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To: The Chair and Members  
of the Procedures  
Committee

County Hall  
Topsham Road  
Exeter  
Devon  
EX2 4QD

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Date: 24 April 2024

Contact: Karen Strahan 01392 382264

Email: [karen.strahan@devon.gov.uk](mailto:karen.strahan@devon.gov.uk)

## **PROCEDURES COMMITTEE**

Thursday, 2nd May, 2024

A meeting of the Procedures Committee is to be held on the above date at 10.30 am  
(Committee Suite) to consider the following matters.

Donna Manson  
Chief Executive

## **A G E N D A**

### **PART I - OPEN COMMITTEE**

- 1 Apologies for absence
- 2 Declarations of Interest

Members of the Council will declare any interests they may have in any item to be considered at this meeting, prior to any discussion taking place on that item.

The other registrable interests of Councillors of Devon County Council, arising from membership of City, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.

For details of District and or Town and Parish Twin Hatters – please see here -  
[A list of county councillors who are also district, borough, city, parish or town councillors.](#)

3 Minutes

Minutes of the meeting held on 1 February 2024, previously circulated.

4 Items requiring urgent attention

Items which in the opinion of the Chair should be considered at the meeting as a matter of urgency.

**MATTERS FOR DECISION**

5 Notices of Motion - Amendments to Standing Orders (Section 4a) (Paragraphs 6-10) (Pages 1 - 10)

Report of the Director of Legal and Democratic Services (LDS/24/19) proposing 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, attached.

*Electoral Divisions(s): All Divisions*

6 Working Practices - Review of the Governance Working Group and Proposed Changes. (Pages 11 - 24)

Report of the Director of Legal and Democratic Services (LDS/24/20), outlining Proposed Changes to Working Practices, as endorsed by the Governance Working Group, attached.

*Electoral Divisions(s): All Divisions*

7 Review of the Governance Working Group and Proposed Changes to the Council's Committee Structure. (Pages 25 - 32)

Report of the Director of Legal and Democratic Services (LDS/24/23) outlining the review of the Governance Working Group and subsequent proposed changes to the Committee structure, attached.

*Electoral Divisions(s): All Divisions*

8 Review of the Governance Working Group and Proposed Changes to Highways and Traffic Orders Committee (Pages 33 - 48)

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

*Electoral Divisions(s): All Divisions*

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

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. This Report will follow.

*Electoral Divisions(s): All Divisions*

**MATTERS FOR INFORMATION**

NIL

**PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED**

NIL

*Members are reminded that Part II Reports contain exempt information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). They need to be disposed of carefully and should be returned to the Democratic Services Officer at the conclusion of the meeting for disposal.*

## **MEETINGS INFORMATION AND NOTES FOR VISITORS**

### **Getting to County Hall and Notes for Visitors**

For SatNav purposes, the postcode for County Hall is EX2 4QD

[Further information about how to get to County Hall](#) gives information on visitor parking at County Hall and bus routes.

Exeter has an excellent network of dedicated cycle routes. For further information see the [Travel Devon webpages](#).

The nearest mainline railway stations are Exeter Central (5 minutes from the High Street), St David's and St Thomas. All have regular bus services to the High Street.

Visitors to County Hall are asked to report to Main Reception on arrival. If visitors have any specific requirements, please contact reception on 01392 382504 beforehand.

### **Membership of a Committee**

For full details of the Membership of a Committee, please [visit the Committee page](#) on the website and click on the name of the Committee you wish to see.

### **Committee Terms of Reference**

For the terms of reference for any Committee, please [visit the Committee page](#) on the website and click on the name of the Committee. Under purpose of Committee, the terms of reference will be listed. Terms of reference for all Committees are also detailed within Section 3b of [the Council's Constitution](#).

### **Access to Information**

Any person wishing to inspect any minutes, reports or background papers relating to an item on the agenda should contact the Clerk of the Meeting. To find this, [visit the Committee page](#) on the website and find the Committee. Under contact information (at the bottom of the page) the Clerk's name and contact details will be present. All [agenda, reports and minutes of any Committee are published on the Website](#)

### **Public Participation**

The Council operates a Public Participation Scheme where members of the public can interact with various Committee meetings in a number of ways. For full details of whether or how you can participate in a meeting, please [look at the Public Participation Scheme](#) or contact the Clerk for the meeting.

In relation to Highways and Traffic Orders Committees, any member of the District Council or a Town or Parish Councillor for the area covered by the HATOC who is not a member of the Committee, may attend and speak to any item on the Agenda with the consent of the Committee, having given 24 hours' notice.

### **Webcasting, Recording or Reporting of Meetings and Proceedings**

The proceedings of any meeting may be recorded and / or broadcasted live, apart from any confidential items which may need to be considered in the absence of the press and public. For more information [go to our webcasting pages](#)

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chair. Filming must be done as unobtrusively as possible without additional lighting; focusing only on those actively participating in the meeting and having regard to the wishes of others present who may not wish to be filmed. Anyone wishing to film proceedings is asked to advise the Chair or the Democratic Services Officer in attendance.

Members of the public may also use social media to report on proceedings.

### **Declarations of Interest for Members of the Council**

It is to be noted that Members of the Council must declare any interest they may have in any item to be considered at this meeting, prior to any discussion taking place on that item.

### **WiFi**

An open, publicly available Wi-Fi network (i.e. DCC) is normally available for meetings held in the Committee Suite at County Hall.

### **Fire**

In the event of the fire alarm sounding, leave the building immediately by the nearest available exit following the fire exit signs. If doors fail to unlock press the Green break glass next to the door. Do not stop to collect personal belongings; do not use the lifts; and do not re-enter the building until told to do so. Assemble either on the cobbled car parking area adjacent to the administrative buildings or in the car park behind Bellair.

### **First Aid**

Contact Main Reception (Extension 2504) for a trained first aider.

### **Mobile Phones**

Please switch off all mobile phones before entering the Committee Room or Council Chamber

### **Alternative Formats**

If anyone needs a copy of an Agenda and/or a Report in another format (e.g. large print, audio tape, Braille or other languages), please contact the Customer Service Centre on 0345 155 1015 or email: [committee@devon.gov.uk](mailto:committee@devon.gov.uk) or write to the Democratic and Scrutiny Secretariat in G31, County Hall, Exeter, EX2 4QD.

**Induction Loop available**





LDS/24/19  
Procedures Committee  
2 May 2024

## **Notices of Motion at Council Meetings – Review of the Governance Working Group and Proposed Changes.**

Report of the Director of Legal and Democratic Services

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Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

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### **1) Recommendation**

- (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, with new text in purple and noting that no wording has been removed; and
- (b) that the Committee endorse the new working practice for returning motions to the Council, as outlined at Appendix 1, 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.

### **2) Background / Introduction**

2.1 As part of the wider work being undertaken to review Governance procedures in the Council, it was recommended that the process of dealing with Notices of Motion be reviewed.

2.2 A wholesale review of Motions has therefore been undertaken, analysing the process from start (submission) to finish (determination of motion at the Council meeting).

2.3 The aim of the work strand was to ensure Motions submitted to Council meetings were focussed, related to the Devon, that the Council meeting was not overwhelmed with large numbers of motions on the agenda, improving the current process to ensure those moving motions were better heard at the Council meeting and safeguarding the Council's position in terms of legal and / or financial implications that a motion may have.

### **3) Consultations / Representations / Technical Data**

3.1 Views were sought from the Governance Working Group and benchmarking data from across other Authorities was reviewed.

3.2 The analysis was conducted over a period of six months and a total of nine other authorities' processes were analysed. It was established there was a very mixed picture, with many of those different practices reference below.

3.3 The group have, furthermore, taken into account best practice and considered the Constitution.

# Agenda Item 5

## 4) Governance Working Group (GWG) Considerations

4.1 The Governance Working Group held a number of discussions and considered numerous different options for dealing with Notices of Motion. These meetings were held on the 16 and 30 October 2023 and then on the 27 November 2023. In the new year, the Governance Working group discussed the issues further on the 22 January 2024 and 4 March 2024. At each of those meetings, revised wording to the Constitution was considered.

4.2 The matters reviewed by the group included the following, outlined in detail below and the rationale for the recommended change, where appropriate.

- i) Submission of Notices of Motion - The GWG determined early in the debate that the current process for submitting motions should remain unchanged. The current and recommended process going forward is that 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 (Democratic Services) by 9.00am on the eighth working day before the meeting of the Council at which it is to be considered. The wording remains unchanged at paragraph 6(1).
- ii) Scope – Members did not wish to dramatically change the ‘scope’ for submitted motions, but concern was raised over motions appearing before the Council which did not relate to Devon or where the Council could not make an impact. Rather than making the process more restrictive, Members wished to ensure motions were framed in such a way that they show the impact for or on Devon, therefore recommend the additional wording at paragraph 6.6.

