

PROCEDURES COMMITTEE

1 February 2024

Present:-

Councillors J Hart, S Hughes, C Leaver, C Whitton, P Prowse (Chair) and F Letch MBE

Councillor Hodgson (virtual attendance)

Apologies:-

Councillors Y Atkinson

* **48** **Minutes**

RESOLVED that the minutes of the meeting held on 23 November 2023 be signed as a correct record.

* **49** **Items requiring urgent attention**

There was no item raised as a matter of urgency, but the Chair welcomed Ray Hodgins, Co-opted Member of the Council's Standards Committee who was attending to observe and monitor compliance with the Council's ethical framework.

* **50** **Report of the Independent Members Allowances Remuneration Panel for 2024/2025**

The Committee considered the Report of the Independent Members' Allowances Remuneration Panel for 2024/25.

The Chair of the Panel presented their Report, highlighting specifically that the conclusions and recommendations made had been based on sound evidence and that they had given consideration to the issues asked of them as well as the national position with the cost of living, the impact on communities as well as the operations and finances of the Council. She further thanked her Panel colleagues, Councillors and Officers for their support and contributions during the review.

Members welcomed the Panel's acknowledgment in the Report that while historically there had been little scope for improvement, the structure of the County Council's scheme remained fit for purpose with sound principles and noted that, in commending its Report to the Council, the Panel had not suggested any significant changes to the structure of the Council's scheme.

The Panel had recommended that the basic allowance rise to £15,082, in line with their previously agreed formula. The Special Responsibility Allowance (SRA) multipliers would be readjusted accordingly. In the previous years, the staff pay award had been used as a benchmark but given this had been a lump sum payment of £1,925 for both 2022/2023 and for 2023/2024, it was felt this was not appropriate. They further recommended, based on the benchmarking and evidence obtained, that the Audit Committee Chair SRA be increased from a multiple of 0.25 to 0.50. No further changes were recommended to the SRA structure.

The recommended allowances (with effect from 2024) were set out in Appendix 1 of the Report.

The Panel further expressed views that information in Elections literature should be made clearer, especially with regard to the payment of allowances, the public sector discount and the status of access to the LGPS, with these matters being brought to the attention of prospective candidates.

The Committee placed on record its thanks to the Panel for their hard work and very comprehensive Report.

Members commented as follows:

- the gender, age, and diversity profile of the Council was not truly reflective of local communities and the reasons for this; and
- the impact of the cost of living on people choosing to stand for election, the difficulties of recruitment to the role as well as the current high workload of elected Members.

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

RESOLVED

(a) that the Report of the Independent Panel be welcomed and its Members be thanked for their work;

(b) that the Committee notes the Report's conclusions and asks the County Council to accept the recommendations outlined below.

- i. The basic structure of the current scheme is endorsed and retained.
- ii. The Panel feels it important not to depart from its established formula of calculating the basic allowance and therefore the basic allowance increases to £15,082 to take effect from May 2024 and the multipliers be recalculated accordingly. This is based on the Panel's standard formula and other benchmarking, as outlined at paragraphs 6.6 and 6.8.
- iii. Careful consideration should be given, in the future, to the levels of allowances to ensure they keep pace with the economy generally.

- iv. That based on the benchmarking and the evidence obtained, the Audit Committee Chair SRA be increased to a multiplier of 0.5 from its current rate of 0.25;
- v. The overnight rate for London be increased to £180.00, in line with the methodology and reasoning outlined in paragraphs 6.12 and 6.13 and that a more suitable benchmark will be researched.
- vi. The sustained reduction in the number of SRA's be welcomed and that the levels be kept below the 50% threshold, as is currently the case;
- vii. That the information in Elections literature should be made clearer, especially with regard to the payment of allowances, the public sector discount and the status of access to the LGPS. These are matters that Group Leaders may wish to ensure are brought to the attention of prospective candidates;
- viii. That the work being undertaken to support the LGA's debate not hate campaign be supported and welcomed;
- ix. That the Panel reiterate their desire that Group Leaders continue to take a robust approach to the performance management of their Members' and places on record their thanks for the levels of reassurance provided by Group Leaders for dealing with performance issues; and
- x. The Panel place on record their appreciation to Councillors for their continued Leadership and tireless working in their communities, especially given concerns raised throughout the Report, in terms of workload and added pressures of increased abuse and intimidation.

