the notice given to the Chief Executive under standing order 6(1) is signed by ten members.

When the Council has considered any such motion the subject matter or topic shall not be raised again by Notice of Motion within the following six months. Even if the Motion has a slightly different 'ask' in terms of what it is asking the Council to do, if it is on the same topic as previously raised, it will ~~may~~ be ruled-out ~~considered~~ by the Monitoring Officer, in consultation with the Chair.

[NOTE: This standing order only applies to formal Notices of Motions submitted to the County Council under standing order 6. The six-month rule does not apply to any decision of the Council taken as a result of approving a minute or recommendation of the Cabinet or a committee]

8. Referred Motions

- 1) When a motion has been referred to the Cabinet under standing order 6(6) the Chief Executive will inform the member who originally submitted it when the Cabinet is to discuss it. If they are not a member of the Cabinet, they have a right to attend the meeting and speak but not to vote on the motion.
- 2) The Cabinet will consider the matter and either refer it to another committee or make a recommendation to the Council.

9. Motions Regulating Procedures of Council

Any motion which would affect the procedures of the Council will be passed to the Procedures Committee to consider and report back to the Council.

10. Motions returning to the Council.

Motions will return to the Council for final determination, following consideration of the issues by the Cabinet or other Committee.

It was **MOVED** by Councillor Hart, **SECONDED** by Councillor Hughes, and

RESOLVED

(a) that the Council be recommended to amend Standing Orders at section 4a of the Constitution (paragraphs 6 - 10), as outlined in section 5 of the Report, and replicated above, with new text in purple and red, noting that no wording has been removed from the original processes; and

(b) that the Committee endorse the new working practice for returning motions to the Council, as outlined at Appendix 1 of the Report, noting the increased opportunity for the mover to address the Council, and further noting that no constitutional amendments are required given the rules of debate are still being adhered to.

* 61 **Working Practices - Review of the Governance Working Group and Proposed Changes.**

(Councillor Wrigley declared a personal interest in this item by virtue of being a parliamentary candidate).

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/20), which outlined proposed changes to the Council's working practices, currently contained at section 10 of the Constitution (although not forming part thereof), following endorsement by the Council's Governance Working Group.

As part of the wider work being undertaken to review Governance procedures in the Council, it had been recommended that the current working practices be reviewed, with particular focus on site visits and invitation and involvement of Local Members. The aim of the work strand was therefore to ensure working practices were focussed and reflective of modern meetings and ICT processes.

The Governance Working Group held a meeting on the 15th April and endorsed the proposed changes, with two suggested amendments which had been reflected in appendix 1, as circulated with the agenda.

The working practices covered the processes for matters such as pre-agenda meetings, arranging and cancelling meetings, agenda organisation, seating arrangements, communications and representations, involvement of local Members, information sharing, visits to Council establishments and official openings.

Members suggested an amendment to the section on Pre-Agenda /Briefing Meetings with the addition of the words as follows (in red).

Pre-agenda meetings with a Chair or Vice-Chair of a Committee should only be for the purpose of work programming or determining agenda items for the meeting, not determining the **outcome** of business that will be considered at the meeting.

It was **MOVED** by Councillor Hart, **SECONDED** by Councillor Hughes, and

RESOLVED

(a) that the revised Working Practices document, as attached at Appendix 1 of the Report, be endorsed for publication, noting and incorporating the amendment made at the meeting; and

(b) and further note that whilst the Working Practices are contained within the Constitution for ease of reference, they do not formally form part thereof.

* **62** **Review of the Governance Working Group and Proposed Changes to the Council's Committee Structure.**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/23) which outlined the review of the Governance Working Group and subsequent proposed changes to the Council's Committee Structure.

As part of the wider work being undertaken to review Governance procedures in the Council, it had been recommended that the Committee Structure be reviewed and the Report highlighted the Working Group's deliberations, over a period of several weeks as well as outlining proposals for the Committee's endorsement and subsequent recommendations to Council.

The matters and Committees reviewed as part of the work strand included the Highways and Traffic Orders Committees and proposals for a new Land and Property. Both of these issues were subject to separate reports on the agenda.

Also within the scope of the review was the Public Rights of Way Committee, Appeals Committee, Corporate Parenting, Council Day timings, Scrutiny Budget meetings, Locality Committees, Personnel Partnership and Personnel Panel's.