Members also took best practice from the majority of other Local Authorities and wished to place some additional safeguards in paragraph 6.6, so that motions which did not bear any relation to Devon, or the work of the County Council could be rejected, although in reality officers would work with the Members to reframe their motion to make it relatable to Devon. Further safeguards were recommended which meant motions could be rejected which were offensive or unlawful, related to non-determined planning applications, named individuals or could place the Council at risk. However, consultation had to take place with the Monitoring Officer, Group Leader and Chair, before any motion would be ruled out.

iii) 6-Month Rule – There is provision in Standing Orders that when the Council has considered any motion, the subject matter or topic shall not be raised again by a Notice of Motion within the following six months. Concern was raised over the repetitive nature of some subjects appearing before the Council as Notices of Motion. Members felt this provision needed to be more robustly applied as there had been occasions where motions on the same issues were raised at subsequent meetings, sometimes with a slightly different ask, but the intent was the same. The additional recommended wording is therefore included at paragraph 7.

- iv) Presentation of Motions on Agenda – There were no suggested changes in terms of how Motions were presented on the Council agenda.



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- v) Numbers and limits – Members discussed that some Council meetings were exceptionally heavy in terms of the number of motions on the agenda. This was a deeper concern during budget meetings, given the importance of this meeting.

Members therefore explored options to limit numbers of motions that could be submitted and / or considered at a meeting. Some of those options included no more than one motion per Member, only one motion per group (which would mean no more than four motions per meeting based on current groupings), a maximum number of motions per meeting (4 or 5), potentially on a first come first serve basis and / or a number based on the size of group. Members also considered maximum times allowed for debate.

Members agreed and recommended there should be no restriction on the numbers of motions put forward per meeting. However, Members wished for the same system to be used as that agreed for questions (i.e. if a Member submits more than one motion question, the first motion will be prioritised and subsequent motions placed at the end of the agenda item). The recommended wording for this change is at paragraph 6(10).

- vi) Budget Meeting and AGM - Members also considered the issue of budget meetings and meetings such as the Annual Meeting and considered whether an approach similar to BANES should be adopted, where motions are not permitted at either the Budget meeting or the AGM. However, in light of the reduced number of Council meetings in the calendar, Members did not wish to adopt this as an option.

- vii) Special Meetings – Given the nature of special meetings (one specific item), other matters of business should not feature on the agenda. Members recommend the guidance is made explicit that this is the case, therefore recommend the additional text at paragraph 12.

- viii) Process at meeting - Introduction of Motion - Members felt the current process of the mover of the Motion not being able to say anything other than formally moving was not in the spirit of democracy and therefore recommend the changes at paragraph 6(7), which allows the mover to briefly introduce their motion after it has been moved and seconded (and referred to cabinet) (up to one minute, although this can be extended at the discretion of the Chair).

- ix) Process at Meeting – Referral of Motions - Members were content with the current process of referring motions to the Cabinet or if the motion was on a matter for which the Cabinet had no remit, then it is passed to the relevant Committee, where a briefing paper and recommended approach is debated.

- x) Process at meeting - Discussion of motions on the day – Members will be aware that there is an option to discuss a motion on the day of the meeting, should the Council agree to do so (simple majority vote). However, concern was raised that the Council could be considering motions when the legal and financial implications have not been fully considered. As a result of this concern, Members felt this aspect of the guidance needed to be strengthened and therefore recommend the additional wording at paragraph 6(9).

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- xi) Process at meeting - Timescale for debate – Following on from the consideration of limiting the numbers of motions (and agreeing not to do so), Members wished to address the concern of length of meetings, particularly the budget meeting. Members therefore recommend placing a limit of the amount of time that would be permitted to debate motions. Rather than be prescriptive within the Constitution, Members recommend the Chair determine at the start of the meeting how much time will be allowed to debate motions, to be balanced with other business on the agenda, up to a maximum of 2 hours. The recommended wording is at paragraph 11.
- xii) Motions Returning to the Council – Members spent several meetings debating how motions were or should be dealt with on their return to the Council for debate and determination. A number of options were considered such as Motions not returning to Council unless they are explicitly functions of the Council, or where the Leader reports the decision back to Council through their announcements or via a Chair of a Committee if referred thereto.

Other options included varying the order of debate, the original motion being represented (with the risk of simply being lost), taking more motions on the day, but noting the risk that without the consideration of legal / financial matters etc the motions and subsequent amendments could be simply voted down and lost. Or the option to keep the current process.

Members wished to give more focus to the original motion rather than it being lost imminently into the debate by the moving of the Cabinet minute and the original mover speaking last.

The proposed revised working practice is outlined in appendix 1. Members will note that initially when the motion returns to Council, the mover is asked first to introduce their motion and respond to the Cabinet recommendation (amendment). The Cabinet minute is then moved and seconded and voted upon, but the mover is then asked if they accept the Cabinet amendment. The remainder of the process remains similar to before with rules of debate being adhered to.

## 5) Proposed Changes to Constitution (Section 4a)

5.1 It is 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.

### 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.

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- 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.

# Agenda Item 5

- 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 be ruled out 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.

## **6) Strategic Plan**

6.1 This proposal aligns to the Council's Strategic Plan 2021 – 2025. The proposal supports the commitment of ensuring that the Council makes good decisions and is transparent and supports being a trusted and inclusive Council that hears the voices of communities and listens and learns.

## **7) Financial Considerations**

7.1 There are no financial considerations.

## **8) Legal Considerations**

8.1 Under Section 37 of the Localism Act 2011, the Council must prepare and keep up to date a Constitution. The proposed arrangements would not compromise this requirement.

## **9) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)**

9.1 There are no environmental related issues.

## **10) Equality Considerations**

10.1 There are no equality related issues.

## **11) Risk Management Considerations**

11.1 No risks have been identified.

## **12) Summary / Conclusions / Reasons for Recommendations**

12.1 The Procedures Committee is asked to note the detailed work of the Governance Working Group in undertaking this review. The recommended changes to the Constitution have been carefully considered and are therefore commended to the Committee for their endorsement and subsequent recommendation to the Council for adoption.

### **Name**

Director of Legal and Democratic Services – Maria Price

**Electoral Divisions:** All

### **Local Government Act 1972: List of background papers**

NIL

### **Contact for enquiries:**

Name: Karen Strahan: 01392 382264, G31, County Hall, Exeter, EX2 4QD



**10. DUAL DEBATE ON MOTION AND CABINET RECOMMENDATION (AMENDMENT)**  
Any Councillor may speak except the proposer, seconder, or proposer of the original motion



**11. SECONDER OF THE AMENDMENT CAN SPEAK TO AMENDMENT UNLESS THEY HAVE ALREADY DONE SO**



**12. AT THE END OF THE DEBATE THE MOVER OF THE CABINET AMENDMENT IS INVITED TO REPLY TO THE DEBATE**



**13. VOTE ON AMENDMENT (CABINET MINUTE)**



Amendment agreed



Amendment rejected

**IF CARRIED BECOMES  
SUBSTANTIVE AND OPEN FOR  
DEBATE / FURTHER  
AMENDMENT**

**IF LOST ORIGINAL MOTION IS  
OPEN FOR DEBATE AND  
FURTHER AMENDMENT**





LDS/24/20  
Procedures Committee  
2 May 2024

## **Working Practices – Review of the Governance Working Group and Proposed Changes.**

Report of the Director of Legal and Democratic Services

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Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

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### **1) Recommendation**

- (a) that the Committee review and endorse the revised Working Practices document for publication, attached at Appendix 1, with new text in red and removed wording via strikethrough and
- (b) that the Committee note that whilst the Working Practices are contained within the Constitution for ease of reference, they do not formally form part thereof.

### **2) Background / Introduction**

2.1 As part of the wider work being undertaken to review Governance procedures in the Council, it was recommended that the current working practices be reviewed, with particular focus on site visits and invitation and involvement of Local Members.

2.2 The aim of the work strand was to ensure working practices were focussed and were reflective of modern meetings and ICT processes.

### **3) Consultations / Representations / Technical Data**

3.1 Views were sought from the Governance Working Group.

### **4) Governance Working Group (GWG) Considerations**

4.1 The Governance Working Group held a discussion on the 15th April and endorsed the proposed changes, with one or two suggested amendments which are reflected in the attached appendix 1.