* 51

Disclosure and Barring Service (DBS) - Bailey Report

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/1) which outlined proposals for extending DBS checks to all Cabinet members in line with the recommendation of the Bailey report.

The Report outlined the background to how the Council first commenced conducting DBS checks, with the Audit Committee on 27 July 2018 (Minute *33), considering the matter. The Procedures Committee then reviewed the matter on 10th September 2018 (Minute *44) and, RESOLVED that the Council adopt a policy of conducting a Basic DBS check for all Members of the Council, notwithstanding a Councillor might undertake certain roles which, in line with the legislation, required them to undergo an enhanced DBS check in relation to their contact with vulnerable adults or children or both or, as a member of a Committee which discharges a relevant function.

The Home Office had commissioned Simon Bailey (former Chief Constable of Norfolk Constabulary, and National Police Chiefs' Council lead for child protection and abuse investigation) to carry out a review of the effectiveness of the regime in safeguarding children and vulnerable adults. This concluded that the disclosure and barring regime was delivering its mission of helping employers / organisations to make safer employment decisions, but he identified several areas where the regime could be strengthened.

He further reported there was no uniformity of practice among Councils in relation to obtaining criminal record checks for safeguarding purposes.

The Report (on this issue) concluded it was not necessary that enhanced checks applied to all Councillors, but rather to those who were being considered for appointment to any Committee involved in decisions on the provisions of children's services or services for vulnerable adults (recommendation 5). In Devon, this would apply to the Councils Cabinet.

The Committee noted that the position of Councillor was not named in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Therefore, there was no eligibility for a DBS certificate at a Standard or Enhanced level, solely on the basis of being a Councillor. They must be carrying out further activities as prescribed in legislation. A Councillor was only eligible for an enhanced DBS certificate without DBS barred list checks if they met the specific legislative criteria from the Safeguarding Vulnerable Groups Act 2006 set out below in the Report.

Furthermore, the Committee noted that on the 18th January 2024, a letter had been received from Simon Hoare MP, Minister for Local Government, outlining that the Government was supportive of this recommendation in the Bailey Report and urged its adoption within Local Authorities.

In summary, the proposed recommendation ensured that the Council's DBS procedures were brought in line with the recommendations of the Bailey Report, thereby strengthening current processes and the Committee were supportive of the proposals.

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

RESOLVED

(a) that the Report and Recommendations of the independent review carried out by Simon Bailey CBE, QPM which contains a recommendation of enhanced DBS checks for all Councillors in Unitary and Single Tier Authorities who are being considered for appointment to any Committee involved in decisions on the provisions of children's services or services for vulnerable adults, be noted;

(b) that the recommendation of this Report requires legislation and therefore would delay any implementation; and

(c) that Council be recommended to update its DBS Policy to reflect this good practice recommendation for enhanced criminal record checks being mandatory for the Cabinet, given their role in making decisions on the provision of children's services or services for vulnerable adults.

* **52** **Delegated Member Decisions - Revised Guidance and Operating Procedures**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/5), which outlined revised operating processes for Member Delegated Decisions.

The Governance Working Group (Membership – Councillors Saywell (Chair), Biederman, Letch, Maskell, Samuel, Scott and Whitton) had reviewed and benchmarked the criteria for Member Delegated Decisions, taking into account best practice, benchmarking data and a thorough consideration of the current guidance in the Constitution. The aim of the work had been to establish clear roles and responsibilities for Elected Members and ensure that the Cabinet and individual Members were aware of their powers and the information required to make informed decisions.

Prior to the work commencing, it was felt the definition needed to be further defined and a clear framework.

The current process for Member Delegated Decisions was outlined in section 3c of the Constitution and the proposed changes to paragraphs 11 of section 3c were outlined below, with new text shown in red and removed text annotated with a strikethrough (wording in purple reflected that agreed at the meeting).