The Report then provided details of the detailed discussions on each matter, including consideration of terms of reference, benchmarking with other authorities, frequency of meetings, titles of Committees, options for improvement, memberships, and views of the service areas impacted upon.

The GWG had clarified that whilst the Public Rights of Way Committee (PROW) itself was not mandatory, the Committee dealt with mandatory decisions and as a result, no changes were recommended.

The Committee then considered the recommendations of the Governance Working Group in relation to the following;

- I. Renaming of the Appeals Committee to School Transport Appeals Committee.
- II. To note that the current frequency of meetings and cycle in relation to Corporate Parenting was felt to be fit for purpose.
- III. To note of the intention to revisit Council Day timings after the AGM when the new procedures for Member questions and Cabinet Member Reports had been in place.
- IV. To note the views of the Scrutiny Chairs and Vice Chairs in relation to Scrutiny Budget meetings that all day meetings will continue but with revised arrangements on starting times, briefing meetings and improved agenda management.
- V. recommend that Locality Committees are not reappointed at the AGM and delegate authority to the Director of Legal and Democratic Services to establish whether any educational trusts in the Committee's area for which the County Council is Trustee exist and make any necessary amendment to the scheme of delegation, if required.
- VI. recommend that the Personnel Partnership is not reappointed at the Council AGM and that the Director of Legal and Democratic Services together with the Director of People and Culture be given delegated authority to negotiate and agree a failure to agree policy with the Trade Unions.
- VII. recommend that the Personnel Panel is not reappointed at the Council AGM and that the Director of Legal and Democratic Services together with the Director of People and Culture be given delegated authority to develop and agree a revised process with the Trade Unions.

Members commented that the timings of Council day activities should remain on the agenda for further discussion, noting that the calendar would be coming to Procedures in the next two to three months. Also discussed was that consideration should be given to the role of Team Devon in terms of how local issues would be brought to the fore in the absence of Locality Committee meetings.

Furthermore, in the Governance Working Group review of outside bodies and appointments thereto, this should include a mapping exercise of other local partnerships (CDRP's, Town Centre Partnerships, Coastal Engagement, meetings regarding health services and provision, for example) to consider how they operated and memberships thereof, to address the matter raised above.

It was **MOVED** by Councillor Hart, **SECONDED** by Councillor Letch, and

RESOLVED

(a) that the Governance Working Group be thanked for their thorough review of the Committee Structure and endorse their recommendations in relation to the Public Rights of Way Committee, Corporate Parenting, Council Day Timings and the Scrutiny Budget meetings, noting these are issues not requiring Council approval.

(b) that the proposals of the working group be endorsed for recommendation to the Council, when it appoints its committee structure, as outlined below and detailed at section 5.

- i. that the Appeals Committee be renamed to School Transport Appeals Committee
- ii. that the Locality Committees are not reappointed at the AGM that the Director of Legal and Democratic Services be given delegate authority to establish whether any educational trusts in the Committee's area for which the County Council is Trustee exist and make any necessary amendment to the scheme of delegation, if required.
- iii. that the Personnel Partnership is not reappointed at the Council AGM and that delegated authority is given to the Director of Legal and Democratic Services together with the Director of People and Culture to negotiate and agree a failure to agree policy with the Trade Unions.
- iv. That the Personnel Panel is not reappointed at the Council AGM and that delegated authority is given to the Director of Legal and Democratic Services together with the Director of People and Culture to develop and agree a revised process with the Trade Unions.

* **63** **Review of the Governance Working Group and Proposed Changes to Highways and Traffic Orders Committee**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/21), which outlined the review of the Governance Working Group and the proposed changes to Highways and Traffic Orders Committee.

Members noted that as part of the wider work being undertaken to review Governance procedures in the Council, it had been recommended that the Committee Structure be reviewed and as part of that review, that the role, remit and membership of the Highways and Traffic Orders Committees be explored.

The Report outlined the detailed discussion of the Governance Working Group who had received a detailed Report on the 4 March 2024 containing details of the terms of reference, membership, benchmarking data, number and frequency of meetings, and a number of other matters such as use of standing orders, the Committees time, location of meetings and costs.

Members ensured that the views of the service had been obtained, and received a further report on 15 April 2024 which provided further clarity on voting rights for District Councillor representatives, a comparison with the terms of reference for the HATOCs and the scheme of delegation and consideration of current financial limits. The current title for the Committee was also considered as well as a detailed discussion on the voting rights of the Committee membership.