### **5) Strategic Plan**

5.1 This proposal aligns to the Council's Strategic Plan 2021 – 2025. The proposal supports the commitment of ensuring that the Council makes good

# Agenda Item 6

decisions and is transparent and supports being a trusted and inclusive Council that hears the voices of communities and listens and learns.

## **6) Financial Considerations**

6.1 There are no financial considerations.

## **7) Legal Considerations**

7.1 Under Section 37 of the Localism Act 2011, the Council must prepare and keep up to date a Constitution. The proposed arrangements would not compromise this requirement.

## **8) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)**

8.1 There are no environmental related issues.

## **9) Equality Considerations**

10.1 There are no equality related issues.

## **10) Risk Management Considerations**

10.1 No risks have been identified.

## **11) Summary / Conclusions / Reasons for Recommendations**

11.1 The Procedures Committee is asked to note the work of the Governance Working Group in undertaking this review. The recommended changes to the working practices have been carefully considered and are therefore commended to the Committee for their endorsement for publication.

**Name** - Director of Legal and Democratic Services – Maria Price

**Cabinet Member** – Andrew Saywell (Organisational Development, Workforce & Digital Transformation)

**Electoral Divisions:** All

### **Local Government Act 1972: List of background papers**

NIL

**Contact for enquiries:** Karen Strahan: 01392 382264, G31, County Hall, Exeter, EX2 4QD

## **PART 10: WORKING PRACTICES**

The Council's procedures are governed by its Constitution. This is supplemented by the approved Working Practices explained below which affect the operation of the Committee process or impact upon individual members. These Working Practices do not form part of the Constitution but are reproduced here for convenient reference.

### **CABINET MEMBER REMITS**

The functions of Cabinet Members (including their powers of individual decision making) are set out in detail in Part 3 of the Constitution. There are also arrangements for the taking of Cabinet decisions in the absence of the assigned Cabinet Member.

### **PRE-AGENDA/BRIEFING MEETINGS**

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

Briefing meetings ~~are only to~~ **can be** held — to which **both** the Chair and Vice-Chair should be invited — to discuss administrative arrangements for the meeting and should normally be held **shortly before or** on the same day as the meeting in question.

This arrangement does not apply to briefing meetings for the County Council to which the Party Group Leaders, Secretary and Whips will be invited. Nor does it preclude a Cabinet Member or the spokesperson of any group from seeking his/her own personal briefing from a **Director or** ~~Chief Officer/~~Head of Service.

This Working Practice does not apply to any Joint Committee.

### **ARRANGING AND CANCELLING MEETINGS**

Arrangements for convening meetings of Committees or working parties or for varying the date or time of any meeting included in the Council's approved calendar must be agreed by the Chair and the Vice-Chair. Before seeking the agreement of the Chair and Vice-Chair, Officers will attempt to seek the views of opposition groups represented on that body. ~~In the case of the Standards Committee only, the Vice-Chair should also be consulted.~~

This Working Practice does not apply where the revised date is agreed at a meeting of the Committee or working party itself, provided all groups are present, nor does it apply to any Joint Committee or to any Group convened by a Cabinet Member.

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## **CABINET AGENDA**

In line with the Council's Constitution, the Leader has responsibility for approving the running list (the 'Forward Plan') of matters to be considered by the Cabinet and for determining the agenda for meetings of the Cabinet.

In so doing the Leader will consult with other Cabinet Members to ensure that all relevant matters requiring a decision of the Cabinet are considered at the appropriate time. The Forward Plan will be submitted to and agreed by the Cabinet at each meeting.

The Constitution provides for non-Cabinet Members of the Council to ask the Leader to include an item on the agenda for a meeting of the Cabinet. The Leader will normally accede to such a request provided they are persuaded that the item is not intended simply to elicit information or to facilitate the making of a presentation. **It is noted that the Cabinet does not generally receive reports for information and the requirements of the Forward Plan need adherence thereto.**

## **~~MOVING, SECONDING AND RECORDING OF MOTIONS/AMENDMENTS~~**

The wording of any motion or amendment proposed by a Member at a Committee or working party which is **lost** ~~not accepted may~~ **will** be recorded in full in the minutes of that meeting ~~if the Member so requests by completing the appropriate form provided for that purpose.~~ **A motion that does not receive a seconder will fall and will not be recorded in the minutes unless the Member so requests by completing the appropriate form provided for that purpose.**

~~When at any meeting of the Council, the Cabinet or a Committee or working party a Member who has moved a motion or amendment fails to secure a seconder, the Chair of that meeting will, as a matter of course, formally second the motion or amendment in order to facilitate debate.~~

## **STARRING OF MINUTES**

The minute of a decision which is within the delegated powers of a Committee will be starred. For Committees other than the Cabinet, the Council may only amend or agree a different course of action if the starred minute has not yet been acted upon. In order to remove a star that has been properly applied to a minute 20 members must be in favour of doing so at the Council meeting, as is required by Standing Order 13(5).

In the case of the Development Management Committee there is an expectation that an individual planning application should be dealt with by that Committee and not referred to full Council for determination. Decisions which involve the formulation of new policy or the variation of existing policy will however be unstarred.

## **PARTY WHIPS AND SECRETARIES**

There are two commonly used terms to describe Members Groups on the Council. These are 'Political Groups' and 'Party Groups'.

Political Groups are established in accordance with the Local Government and Housing Act 1989 for the purpose of appointing members to committees and allowances. The Council has in addition delegated to the Whips and Secretaries of those Groups responsibility for:

- the appointment of members to outside bodies;
- the filling of vacancies on Committees and Working Parties; and
- seating arrangements at meetings of the County Council.

The term Party Group is used to describe a Group of Members of the same political persuasion only. Presently that description only applies to the Conservative, Liberal Democrat and Labour Groups on the Council.

The distinction between a Political Group referred to above as defined by the 1989 Act (*for the purposes of political balance on Committees and allocating special responsibility allowances*) and a Party Group (*a number of members of a particular political persuasion*) cannot be over emphasised.

## **SEATING ARRANGEMENTS**

At meetings of the County Council members are seated in accordance with a formal seating plan agreed with the Party Whips and Secretaries which respects each Group's political integrity.

At Committees, different seating arrangements apply for different types of meeting to reflect the work they do. However, it is nearly always the case that Members of the same group will sit in close proximity to each other though that is not a requirement.

Members attending Committee meetings under Standing Order 25(2) are expected to sit, where possible, at the back of the room coming forward to sit at the table to speak to the Committee (if **and when** invited to do so).

## **PRESS RELEASES/COMMUNICATIONS**

Press releases will be prepared in line with the Council's Communications Protocol, as approved by the Procedures Committee, reflecting the Council's current political arrangements and consistent with the Government's Code of Practice for Local Authority Publicity.

In addition:

- **Directors** ~~Chief Officers/~~Heads of Service are responsible for ensuring that Members representing the Council on ~~European~~, National or Regional Bodies are properly briefed on issues relating to Devon;
- Where the Press Office prepare a statement on any matter of civic or national significance it should be made by the Chair of the County Council alone and

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any personal statement by any other Member in response to a direct approach by the media is made at that member's individual discretion.

## REPRESENTATIONS

Copies of all representations sent on behalf of the County Council to outside bodies including Ministers, **MP's**, Government Departments, the Local Government Association, the European Community/Union and MPs or MEPs will — together with any responses received — be **held within the service area who wrote and sent the response.** ~~made available in the Members' Lounge and in each of the Party Group Rooms prior to their being reported to the relevant Committee(s).~~

Copies of responses shall also be sent as a matter of course to all Members of the Council, **the Member who raised the issue (e.g. Notice of Motion) or the Chair of the relevant Committee from where the resolution was made.** ~~via email.~~

Representations made to the County Council or Committee about a matter to be considered will be reported by the **Director at the relevant meeting or will be encompassed in the Report due for consideration, depending on the timings of representations received.** ~~Chief Officer (in writing or orally, indicating the number and nature of the representations received) who will also ensure that copies of any such letters or representations received are available for inspection by members.~~

~~If a decision is referred to another Committee or the full Council then any representations reported to the "original" meeting must also be reported in writing.~~

A Scrutiny Committee may invite representatives of another organisation to make a presentation. Schemes **also** already operate for Members of the public to ask questions or make submissions to the **Council, Cabinet, Scrutiny, Development Management and Public Rights of Way Committees.** **The full opportunities to address Members at Committee is outlined in the public participation scheme – <https://www.devon.gov.uk/democracy/document/public-participation-at-committee-meetings/>.** Over and above these, individuals or deputations should not address a Committee.