11.0 Delegation to Cabinet Members

11.1 Under the Local Government Act 2000, the Cabinet may delegate any of its functions to an individual Member of the Cabinet and the individual Member shall make decisions only in accordance with the guidance below.

11.2 A Cabinet Member may take any decision other than a key decision which is both within his/her ~~their~~ remit (as set out in Paragraph 8.0 above) and within the policy and budget framework in Part 4 of the Constitution. An individual Member exercising their decision-making power shall not make any decision which the Cabinet would not be able to make either under legislation or under the Council's Constitution. No decision should be made, or which is not within budget, or a decision on a function which is reserved to the Council.

- 11.3** Two or more Cabinet Members may jointly agree to make a decision which is within their collective remits.
- 11.4** If a Cabinet Member has a Disclosable Personal Interest ~~as set out at Standing Order 34 and in the Members' Code of Conduct at Part 6 of this Constitution~~ in any matter which is the subject of a proposed decision or is absent or otherwise unavailable to act the Leader or the Deputy Leader **in the absence of the Leader** may exercise all the powers delegated to that Member in paragraph 11.1.
- 11.4.1** If a Cabinet Member has a conflict of interest (within the meaning described in the Cabinet Procedure Rules) in any matter which is the subject of a proposed decision by them then they may seek a dispensation from the Council's Monitoring Officer to remove that disability or the Leader or the Deputy Leader may exercise the powers delegated to that Member ~~in paragraph 11.2 for the purposes of that matter.~~
- 11.5** Before taking any decision under this delegation **the officer dealing with the decision shall send the Report to the relevant Cabinet Member, the Chief Executive, the Monitoring Officer and Section 151 Officer and shall so far as is reasonably practicable** ~~consult any Member whose division is particularly affected by that decision. They shall also and shall arrange for a copy of any the further report which they intend to take into account in coming to a decision to be made available to the Chair of the relevant Scrutiny Committee -or to the local County Councillor if it relates to a local issue as described on paragraph 11.6 below.~~
- 11.6** **Any of the above persons may make written comments to the Member who is due to make the decision before the five days has expired, copied to the Officer who wrote the report.**
- 11.7** **The above procedure shall not apply where the decision being taken is urgent, i.e., where any delay would seriously prejudice the Council's or the public interest. The Chair of the relevant Scrutiny Committee or the Head of the Paid Service must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. The record of the decision shall state the reasons(s) for urgency.**
- 11.8** The Report template must set out:
- 11.8.1** **the decision to be taken.**
- 11.8.2** **any publicity or consultation requirements (either before or after the decision is made) in respect of the decision, either under legislation or under Council policy or any**

which is considered appropriate and the outcome of those consultations.

- 11.8.3 the facts upon which any decision must be based.
- 11.8.4 any legislative requirements, including: the Public Sector Equality duty.
- 11.8.5 staffing and financial implications.
- 11.8.6 any implications for any other areas of the Council's activities.
- 11.8.7 any relevant national or regional guidance.
- 11.8.8 any Council policy relating to the issue, including sustainability issues.
- 11.8.9 the Cabinet Portfolio within which the issue falls and details of any interest or conflict of interest and / or any dispensation.
- 11.8.10 any ~~wards~~ Divisions which are particularly affected by the issue and confirmation the ~~ward~~ Local Member has been informed of proposal.
- 11.8.11 the options and alternatives that are available; and
- 11.8.12 any professional recommendation that the Officer wishes to make.

11.9 In relation to contracts,

- 11.9.1 the individual Member must ensure that the Council's Contract Procedure Rules and Financial Regulations have been complied with. They must not make a decision in respect of the selection of contractors, acceptance of tenders or otherwise entering into a contract unless they have written notification from the Director of Legal and Democratic Services/Monitoring Officer and the 151 officer that the above Procedure Rules have been complied with.
- 11.9.2 The individual Member must not sign any contract or in any way bind the Council ~~or themselves him, or herself~~. The contract documentation must be prepared by or approved by the Director of Legal and Democratic Services/Monitoring Officer and signed or sealed in accordance with the Council's procedures.