The Governance Working Group had recommended retaining the Highways and Traffic Orders Committee (but with a suitable name change).

A number of recommendations had been made in the Report, but the Leader advised the Committee he did not wish to pursue a number of these.

Members supported this approach and discussed a number of other issues including clarity of roles when other Councils were Members of the Committee and engagement therein, concern over the current names proposed, e.g. use of the word transport when some elements of this would be a role for the Combined Authority and the ability to film and record HATOC meetings.

Members did however support the increase in budget as outlined in the proposed revised terms of reference.

It was **MOVED** by Councillor Atkinson, **SECONDED** by Councillor Whitton, and

RESOLVED

(a) that the Governance Working group be thanked for its review and recommend that the proposals for a revised Committee name, terms of reference (except that outlined at recommendation (b)), voting permissions and Membership to the Committee are not progressed; and

(b) that the suggested changes to the Highways and Traffic Orders Committee terms of reference (1) and (2) highlighted in paragraph 10.8 of the Report which proposed increasing the value of programmes and schemes it considered to £500,000 (from £250,000) be endorsed and recommended to Council, making the necessary amendments to the Constitution (3b – terms of reference) and website.

* 64

Property (Land and Buildings) Committee and Code of Practice for Land and Property Transactions

The Committee considered the Report of the Director of Transformation and Business Services and Director of Legal and Democratic Services (LDS/24/22) on the proposal for a new Committee to consider Land and Property matters and associated Code of Practice for Land and Property Transactions.

As part of the wider work being undertaken to review Governance procedures in the Council, it had been recommended that the Council's Committee Structure be reviewed and, as part of that review, it had been suggested that a new Property Committee (Land and Buildings) be explored.

The previous arrangements for disposal of surplus property were outlined in the Constitution [Part 5g Code of Practice for Disposal of Surplus Property.pdf \(moderngov.co.uk\)](https://www.moderngov.co.uk/part-5g-code-of-practice-for-disposal-of-surplus-property.pdf).

Views had been sought from the Governance Working Group, with a meeting on the 5th of February, and the working group agreeing to undertake some benchmarking to support a decision on the next steps. Benchmarking of 19 other upper tier authorities had showed a mixed picture, with sub-committees of the Cabinet, Member Decision Days (where Cabinet Members made decisions at individual decision-making meetings). Others previously had Committees with land/ property disposal within their remit, but these had been stood down.

The proposed membership was outlined at section 4, with the GWG recommending a politically balanced Committee with seven Members which permitted all parties on the Council to be represented.

The GWG also felt the terms of reference should be high level with a more detailed code supporting the working practices, as detailed below.

2) the management of the Council's Land and Property portfolio, by the Council's Property (Land and Buildings) Committee, within the general strategy, policies and operating procedures of the Council, including property disposal protocols and codes of practice.

The operating principles were outlined in section 6, but initial proposals were for routine meetings every two months.

Members noted that a new Code of Practice for Land and Property Transactions was being developed which would set out the procedures which must be followed when the Council was buying or selling land and where land was being leased, taking in to account the new role of the Property Committee and also Financial Regulations.

Members supported the proposal and asked for clarification on any overlap between this Committee and the Farms Estate Committee, the importance of partnership working with Team Devon when considering the use of the public sector estate and ensuring the code of practice recognised schools.

It was **MOVED** by Councillor Hart, **SECONDED** by Councillor Hughes, and

RESOLVED

(a) that the adoption of a formal politically balanced Property Committee (Land & Buildings), with seven Members appointed thereto, be recommended to the Council;

(b) that the terms of reference as outlined in section 5 of the Report be endorsed and recommended to the Council for inclusion in the Constitution; and

(c) to note that the Code of Practice for Land and Property Transactions is being finalised (to replace the current version at section 5g) and the Committee ask that Council delegate completion of this document to the Director of Director of Transformation & Business Services and Director of Legal and Democratic Services, in liaison with the Governance Working Group, to ensure Member engagement and compliance with financial regulations and recognition of the role of the new Property (Land and Buildings) Committee.

NOTES:

1. *Minutes should always be read in association with any Reports for a complete record.*
2. *If the meeting has been webcast, it will be available to view on the [webcasting site](#) for up to 12 months from the date of the meeting*

* **DENOTES DELEGATED MATTER WITH POWER TO ACT**
The Meeting started at 10.30 am and finished at 11.45 am