Where notification is received of a deputation wishing to present a petition (or other form of representation) to a Committee the Democratic Services Officer will consult with the Chair of that Committee, or the relevant Cabinet Member, and spokespersons for that **Committee** about arrangements for representatives of all Groups to meet the deputation to accept the petition or other representation before or during the Committee meeting.

Where, in accordance with Article 3 of the Constitution, a petition is received the Cabinet, Committee or relevant **Director or** Head of Service will respond to the issues raised in that petition within a period of 15 days, in line with the Council's Petition Scheme set out at Part 4 of the Constitution.

## INVOLVING MEMBERS – **THINK LOCAL MEMBER**

All Councillors will be sent ~~electronically,~~ by email, **a notification containing the agenda sheets and links to the reports** for meetings of all Committees. **They will**

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also ~~and will~~ be informed of individual items which are identified as affecting an area or matter within their electoral division, **although the Local Member should already be aware and have been made aware as part of the Committee Report checklist sign off process.**

Members can also be provided with any other reports referred to therein, on request. The agenda and reports of all of the Cabinet and major Committees of the Council will be published on the 'Democracy in Devon Centre' **pages of the Council's website.**

Where a Member is unable to attend any meeting of a Committee of the Council, they may submit their views in writing and these will be reported to the meeting.

County Councillors will be notified of any site inspection or formal Member meeting taking place in their electoral division arranged by the Council and may attend, if they so wish, and take part.

County Councillors will also be notified of any visit by the Chair of the Council, a Committee Chair or Cabinet Member to a County Council site or establishment in their area and where a Chair or Cabinet Member is taking part in an official function, formal visit or public event organised by the Council in his or her capacity as Chair or Cabinet Member.

Where such a meeting is arranged by a third party every effort will be made to ensure the Local Member is made aware of the event and, if possible, invited. **It should be noted that sometimes these matters are outside of the control of the Council, but best efforts will be made.**

This does not apply where a Chair/Cabinet Member is visiting an area or establishment informally or on a casual basis or as part of a 'familiarisation' or 'getting to know you' process or attending a routine or calendared meeting of a Council Committee at County Hall or any other of its administrative offices.

Officers will also keep Members informed about any issues or services which affect their divisions and will alert Members at the earliest possible stage of any matter or development proposal that is likely to be submitted to a Committee of the Council. **Officers should familiarise themselves with the Local Member Protocol (Think Local Member) guidance outlined in the Constitution (6h).**

**Most local Councillor notifications relate to site or area/locality specific proposals and usually only affect a single electoral division. However, some proposals have a wider impact and Officers will need to judge whether to inform other local Councillors. Specific consideration to this should be given when proposals are close to adjoining / adjacent wards. Examples of matters involving a wider area could be the closure of a secondary school, road closures and changes to library services. In the case of Exeter, you need to alert all Exeter Members.**

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## ~~PROTOCOL FOR SENDING EMAIL ATTACHMENTS TO COUNTY COUNCILLORS~~

~~The Council's current code of practice (for employees) stipulates that files/documents should not normally be sent electronically as attachments but that alternative methods, such as links to webpages or shortcuts, should be used which allows the recipient to see the document but does not create multiple copies and fill up the Servers.~~

~~It is acknowledged that this practice is only effective where recipients are working on-line or have access to specific parts of the network. That is not currently the case for Councillors and when working off-line (as the majority of Councillors do) the most effective means of sending files/documents is as an attachment.~~

~~Incorporating the file/document into the email itself will neither solve the problems encountered by Councillors in the time taken to log-on/synchronise or in managing their Mail Boxes nor will it necessarily reproduce the document in its original form, which may itself create difficulties.~~

~~In the present circumstances, the following protocol for sending emails/attachments to County Councillors has been adopted:~~

- ~~• The length of any emails sent to County Councillors should be kept to a minimum;~~
- ~~• A file/document should only be sent as an attachment to an email when it is absolutely necessary by virtue of the timescale of the matter or issue concerned and it is not possible to get that file/document to the Councillor by an acceptable alternative means within that timescale;~~
- ~~• Any file/document sent as an attachment should not normally exceed 4 A4 pages of text and should be a text only version (i.e. it should not include graphics or pictures).~~

~~Where Members of the Council all receive an identical approach from a third party it would be prudent to reply indicating that to avoid conflicting or confusing answers the query/correspondence would be passed direct to the Director of Legal and Democratic Services to respond on behalf of the Council.~~

## **DISTRIBUTION OF INFORMATION TO MEMBERS OF THE COUNCIL**

In addition to the rights of members set out in the Access to Information Procedure Rules (para 13.3 of the Council's Constitution) and the Member/Officer Protocol / **Local Member Protocol** (Part 4 of the Council's Constitution), the County Council has agreed **recommends** the following principles to be followed in distributing information to **M**embers of the Council.

### **When Information is asked for by a Member**

If it is purely a local constituency problem or question of fact a reply will only be sent to the **M**ember raising the question.



If the issue raised impinges on the policy of a specific Cabinet Member holder or Committee the Member will be advised that, unless they have asked that the exchange of correspondence be confidential, a copy of the correspondence will be sent to the appropriate Cabinet Member/Committee Chair and / or spokespersons.

## **Information Prepared by an Officer for a Cabinet Member or Chair of a Committee**

If the information is provided at the request of the Cabinet Member or Chair it will not be further distributed. If the information being provided also raises questions of appointments or nominations by a Committee, the Group Whips/Secretary will be advised. If the information provided for an Cabinet Member / Chair is general information relating to a particular area of the County then a copy will be sent to the Local Member(s) for information and that Officers be reminded of the need to maintain confidentiality of information provided to a Local Member, in-line with the protocol, where so requested.

## **Information Prepared by a Cabinet Member or Chair of a Committee**

~~Where information is prepared for distribution by or on behalf of a Cabinet Member or a Chair it should be sent out under the appropriate Officers name in line with paragraph 7.2 of the Protocol on Member/Officer Relations. The general principles of right to know shall apply and where it communicates information about council services or any matter affecting council services it shall be sent to all members and that Officers be reminded of the need to maintain confidentiality of information provided to a local member, in line with the protocol, where so requested.~~

## **Rights Under the General Law**

A Member also has a right to see papers where they genuinely have a "need to know" in connection with their duties as a County Councillor. This test is easily satisfied if they are a Member of the Committee to which the issue relates but less so in other cases. Applications should be made to the Director Chief Officer/Head of Service who will refer the request to the Monitoring Officer in doubtful cases.

## **Conventions Adopted Constraining the Legal Rights set out above**

The following Code of Guidance has been adopted by the Council:

- (i) a Member who has a right to inspect documents should consider whether they have a personal or prejudicial interest in the matter covered by the document and whether any action contemplated in the light of the information obtained might conflict with the Members' Code of Conduct;
- (ii) a Member requiring information should make application to a senior officer of the Department holding that information. Applications should not be made direct to junior officers;
- (iii) an application must allow the officer time to satisfy themselves that records do not contains exempt information which a Member cannot have access to. If they do, such material may have to be removed.

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## Code of Conduct for Members Concerning the Disclosure of Confidential & Exempt Information

The Council has adopted the following guidelines in relation to the Code of Conduct concerning the disclosure of confidential and exempt information:

- (i) that where a Member during the course of discussion of a Part II item (where the press and public are excluded from a meeting because of the confidential nature of the business) is aware that they would wish to make a statement to the press or communicate information to a third party, they should advise the Committee of their intention and at that time seek guidance as to the extent to which it would be proper for them to do so and, if possible, determine a text or form of words which would not breach the responsibility for maintaining confidentiality;
- (ii) that where after the meeting has closed, a Member is approached either by press or media or a member of the public for information they should, before making any comment, contact either the Director of Legal and Democratic Services or the Cabinet Member/Chair of the Committee (who in turn may wish to contact the Director of Legal and Democratic Services) to seek advice, when it will be possible for the text of any statement that the Member may wish to make to be agreed;
- (iii) that, alternatively if the Member so wishes, they should refer the person inquiring to the Cabinet Member/Chair of the Committee for the Chair to make a statement on the matter after consultation with the Director of Legal and Democratic Services.

## VISITS TO COUNTY COUNCIL ESTABLISHMENTS

The following table outlines the protocol to be followed, in the instances described.

### COUNTY COUNCIL PROTOCOL FOR VISITS BY MINISTERS, MPS, MEPS AND PARLIAMENTARY CANDIDATES

When	Who	What	Action
At the time of an election  [NOTE: For a general election, from the date of the announcement by the Prime Minister until the date of the election. For local elections, from the date of the publication of the	MPs and MEPs	Visiting any establishment in <u>any</u> constituency	Consent of the Head or Officer in charge required.  The Head or Officer in charge should inform the appropriate <del>Chief Officer</del> Director (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the Chair of the relevant Committee or Cabinet Member and Group spokespersons.