- 11.10 ~~The report outlining summarising any such the decision (to include options and reasons for taking the decision), and signed by the Cabinet Member(s) indicating also details of any personal interest or conflict of interest referred to above and any dispensation granted to that Cabinet Member shall be sent, together with a record of any report or~~ any other information which was taken into account by the decision-maker(s), to the Director of Legal and Democratic Services immediately ~~who will arrange for its publication.~~

- 11.11** The decision will then be notified to all Members of the Council within 2 working days of it having been made. If the decision relates to a local issue a member whose division is particularly affected may within 5 working days of such notification being given, ask that the decision be referred to the full Cabinet for consideration. If the decision is of general application to the whole County any Member may ask the Leader of ~~his/her~~ **their** political group to require the decision to be referred to the full Cabinet for consideration. Where a decision relates to matter that would, had it been taken by the Cabinet, been considered as a Part II item in the absence of the press and public Members will be notified of the decision and reminded that any documentation contains exempt information which should not be disclosed to the press and public.
- 11.12** Until the Cabinet has considered a decision which is the subject of a requisition under Paragraph **11.11** it shall not be implemented.
- 11.13** **No decision shall take effect until it has been confirmed by the Monitoring Officer. The Monitoring Officer shall ensure that an Officer is designated as responsible for keeping up to date the full record of decisions by individual Members.**
- 11.14** All forms sent to the Director of Legal and Democratic Services in accordance with Paragraphs 11 shall be ~~kept in a Register which shall be tabled at all meetings of the Cabinet and be~~ available for public inspection, **published on the website (unless part 2) and be an agenda item on meetings of the Cabinet.**
- 11.15 Principles of Delegation** - In respect of matters delegated from Cabinet to individual Cabinet Members, the focus will be on policy issues within the policy and expenditure frameworks agreed by Cabinet and Council.
- Policy matters, internal to the service and required to provide guidance to officers to ensure significant policy decisions are implemented.
 - Details of policy matters delegated by Cabinet once principles have been agreed.
 - Expenditure items not specifically detailed within Service Plans but not sufficiently significant in scale to refer to Cabinet.
 - Budget virement items within a service where only one Cabinet Member is involved.
 - Responses to consultation documents not referred to Cabinet.

- In their absence, at the Leader's request, or where a prejudicial interest has been declared, to take decisions on any matter delegated to another Cabinet Member.
- It is the Cabinet Members responsibility to consult any other Member or Members of the Cabinet where the decision to be taken is of a cross-cutting nature.
- Any Member of the Cabinet may refer a matter delegated to them to the Cabinet for a collective decision.
- A record will be kept of all individual Cabinet Member decisions, which will be published and circulated to all Members to enable scrutiny of the same.

11.16 Matters for Cabinet Members - Cabinet Members are authorised to make decisions required in the area of their individual Cabinet Portfolio. This does not include a key decision, as defined in the Constitution.

- Cabinet Members may take policy, budget and expenditure decisions in accordance with the principles set out above.
- Cabinet Members may take decisions on tenders and contracts in accordance with the provisions within the Council's Constitution relating to contracts.
- Cabinet Members may take decisions on virement, audit, debt, write-off and placing of orders, in accordance with Financial Regulations.
- Cabinet Members may deal with petitions in accordance with the Council's Petitions Scheme.
- Cabinet Members may deal with asset management such as agreeing minor lease extensions.

Members made a couple of minor suggestions to terminology, reflected in purple, above.

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

RESOLVED that the proposed changes to amend Part 3c of the Constitution, section 11 as outlined above, with new text shown in red and purple and removed text with a strikethrough, be recommended to the Council.

* 53

Member Questions at Council Meetings - Review of the Governance Working Group and Proposed Changes.

The Committee considered the Report of the Director of Legal and Democratic Services, (LDS/24/7) which proposed updates to section 17 of Standing Orders of the Constitution, relating to Member Questions at Council.

The Committee noted that the Governance Working Group (Membership – Councillors Saywell (Chair), Biederman, Letch, Maskell, Samuel, Scott and Whitton) had reviewed the process and benchmarked how other Authorities

dealt with Member Questions at Council meetings. This did not include questions submitted by Members to meetings of the Cabinet and this process was unchanged at the current time.

The aim was to ensure Council meetings were focussed and business driven – with more time spent on debate for decisions, therefore making the process for Member questions clearer, easier to understand and strike the right balance between getting answers for residents and enabling active participation.

The group had taken into account best practice and considered the Constitution and determined that Devon's current processes were not too far out of kilter when compared to others.

Fifteen other local authorities had been examined, which highlighted quite a variance in processes. Eight authorities had restrictions on the numbers of written questions and the majority restricted the number of questions per Member. Eleven Councils had a time limit on the total amount of time allowed which ranged from twenty minutes to one hour.

The Governance Working Group considered a large number of proposals which had included not changing the system at all, introducing limits per Member or time limits on supplementary questions, a maximum number of questions per meeting, a rota system for taking questions, tightening the scope for submitted questions, being more robust on sub questions within questions as well as increasing the time for questions and how questions were treated at the budget meeting.

Member had rejected suggestions to introduce a limit of total number of questions per meeting and imposing a time limit on supplementary questions.

A copy of the current process for Member Questions was outlined in section 2 of the Report.

The Working Group proposed that section 17 of Standing Orders of the Constitution (outlined in section 5 of the Report) and shown below, annotated by new text in red and a strikethrough for removed words. Suggestions agreed at the meeting were shown in purple text below.

17.Written Questions: Council Meetings

1) A Member of the Council may ask the Leader, appropriate Cabinet Member or Chair of any other Committee a question about any matter or subject on which the Council has powers or duties or which affects the County as a whole. **They should relate to strategic, policy or operational matters rather than local issues. Questions relating to local issues will be accepted, subject to the Member demonstrating they have exhausted all other options in terms of obtaining a response on a**

matter of concern. A single Member may not submit more than three questions per meeting.

2) If the meeting is a special meeting, questions must relate to the matter to be discussed at that special meeting. Similarly, questions at the budget meeting must relate to the annual estimates for the year in question.

3) A question must be delivered to the **Democratic Services Secretariat** ~~Chief Executive's office~~, in writing or by email, by the Member asking it, by 12.00 noon on the fourth working day before the meeting at which it is to be asked. **Questions should be succinct (a maximum of 100 words) and should not contain a number of sub-elements or sub questions.**

4) Questions will be printed in the order they were received. **If a Member submits more than one question, the first question will be prioritised and subsequent questions will be placed at the end of the schedule.** ~~They~~ **Questions and answers** will be ~~and~~ circulated to Members before the Council meeting ~~starts~~ **commences** together with the answers to those questions (unless an oral answer is to be given). Copies will also be sent to Members who are not able to attend the meeting.

5) There will be no discussion about any question, ~~so dealt with~~ except that the Member who has submitted a question is entitled to ask one supplementary question arising from that question and answer and to receive a further answer. **The response will normally be given by the Cabinet Member or Chair of the relevant Committee; however, Directors will support with factual responses where necessary. There is no time limit on asking a supplementary question, but the Chair will exercise discretion if Members make statements rather than asking their supplementary question.** ~~Provided that~~ If a Member considers that the answer does not fully address the question, they may ~~also~~ ask for a full and written answer to be provided to all Members of the Council.

6) If any reply indicates that the subject matter of the question is to be considered by the Cabinet or a Committee, the Member who asked the question will be told ~~by the Chief Cabinet~~ of the date and time that the Cabinet or Committee will consider the question. The member will be regarded as having given notice to place that item on the agenda under standing order 23(2).

7) 'Question Time' shall not exceed ~~thirty~~ **forty-five** minutes. If however an oral answer has been given within the time limit, the member who asked the question has the right to ask a supplementary question and to receive an answer. If a question to which an oral answer was to have been given has not been reached within the time limit, a written

answer will be sent by the Chief Executive to all members of the Council as soon as is practicable.