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notice of election until the date of the election]			The Chief Executive in consultation with the <b>Director</b> <del>Chief Officer</del> will advise on those persons who should be invited to accompany the visitor and who should invite them.
	Government Minister or Shadow Spokesman	Visiting any establishment	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate <b>Director</b> <del>Chief Officer</del> (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the Party Group Leaders and the Chair of the relevant Committee or Cabinet Member and Group spokespersons.</p> <p>The Chief Executive in consultation with the <b>Director</b> <del>Chief Officer</del> will advise on those persons who should be invited to accompany the visitor and who should invite them.</p>
	Parliamentary candidate	Visiting an establishment in the constituency they are contesting	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate <del>Chief Officer</del> <b>Director</b> (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the relevant Cabinet Member or Committee Chair and Group spokespersons.</p> <p>The Chief Executive in consultation with the <b>Director</b> <del>Chief Officer</del> will advise on those persons who should be invited to accompany the visitor and who should invite them.</p>
At any other time	MPs and MEPs	Visiting an establishment in their	Consent of the Head or Officer in charge required.

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		<u>own</u> constituency	The Head or Officer in charge should inform the appropriate <del>Director</del> Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member holder or Committee Chair and Group spokespersons.
	MPs and MEPs	Visiting any establishment in <u>another MPs or MEPs</u> constituency	Consent of the Head or Officer in charge required.  The Head or Officer in charge should inform the appropriate <del>Director</del> Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member or Committee Chair and Group spokespersons.
	Parliamentary candidate	Visiting an establishment in the constituency they are contesting.	Consent of the Head or Officer in charge required.  The Head or Officer in charge should inform the appropriate <del>Director</del> Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member or Committee Chair and Group spokespersons.
		Visiting an establishment in any other constituency	Not normally advisable to allow! Refer to Chief Executive. Only if premises were of countywide significance should permission be countenanced
	Government Minister or Shadow Spokesman	Visiting any establishment	Consent of the Head or Officer in charge required.  The Head or Officer in charge should inform the appropriate <del>Director</del> Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive, the Party Group Leaders and the relevant Cabinet Member or Committee Chair and Group spokespersons.

			The Chief Executive in consultation with the <b>Director</b> <del>Chief Officer</del> will advise on those persons who should be invited to accompany the visitor and who should invite them.
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## OFFICERS OF THE COUNCIL

Officers are employed by the Council as a whole and their overriding responsibility is to the Council and not to any one party or political group. An Officer may, if invited, attend a Group Meeting of any of the groups. **Groups will sometimes ask for briefings on particular issues from officers and this is perfectly acceptable.**

Any Officer who does attend a group meeting must maintain strict neutrality. An Officer should not attend such a meeting other than as normally constituted although it is recognised that at such meetings there may be one or two persons present who are neither elected Members nor Officers of the Council but who customarily attend those meetings.

The Council has adopted a separate Protocol for Member/Officer Relations the purpose of which is to guide **Members** and **Officers** of the Council in their dealings with one another which is included in the Council's Constitution.

## OPENING OF COUNTY COUNCIL ESTABLISHMENTS

For any opening, launch or event, the Chair of the County Council will normally be invited to attend and perform the ceremony. In the event of the Chair or the Vice-Chair being unable to do so the local County Councillor will be invited to perform the ceremony, but in all instances the relevant Cabinet Member should be invited, wherever possible, to play a part in the event.

Detailed guidelines outlining procedures to be followed and the involvement of local members can be obtained from the ~~Committee Secretariat &~~ **Chairs PA or the Member Services Team within Democratic Services.** Unit.

## PROTOCOL RELATING TO APPOINTMENT OF DEVON COUNTY COUNCIL (DCC) MEMBERS TO DCC JOINT VENTURE COMPANIES OR ANY DCC COMPANY

*[NB: The Procedures Committee on 7 July 2014 considered a report from the Director of Legal and Democratic Services in relation to the recent appointment of a DCC Member to a joint venture company. The purpose of this protocol (dated 11 August 2014) is to put in place arrangements in relation to the appointment process of such a Member to such a company.]*

If ~~in future~~ a Member of Devon County Council should apply for a position in relation to any joint venture company or a Devon County Council company of the Council,

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then no existing Member of Devon County Council shall be party to the appointment procedure or appointments committee.

Any Officer of the Council invited to participate in any appointments process shall be of such seniority as to be a head of service or above and shall before commencing any involvement in the appointment process seek advice of the Director of Legal and Democratic Services to determine whether or not the relationship between themselves and the Member involved is such as to prejudice the officer from any further involvement in the process. In such circumstances, should the officer need to withdraw from the process then the Council shall be represented on the panel by one of the statutory officers, namely the Chief Executive, the Director of Finance and Public Value or the Director of Legal and Democratic Services.

## **CONTACTING OFFICERS: GIVING NOTICE**

Standing Orders now provide that Members may submit questions or notices to the Chief Executive by **Teams and / or via Outlook email rather** than by letter or handwritten note.

Any **Teams or Outlook email** message to a member of staff in the **Democratic Services Committee Secretariat** and Members Services **Team Unit** will be regarded as having been sent to the Chief Executive.

Members are encouraged to use the **technology email facilities** provided to them, **such as Teams and Outlook** – as this is now the primary means of communication.

LDS/24/23  
Procedures Committee  
2 May 2024

## **Review of the Governance Working Group and Proposed Changes to the Committee Structure.**

Report of the Director of Legal and Democratic Services

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Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

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### **1) Recommendation**

1.1 That the Committee endorse the proposals of the working group for recommendation to the Council, when it appoints its committee structure, as outlined below and detailed at section 5, noting that the appointment of a new Land and Property Committee and proposed changes to the current Highways and Traffic Orders Committees are subject to separate reports on the agenda.

### **2) Background / Introduction**

2.1 As part of the wider work being undertaken to review Governance procedures in the Council, it was recommended that the Committee Structure be reviewed.

2.2 This Report highlights the Working Group's deliberations, as well as outlining proposals for the Committee's endorsement and subsequent recommendations to Council.

### **3) Governance Working Group (GWG) Considerations and Consultations**

3.1 Views were sought from the Governance Working Group, with a meeting on the 5<sup>th</sup> of February to consider the current Committee structure and which elements the Group might wish to consider. The GWG received a current structure outline and terms of reference for each Committee in the structure.

3.1 At that meeting, the Highways and Traffic Orders Committees (HATOC) were discussed at length, including the historical composition and role of District Councillors, the Locality Committees, how the Council deals with Land and Property issues such as disposal. They further considered the Public Rights of Way Committee (PROW), Transport Appeals Committee,

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Personnel Partnership, Personnel Panel, length of Scrutiny Budget meetings, Council days timings and Corporate Parenting.

3.2 The next section of the Report outlines those individual deliberations in more detail.

## **4) Matters to be reviewed**

4.1 Highways and Traffic Orders – This is subject to a separate report on the agenda, outlining the deliberations of the GWG and the proposed changes.

4.2 Land and Property - This is subject to a separate report on the agenda, outlining the deliberations of the GWG and the proposed changes. .

4.3 Public Rights of Way - It was clarified that the Public Rights of Way Committee (PROW) itself was not mandatory, but the Committee dealt with mandatory decisions. As a result, no changes were recommended and the Committee's role was not reviewed further.

4.4 Appeals Committee – Members commented that the current name did not reflect the decisions that were being made at the Committee and suggested the renaming of Appeals to School Transport Appeals.

4.5 Corporate Parenting – The GWG discussed this on the 4<sup>th</sup> March and felt that the current frequency of meetings and cycle was correct. The meeting should start at 11.15am for 1 hour and for it to be an in person meeting with Hybrid option by exception. The GWG however, wished to ensure this accorded with the thinking of the service and asked this was reviewed and this was confirmed on the 18<sup>th</sup> March 2024.

4.6 Council Day timings – The GWG heard representations from Members about the timings of Council and that it is a long day for many concerned. The GWH held this initial discussion on the 4 March and made suggestions as to whether Full Council should be spread over the whole day, whether the changes that had recently been made to try and streamline Council meetings (e.g. new processes for questions and Cabinet Member Reports) needed to be embedded first. Feedback regarding the Corporate Parenting Forum was also required before suggesting changes to the format of the day.

At the meeting on the 18<sup>th</sup> March, the GWG received benchmarking data on other Shire Counties in terms of Council start times, end times and length of meetings in 2023/24. This showed that the majority of other Councils started their full council meetings during the morning, which would not work at Devon due to Corporate Parenting on the same day. The GWG recommended to revisit this matter after the AGM when the new procedures have bedded in to ascertain the impact on the length of meetings.



4.7 Scrutiny Budget meetings – The GWG first raised this matter at its meeting on the 5<sup>th</sup> February, highlighting these were exceptionally long days and the subsequent impact on both officers and Councillors. A Report was then brought back to the group on the 4<sup>th</sup> March which reflected on the Budget Scrutiny process held in January 2024 for consideration for 2024/25 financial year. This provided context on what went well but also what might need review. The Report also included the views of the Scrutiny Chairs and Vice Chairs.

A number of suggestions were explored including reforming the Masterclass system, agenda management, whether separate days for the ordinary meeting and the budget would be more beneficial, the timings of briefings, travelling time for Members, adequate breaks etc.

Based on the Report and feedback from the Scrutiny Chairs and Vice Chairs, it was recommended that the all day meetings continued but with the special adviser meeting taking place in advance of the meeting. Also that the budget meeting started earlier in the morning and that the afternoon meeting had improved agenda management with fewer items on the agenda (where possible) to allow for a meaningful and timely meeting.

4.8 Locality Committees – At the GWG meeting on the 5<sup>th</sup> February, Members commented that the Locality Committees rarely met and that its initial intention for establishment had been overtaken by revised practices with locality budgets. At face value, it appeared the committee currently served no specific function. Meetings were typically cancelled or functioned as a discussion meeting only. Members were minded to recommend ceasing the Committee's but asked for further benchmarking data and an analysis of terms of reference and membership.

This was reviewed on the 4<sup>th</sup> March 2024. Additional membership included one observing DALC member and two non-voting District Councillor representatives.

The frequency of meetings over the last 2 years showed only 4 meetings having occurred, with three of those in Teignbridge who had previously received regular briefings from Network Rail on the rail line at Dawlish, which was now complete.

A number of County Councils had been benchmarked and not one Authority had locality / county / area committees (Dorset, Gloucestershire, Hampshire, Kent, Lancashire, Norfolk, Nottinghamshire, Oxfordshire, Surrey and East Sussex). Wiltshire, being a large unitary had Area Boards. West Sussex had County Local Forums, established in September 2021, which aimed to provide residents with the opportunity to participate in discussions on issues specific to their area, and question-and-answer sessions with local Councillors. It was trialled for one year and following an evaluation of the forums, the Council determined they be ceased, with Members supported to use other channels to engage with their residents. It was interesting to note

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that Members felt they had not worked well, tending to be dominated by highways issues.

The Locality Development Officers, who have traditionally been the lead officers for Locality Meetings have been consulted and feel they are of limited value. When Locality Committees started, one of the key aims was to put some structure around the Locality Budgets when they were very first introduced with Members agreeing and signing off successful grants between them. The process has now changed for this.

Attendance was sporadic, with Members often having other commitments after the HATOC;s, therefore not staying for the Locality meetings.

The current terms of reference are below.

- 1) To receive briefings from and discuss with the relevant Locality Development Officer (who will act as Lead Officer to the Committee) and with other officers as necessary specific service and community issues and projects within the district and to make recommendations to the Cabinet on appropriate action.
- 2) To improve information and communication with the public about its access to County Council services in the area and to monitor its performance in the delivery of these services.
- 3) To develop and ensure effective partnership working with the City, District or Borough Council (as the case may be) and other partners in the discharge of local functions.
- 4) To undertake any additional responsibilities and allocate budgets which may be delegated by the Cabinet from time to time.
- 5) To consider, if required, any grant or award proposed by individual members from locality budget funds allocated by the Cabinet in line with the Locality Budget Operating Principles set out at Section Four hereunder.
- 6) To express a vision for the areas reflecting cohesion principles and community views, demonstrate understanding of the make-up of the community and champion the participation of under-represented groups and promote integration of different groups.
- 7) To administer those educational trusts in the Committee's area for which the County Council is Trustee.

The GWG felt it was appropriate to recommend that Locality Committees are not reappointed at the AGM.

4.9 Personnel Partnership - the GWG at its meeting on the 5<sup>th</sup> February heard about the role and remit of the Personal Partnership.

Personnel matters – save those issues dealt with by the Appointments, Remuneration and Chief Officer Conduct Committee, are meant to be dealt with by a Personnel Partnership (comprising an equal number of elected members and staff representatives with the Chairing alternating annually between a Member and a staff representative) and a Personnel Panel.

This partnership collaborates with staff representatives and acts as the forum for discussion of employee relations matters. It does not consider matters relating to individual employees (discipline, grievance, promotion or capability)

It is in place to seek to resolve issues referred to it by the Corporate Forum, through consensus. The forum rarely meets and had its last meeting in 2019.

The GWG heard that a failure to agree Policy might be another option to resolve issues, other than the partnership, and this would be subject to TU negotiation for agreement of the Policy.

Work was ongoing with the Director of Legal and Democratic Services and the Director of People and Culture on proposals and benchmarking to prepare a draft document.

At the GWG meeting on the 15<sup>th</sup> April, Members of the group were content to recommend that the partnership is not reappointed and that a failure to agree policy be negotiated with the Unions.

4.10 Personnel Panel - the GWG noted that this Panel was one to which Members attended to make decisions on staffing appeal issues (dismissal / discipline). Its terms of reference were simply to determine appeals under the Council's appeals procedures, as appropriate.

Members involved in the Panels advised these were complex cases and there was a question as to whether Members should be involved in staffing issues. The consensus was that they should not.

At the meeting on the 4 March, Members of the GWG were of the view that the Personnel Panel should not be reappointed and that the process should be dealt with at Director level (not the Director of the relevant service area) for future appeals. A revised process is being developed and will be consulted upon with the Trade Unions.

## **5) Recommendations**

5.1 Appeals Committee – consider renaming the Appeals Committee to School Transport Appeals Committee.

# Agenda Item 7

5.2 Corporate Parenting – to note that the current frequency of meetings and cycle is felt to be fit for purpose.

5.3 Council Day timings – to note the intention to revisit this matter after the AGM when the new procedures for Member questions and Cabinet Member Reports have been in place to see the impacts on the length of meeting.

5.4 Scrutiny Budget meetings – to note the views of the Scrutiny Chairs and Vice Chairs that all day meetings will continue but with revised arrangements on starting times, briefing meetings and improved agenda management.

5.5 Locality Committees – to 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.

5.6 Personnel Partnership – to 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.

5.7 Personnel Panel - – to 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.

## **6) Strategic Plan**

6.1 This proposal aligns to the Council's Strategic Plan 2021 – 2025. The proposal supports the commitment of ensuring that the Council makes good decisions and is transparent and supports being a trusted and inclusive Council that hears the voices of communities and listens and learns.

## **7) Financial Considerations**

7.1 There are no financial considerations.

## **8) Legal Considerations**

8.1 Under Section 37 of the Localism Act 2011, the Council must prepare and keep up to date a Constitution. The proposed arrangements would not compromise this requirement. In addition, Council will be asked to appoint Committees in line with the requirements of the Local Government Act 1972 and principles of the Local Government and Housing Act 1989.

**9) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)**

9.1 There are no environmental related issues.

**10) Equality Considerations**

10.1 There are no equality related issues.

**11) Risk Management Considerations**

11.1 No risks have been identified.

**12) Summary / Conclusions / Reasons for Recommendations**

12.1 The Procedures Committee is asked to endorse the detailed work of the Governance Working Group by recommending the proposals to the Council for adoption. The recommended changes have been carefully considered and are therefore commended to the Committee.

**Name** - Director of Legal and Democratic Services – Maria Price  
**Cabinet Member** – **Andrew Saywell** (Organisational Development, Workforce & Digital Transformation)  
**Electoral Divisions:** All

**Local Government Act 1972: List of background papers**

NIL

**Contact for enquiries:** Karen Strahan: 01392 382264, G31, County Hall, Exeter, EX2 4QD.



LDS/24/21  
Procedures Committee  
2 May 2024

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

Report of the Director of Legal and Democratic Services

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Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

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### **1) Recommendation**

That the Committee endorse the suggested changes to the Committee currently known as the Highways and Traffic Orders Committee, as outlined at section 10 and recommend the revised title, terms of reference, voting permissions and membership to the Council, making the necessary amendments to the Constitution (3b – terms of reference) and website.

### **2) Background / Introduction**

2.1 As part of the wider work being undertaken to review Governance procedures in the Council, it was recommended that the Committee Structure be reviewed.