8) The Chair of the Council may rule questions or supplementary questions 'out of order' if in his/her **their** view they are irrelevant, frivolous or derogatory to the dignity of the Council.

9) In order to permit Members to be able to raise questions on matters of urgency that cannot reasonably be dealt with in line with the procedure and deadlines for Councillor questions at Council, they are permitted to ask that the Leader makes a statement under **'Announcement and Reports from the Leader and Cabinet Members at Council Meetings'**. This must be done in consultation with the Monitoring Officer and that Member is able to ask a short, succinct question in response.

Members commented and asked questions as follows:

- That responses from Cabinet Members should address fully the matters raised by the question;
- That Directors should only intervene when matter of accuracy is raised, to give factual support;
- The process to ensure that only budget questions be asked at the budget meeting be light touch; and
- Ensuring Members still have the opportunity to make comments.

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

RESOLVED that the proposed amendments to section 17 of Standing Orders of the Constitution, as in section 5 of the Report and outlined above with additional text in red (and purple for amendments agreed at the meeting) and a strike through for deleted words, be recommended to the Council.

* **54** **Cabinet Member Reports at Council Meetings - Review of the Governance Working Group and Proposed Changes.**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/6), which proposed changes to the Cabinet Member Reports process at Council Meetings, following a review by the Governance Working Group (Membership – Councillors Saywell (Chair), Biederman, Letch, Maskell, Samuel, Scott and Whitton).

The aim of the work strand was to ensure Council meetings were focussed and business driven – and to move back to the original intention of Cabinet Member Reports which was to report on any decisions taken by the Cabinet and any other areas of interest or service-related developments.

Analysis was conducted over a period of several weeks and a total of 15 other authorities' processes were analysed. It was established there was a mixed picture with a small number having standing Cabinet Member Report items with written reports covering activities in the relevant service areas. Others had announcements from either the Leader and or Cabinet Members. It was clear other processes were driven by the Cabinet Members updating the Council, rather than Cabinet Members responding to queries from other Members of the Council.

The Committee noted that the working group had held a number of discussions and considered several different options for dealing with Cabinet Member Reports.

Members favoured a rota system, wanted to ensure that the Budget meeting was not overloaded with items that didn't require a decision and also wished to ensure Members would be given the opportunity to ask questions on matters in Cabinet Member Reports.

Members also felt they did not wish to place any time limit on the total amount of time for such reports but felt time limits for presenting Reports and Member speeches be reduced slightly.

It was further recognised the meeting should allow for up-to-date verbal announcements from the Leader and / Cabinet Members on matters of importance and for Members to be able to respond to any verbal announcement made.

The Governance Working Group was clear that the purpose of the Cabinet Member Reports, which would be published with the agenda, should contain both positive and negative issues and be an open and honest account of the situation in service areas and in that vein, a new template for Cabinet Member Reports was recommended.

It was proposed that the Cabinet Procedure Rules at section 4c of the Constitution (paragraph 16), be amended as follows, with amendments shown in red and a strikethrough of removed words. Amendments agreed at the meeting were reflected in purple text below.

16.0 ANNOUNCEMENTS AND REPORTS FROM THE LEADER AND CABINET MEMBERS AT COUNCIL MEETINGS

16.1 A regular item shall be placed on the agenda of all meetings of the County Council (Standing Order 5(1)(m) refers) **to receive any important updates or announcements from the Leader and/or Cabinet Members that cannot reasonably wait. Members may ask a brief question directly related to any verbal announcement made. A Member is also able to ask a brief succinct question on any urgent item of**

business agreed in advance, in line with the process outlined in Standing Order 17 (9)

16.2 A further agenda item will be titled Cabinet Member Reports. Cabinet Member Reports, save in exceptional circumstances, will be in writing and published with the agenda, in advance of the meeting. The Report from the Cabinet Member will focus on:

- any other areas of interest or service related developments relating to his/her ~~their~~ remit that may have occurred since the previous meeting or are ~~were~~ likely to impact on the service in the coming months; and
- any decisions taken by the Cabinet (i.e. key decisions) or by them under delegated powers (i.e. routine matters).
- ~~any other issue or matter specifically requested by a Member (by no later than 12 noon 4 working days before the meeting), which cannot adequately be covered by the opportunity that already exists under Standing Orders for Members to submit a Notice of Motion or written questions to Cabinet Members or Chairs of Committees relating, particularly, to factual and local issues.~~

The Report must follow the prescribed template ([insert link](#)).