2.2 As part of that review, it was suggested that the role, remit and membership of the Highways and Traffic Orders Committees be explored.

2.3 Membership of HATOCs was fixed in 2003 (agreed by Procedures Committee), with District Council representation in the Membership. The Report, at that time, did not specify the matter of voting rights.

2.4 Members of HATOC's have the right to place items on agenda in line with the Standing Orders for their respective Committee.

2.5 Members of Town and Parish and other District Councillors covered by the area of the HATOC can register to speak on any agenda item on the HATOC, with the consent of the Committee, giving 24 hours' notice.

### **3) Consultations and Representations**

3.1 Views were sought from the Governance Working Group and service area. The views of the service are weaved throughout this Report.

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## 4) Governance Working Group (GWG) Considerations

4.1 A Report to the GWG (4 March 2024) gave a high-level introduction to the terms of reference and membership, gave benchmarking data, number and frequency of meetings, and a number of other matters for the GWG to consider (use of standing orders and placing items on agenda, use of the Committees time, location of meetings, costs and membership).

4.2 The GWG discussed the matter at length at this meeting and reviewed the effectiveness of each of the HATOC's, the role voting District Councillors played in decision making at Committee meetings. They also considered if HATOC's were to remain, then the importance of determining their remit and ensuring terms of reference were fit for purpose. This meant that further consideration had to be given to the scheme of delegation and the terms of reference of other Committees to ensure there was no duplication.

4.3 Members also noted that whatever decision the Council made regarding Membership of the HATOCs, the District (and Town / Parish) Councillors would still be able to speak on an item at the HATOC, with the consent of the Committee, having only given 24 hours' notice. Members were not minded to change this provision.

4.4 The GWG noted that the Exeter HATOC worked a little differently than other HATOCs and therefore the practicalities of treating Exeter differently to others HATOC's was explored.

4.5 Members agreed at that meeting that the views of the service be obtained, membership issues be revisited, that a comparison with the scheme of delegation and the terms of reference of the Committee be provided to ensure they were complementary and not duplicated and revisit the thresholds for schemes, given they had not been reviewed for a number of years and inflation had a large impact on the cost of schemes. It was also noted that a number of HATOCs were cancelled due to lack of business. The number of schemes that came in under the £250,000 threshold (the sum delegated to HATOCs) had reduced over time, giving the Committee less work to undertake.

4.6 Members received a further report at its meeting on 15 April 2024. This provided further clarity on how voting rights came into being for District Councillor representatives, proved a comparison with the terms of reference for the HATOCs and the scheme of delegation which showed duplication with other Committees and also the scheme of delegation and consideration of financial limits.

4.7 Members discussed the title of the HATOC's, noting that it was misleading and encouraging constituents to contact Local Members, raising local Highways matters which were not really within the remit of the Committee. Members felt renaming the Committee and losing the terms Highways from the title might help with this misnomer.

4.8 Further discussions were held on the voting rights of District Council. With regard to this, Members favoured a common approach across the HATOC's (except Exeter). The consensus (with one Member opposed) was to have one District Councillor rep per HATOC with no voting rights. For Exeter, there would be two city Councillor representatives, on the basis that there would be no DALC or Town representative. Names substitutes would be permitted to ensure full engagement, but



these needed to be agreed in advance at the point of appointment to the post. Part of this rationale for removing voting rights was that District Councillors had no democratic mandate to vote on Highways issues and of course the HATOCs are not joint Committees, where often functions would be delegated from both parties. Members also wished to see District Council representatives attend HATOC's with a strategic view on the matters up for debate, rather than a focus on ward issues, representing the District as a whole.

4.9 Members also wished for DALC representatives to still be members of the HATOC, but with no voting rights as is currently the case. The GWG would wish to see better engagement with DALC so there would be further work to undertake in this regard. The service area were also keen for improved engagement with DALC for those crucial links with communities.

4.10 Members also felt the agenda for HATOC's should be driven by the County Council, therefore wished to remove the right of District and DALC representatives to place items on the agenda. The right to attend and speak still remains, but this was to ensure meetings were focussed and business driven.

## **5) Benchmarking**

5.1 Benchmarking of 19 other upper tier authorities showed a mixed picture, although there were very few like Committees.

5.2 Wiltshire had area boards and also areas planning Committees (although it is noted they are a unitary authority), which included Public rights of way, including modification of the definitive map and the regulation of the use of the highway. Gloucester previously had a Traffic Regulation Committee to respond to consultation upon executive proposals for traffic regulation orders to which valid objections had been received, not been resolved or withdrawn. However, the Committee had not met in over 3 years.

5.3 A number had no specific committee (e.g Lancashire, Worcestershire) and it appeared to be the responsibility of the cabinet – with no other delegation of function. Others had all the functions delegated to the relevant Director or Assistant Director (East and West Sussex, Derbyshire), whilst a number held Cabinet Member decision days (Hampshire, Surrey) or Cabinet Panels which were more advisory bodies (Hertfordshire, Oxfordshire and Kent).

## **6) Terms of Reference**

6.1 The current terms of reference are outlined in section 3b of the Constitution and are replicated below for ease of reference.

Within the general strategy, policies and operating procedures of the Council to exercise the following powers of the Highway Authority delegated by the Cabinet:

- 1) To develop, approve details and monitor and implement the Statutory Devon Local Transport Plan local area improvement programmes, up to a value [works costs] of £250,000.

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- 2) To approve details and implement improvement schemes from the Statutory Devon Local Transport Plan, countywide, sub-regional and local safety scheme programmes, up to a value [works costs] of £250,000.
- 3) To approve details and implement Traffic Regulation Orders, and schemes for the control of parking on the highway and to be involved in the development of proposals for park and ride schemes.
- 4) To comment on proposals by third parties to stop up or divert highways and stop up private means of highway access.
- 5) To control the use of highways by the granting of consents, approvals, licences, minor property rights in connection with operations, uses or activities on, under, over or adjacent to the highway.
- 6) To ensure the effectiveness of the maintenance of highways, bridges and street lighting.
- 7) To consider and approve proposals for the making up of private streets.
- 8) To maintain an overview on issues relating to repeated obstruction of the highway and advise when action to enforce public rights of way may be considered appropriate.
- 9) To approve the establishment or deletion of school crossing patrol sites, within the criteria and budget defined by the Council.
- 10) To approve the revocation of New Street Orders.
- 11) To approve applications to the Magistrates' Court for the stopping-up or diversion of a public highway.
- 12) To make all the Orders required to implement a highway or transportation scheme approved by the Cabinet recognising that if, following public advertisement of such an Order, a HATOC has concerns about a proposal it should refer it to the Cabinet for final determination.
- 13) To make Gateway Orders under the Clean Neighbourhood Act 2005.

## 7) Membership

7.1 The current Membership of the HATOC Committees is outlined below.

<b>EAST DEVON HATOC (11)</b>
HATOC Additional Members (3) (v)
DALC Member (Observer): (1) (nv)

<b>MID DEVON HATOC (6)</b>
HATOC Additional Members (2) (v)
DALC Member (Observer): (1) (nv)

<b>NORTH DEVON HATOC (8)</b>
HATOC Additional Members (3) (v)
DALC Member (Observer): (1) (nv)

<b>SOUTH HAMS HATOC (7)</b>
HATOC Additional Members (2) (v)
DALC Member (Observer): (1) (nv)

<b>TEIGNBRIDGE HATOC (10)</b>
HATOC Additional Members (3) (v)
DALC Member (Observer): (1) (nv)

<b>TORRIDGE HATOC (5)</b>
HATOC Additional Members (2) (v)
DALC Member (Observer): (1) (nv)

<b>WEST DEVON HATOC (4)</b>
HATOC Additional Members (2) (v)
DALC Member (Observer): (1) (nv)

<b>EXETER HATOC (9)</b>
HATOC Additional Members (4) (v)

7.2 HATOCs were the successor of the former Partnership Committees. Members are asked to note that former Partnership Committees were Joint Committees, but the HATOCs only have a remit for functions of the County Council rather than as a joint committee where often functions are delegated from both parties.

## 8) Frequency

8.1 The GWG reviewed the frequency of meetings over the last 2 years and this is outlined below. The usual frequency is 3 times per year, with the exception of Exeter which has 4 scheduled.

	No. of Meetings	
	2022	2023
East Devon	3	2
Exeter	*6	**5
Mid Devon	3	3
North Devon	2	2
South Hams	2	2
Teignbridge	3	3
Torrige	2	2
West Devon	2	1

\* includes 2 special meetings

\*\* includes 1 special meeting

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## 9) Terms of Reference and Duplication with Schemes of Delegation

9.1 The GWG asked that a comparison be undertaken with the scheme of delegation. The work is attached for reference at appendix 1. The proposed changes to terms of reference arising from this work is outlined in section 10 of the Report.