16.23 A maximum of three Cabinet Member Reports shall be brought to each Council meeting (except for the budget meeting) which will be on a rota basis. For the Budget meeting a maximum of one Cabinet Member Report will be brought to that meeting. Any variation to this pattern needs to be agreed by the Chair, Leader and Group Leaders.

16.34 The Cabinet Member shall first ~~present his/her~~ give their Report and presentation thereof. ~~and make any statement(s) in response to any issue or matter specifically requested by a Member.~~ Councillors may then, without notice, comment upon or ask a question of the Cabinet Member on any matter referred to in his/her ~~their~~ Report or relating to his remit. ~~As indicated above, this facility is not intended to replace the opportunity that already exists under Standing Orders for members to submit written questions to Cabinet Members or Chairs of Committees, relating, particularly, to factual and local issues.~~ The Cabinet Member will then respond to the points raised, either taking all questions at once or three at a time before the conclusion of the item. ~~Directors will factually support the Cabinet Members response, as necessary.~~

16.45 The Cabinet Member will, when presenting his/her ~~their~~ Report, speak for a maximum of 7 10 minutes, with all other speeches being confined to a maximum of 5 3 minutes. In replying to questions from Members the Cabinet Member shall speak, at the discretion of the Chair.

Members commented whether a 10-minute time limit was too much for the Cabinet Member to be speaking (although it was noted this was a maximum).

The Committee also noted that the revised template would be shared with the Governance Working Group to ensure it captured the sorts of issues Members would wish to see covered in a Report to the Council from the Cabinet Member.

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

RESOLVED that

(a) the proposed amendments to the Cabinet Procedure Rules at section 4c of the Constitution (paragraph 16), as outlined in section 5 of the Report and above with new text in red (and purple for that agreed at the meeting) and a strikethrough for removed words be recommended to Council;

(b) that delegated authority be given to the Director of Legal and Democratic Services, in consultation with the Governance working group, to create a revised template for Cabinet Member Reports; and

(c) Standing Order 5 (m) be recommended for amendment to cross reference the new Cabinet Member Report process and template requirement.

* **55 Health Scrutiny - New Arrangements**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/9) which outlined the changes to Health Scrutiny and reconfiguration arrangements, with the necessary amendments to the Constitution proposed to be compliant with the new regulations.

The Report highlighted that as a result of the Health and Care Act 2022, the Department for Health and Social Care had introduced new regulations in respect of Health Scrutiny's role in the reconfiguration of local health services, which took effect from 31st January 2024. The changes meant that from the 31st January 2024, the Health and Adult Care Scrutiny Committee would no longer be able to formally refer matters that related to reconfigurations to the Secretary of State. Instead the Secretary of State would have broad powers to intervene through the power of call in.

The Council's constitution currently reflected the Health and Adult Scrutiny power of referral and needed amendment to reflect the legislative changes.

Work was still required on the guidance, and as appropriate, training, as the new rules were operationalised.

It was proposed the following changes were made with amendments shown in red:

- a. Part 2, Article 7 (7.1) (page 16),
 - i. To make reports and recommendations as appropriate to the County Council **and may request to the Secretary of State that a proposal be called in,** ~~and to the Secretary of State for Health,~~ in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) **(Amendment and Saving Provision)** Regulations 2013 **2024.**
- b. Part 3b, 9.4(4) (page 45).
 - i. To make reports and recommendations as appropriate to the County Council **and may request to the Secretary of State that a proposal be called in,** ~~and to the Secretary of State for Health,~~ in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) **(Amendment and Saving Provision)** Regulations 2013 **2024.**
- c. Part 4d Scrutiny Procedures Rules, (10.4) (page 133)
 - i. Scrutiny Committee undertaking the Council's functions in relation to the scrutiny of the health service and, in particular, where being formally consulted by the NHS or Health Providers will ensure that all relevant partners in the locality affected, including local authority partners, will have the opportunity to contribute and that those views will be taken into account in making its recommendations to the NHS **and/or Health Provider, or requesting that the Secretary of State call in a decision.**
- d. Part 4d Scrutiny Procedures Rules, (Terms of Reference of Scrutiny Committees, Health & Adult Social Care Scrutiny Committee (page 142))
 - i. To make reports and recommendations as appropriate to the County Council **and may request to the Secretary of State that a proposal be called in,** ~~and to the Secretary of State for Health,~~ in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) **(Amendment and Saving Provision)** Regulations 2013 **2024.**
- e. Part 4d 'A Protocol for relationships and communications between the health & wellbeing scrutiny committee and Healthwatch Devon', (pages 147-152), be amended so that the twenty three references to 'Health & Wellbeing Scrutiny Committee' be replaced with **'Health and Adult Care Scrutiny Committee'**.

- f. Part 4d Scrutiny Procedures Rules, (A Protocol for relationships and communications between the Health and Wellbeing Scrutiny Committee and Healthwatch Devon, pp. 148)
 - i. NHS Bodies and commissioners, including Clinical Commissioning Groups (CCGs) **Integrated Care Boards** are also required to consult the Health & **Adult Care Wellbeing** Scrutiny Committee on substantial developments or variations to local health services as an official consultee. If the Scrutiny Committee has significant concerns with any proposals, **it may make a request to the Secretary of State that a proposal be called in.** ~~it has the power to make a referral to the Secretary of State for Health (or MONITOR) (jointly with other local authorities, if appropriate). All commissioners and providers of publicly funded healthcare and social care are covered by these powers, along with health and social care policies arising from the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy.~~

The formal terms of reference of the Health & **Adult Care Wellbeing** Scrutiny Committee are:

‘To review the implementation of existing policies and to consider the scope for new policies for all aspects of the discharge of the Council’s functions relating to the health and wellbeing of the people of Devon including the activities of the Health & Wellbeing Board, ~~when established,~~ and the development of commissioning strategies, strategic needs assessments and, generally, to discharge its functions in the scrutiny of any matter relating to the planning, provision and operation of the health service in Devon’, including making **a request to the Secretary of State that a proposal be called in.** ~~reports direct to the Secretary of State for Health, in accordance with the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations (Amendment and Saving Provision) 2024 2013’.~~

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

RESOLVED that sections Part 2: Article 7, Part 3b, and Part 4d, of the Constitution, as set out above be recommended for approval to the Council.

* **56 Scrutiny Strategy and Action Plan**

The Committee considered the Report of the Head of Scrutiny which outlined the Scrutiny Strategy and Action Plan, as had endorsed by the Governance Working Group and Chairs and Vice Chairs of Scrutiny.

The document aimed to continue the development and refinement of Scrutiny practice. The Council already had a well-developed approach and a culture that embedded many of the pillars that were documented in the 2019 Scrutiny Statutory Guidance.

This document had been developed through the iterative review of Scrutiny undertaken by the Governance Review in the closing months of 2023.

There were five strands to the strategy, backed with actions and success measures detailed against each:

1. Scrutiny contributing to the good governance of the Council
2. Planning work for maximum impact
3. Public awareness and participation in Scrutiny
4. Effective practice for Successful Scrutiny
5. Quality Evidence Gathering sessions for Policy Development

The objective was to strengthen the accountability, transparency, and efficiency of the Council's operations whilst fostering public trust and engagement, with an emphasis on public participation, an understanding of the importance of effective governance and critical friend challenge through good Scrutiny.

As part of the evaluation process, it was envisaged that the Strategy and Action Plan be regularly reviewed and evaluated by the Chairs and Vice Chairs Group and that on an annual basis full Council should review progress, alongside the Annual Report.

It was **MOVED** by Councillor Leaver, **SECONDED** by Councillor Hart that the Report be noted.

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 10.38 am and finished at 12.07 pm