## 10) Recommended Options for Endorsement of the Committee

10.1 Recommend retaining the Highways and Traffic Orders Committee (but with name change).

10.2 Recommended removal of District Councillors as voting Members on all HATOCs – BUT invite 1 District Councillor per District to be a non-voting Member of the Committee (2 in Exeter)

10.3 Remove the ability of District Councillors to place items on agenda in line with the Standing Orders.

10.4 Retain the DALC representation (non-voting as is currently the case) – but reframe the role and work with DALC to get improved engagement and feedback.

10.5 Retain the meetings within the District Council areas, where possible.

10.6 Retain the current frequency (3 x per year and 4 for Exeter) – noting there is provision to move meetings and special meetings if timings do not align with schemes.

10.7 That the title of the HATOC be renamed – options below.

- Local Transport Improvement Committee
- Local Transport Schemes Committee
- [Teignbridge/Exeter/East Devon etc] Local Transport Committee
- Local Infrastructure and Transport Management Schemes (LITMaS)
- Local Infrastructure and Traffic Management and Orders Committees (LITMOC).

10.8 Terms of Reference - amendments to be made as follows.....

1. To develop, approve details and monitor and implement the Statutory Devon Local Transport Plan local area improvement programmes, up to a value [works costs] of ~~£250,000~~ **£500,000**.
2. To approve details and implement improvement schemes from the Statutory Devon Local Transport Plan, countywide, sub-regional and local safety scheme programmes, up to a value [works costs] of ~~£250,000~~ **£500,000**.
3. To approve details and implement Traffic Regulation Orders, and schemes for the control of parking on the highway and to be involved in the development of proposals for park and ride schemes.
4. To comment on proposals by third parties to stop up or divert highways and stop up private means of highway access.
5. ~~To control the use of highways by the granting of consents, approvals, licences, minor property rights in connection with operations, uses or~~

~~activities on, under, over or adjacent to the highway.~~ (Duplication - would need each HATOC to meet fortnightly to deal with this. Issues are of a technical/or legislative issue therefore should be dealt with operationally at officer level)

- ~~6. To ensure the effectiveness of the maintenance of highways, bridges and street lighting.~~ (this is a function of Scrutiny and should be strategic rather than local)
7. To consider and approve proposals for the making up of private streets.
8. To maintain an overview on issues relating to repeated obstruction of the highway and ~~advise when action to enforce public rights of way may be considered appropriate~~ (this strays into the remit of PROW).
- ~~9. To approve the establishment or deletion of school crossing patrol sites, within the criteria and budget defined by the Council.~~ (very few, therefore no longer relevant)
10. To approve the revocation of New Street Orders.
11. To approve applications to the Magistrates' Court for the stopping-up or diversion of a public highway.
12. To make all the Orders required to implement a highway or transportation scheme approved by the Cabinet recognising that if, following public advertisement of such an Order, a HATOC has concerns about a proposal it should refer it to the Cabinet for final determination.
13. To make Gateway Orders under the Clean Neighbourhood Act 2005

10.9 Moving forward, there will need to be a more robust approach to ensuring items placed on the Committee agenda are within the scope of the terms of reference and to note that work is ongoing with Member Engagement to improve communication with Members in getting Service issues resolved. This will ease some frustrations and prevent meetings being used to resolve such issues when they should be dealt with elsewhere.

## **11) Strategic Plan**

11.1 This proposal aligns to the Council's Strategic Plan 2021 – 2025. The proposal supports the commitment of ensuring that the Council makes good decisions and is transparent and supports being a trusted and inclusive Council that hears the voices of communities and listens and learns.

## **12) Financial Considerations**

12.1 There are no financial considerations.

## **13) Legal Considerations**

13.1 Under Section 37 of the Localism Act 2011, the Council must prepare and keep up to date a Constitution. The proposed arrangements would not compromise this requirement.

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## **14) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)**

14.1 There are no environmental related issues.

## **15) Equality Considerations**

150.1 There are no equality related issues.

## **16) Risk Management Considerations**

16.1 No risks have been identified.

## **17) Summary / Conclusions / Reasons for Recommendations**

17.1 The Procedures Committee is asked to note the work of the Governance Working Group in undertaking this review. The recommended changes to the currently known Highways and Traffic Orders Committee have been carefully considered and are therefore commended to the Committee for their endorsement and subsequent recommendation to Council.

**Name** - Director of Legal and Democratic Services – Maria Price  
**Cabinet Member – Andrew Saywell** (Organisational Development, Workforce & Digital Transformation)  
**Electoral Divisions:** All

### **Local Government Act 1972: List of background papers**

NIL

**Contact for enquiries:** Karen Strahan: 01392 382264, G31, County Hall, Exeter, EX2 4QD

## HATOC Terms of Reference vs Director of Climate Change, Transport and Environment Scheme of Delegation

### HATOC TERMS OF REFERENCE

Within the general strategy, policies and operating procedures of the Council to exercise the following powers of the Highway Authority delegated by the Cabinet:

- 1) To develop, approve details and monitor and implement the Statutory Devon Local Transport Plan local area improvement programmes, up to a value [works costs] of £250,000.
- 2) To approve details and implement improvement schemes from the Statutory Devon Local Transport Plan, countywide, sub-regional and local safety scheme programmes, up to a value [works costs] of £250,000.
- 3) To approve details and implement Traffic Regulation Orders, and schemes for the control of parking on the highway and to be involved in the development of proposals for park and ride schemes.
- 4) To comment on proposals by third parties to stop up or divert highways and stop up private means of highway access.
- 5) To control the use of highways by the granting of consents, approvals, licences, minor property rights in connection with operations, uses or activities on, under, over or adjacent to the highway.
- 6) To ensure the effectiveness of the maintenance of highways, bridges and street lighting.
- 7) To consider and approve proposals for the making up of private streets.
- 8) To maintain an overview on issues relating to repeated obstruction of the highway and advise when action to enforce public rights of way may be considered appropriate.
- 9) To approve the establishment or deletion of school crossing patrol sites, within the criteria and budget defined by the Council.
- 10) To approve the revocation of New Street Orders.
- 11) To approve applications to the Magistrates' Court for the stopping-up or diversion of a public highway.
- 12) To make all the Orders required to implement a highway or transportation scheme approved by the Cabinet recognising that if, following public advertisement of such an Order, a HATOC has concerns about a proposal it should refer it to the Cabinet for final determination.
- 13) To make Gateway Orders under the Clean Neighbourhood Act 2005

## SCHEDULE OF DELEGATED POWERS - DIRECTOR OF CCET

Jointly responsible with the Chief Executive and other Directors for the overall performance of the Council and its workforce and in setting the strategic direction of the Council, integrating resources and utilising external partner relationships.

Responsible for the maintenance and management of the local highway network and related assets and infrastructure and the provision of public rights of way; including the promotion of and support for any transport related safety issues. Responsible for developing and delivering the Council's Waste Strategy and Policies to comply with all statutory duties placed on the Council as Waste Disposal Authority. Direct and manage the commissioning of consultancy services for transportation, civil engineering, construction management, programme development and programme and project monitoring delivery and determining future development models for services to improve efficiencies in the delivery of strategic outcomes.

The Council's Traffic Manager under the Traffic Management Act 2004.

Responsible also for directing strategic policy formulation, commissioning and review including strategic, waste and minerals planning, transportation, flood risk management, education (provision of sufficient and suitable school places) and infrastructure planning generally and managing all aspects of passenger transport through the Transport Coordination Service.

Responsible for the Council's statutory development management role as planning, education and transport authority including the promotion of and support for transport related safety issues.

Also, developing the Council's community leadership role in relation to the countryside, climate change and carbon reduction and support the conservation and enhancement of Devon's natural and historic environment and promote and improve access to and understanding of the countryside including countryside management.

### **TO THE DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT**

1. To trade permits, as and when required, through the Waste Management Earmarked Reserve to ensure the Council complies with the Landfill Allowance Trading Scheme.
2. To engage consultants in connection with waste disposal matters.
3. To take appropriate action for the provision of waste management facilities when it appears expedient to do so.
4. To take such urgent action as may be necessary to deal with any case of methane migration from landfill sites.
5. To authorise entry to land under Section 287 of the Public Health Act 1936 to ascertain suitability for waste disposal purposes.
6. To approve expenditure for recycling projects up to a cash limit of £1,000.



7. To take all actions necessary and to authorise other officers as appropriate to serve notices and grant authorisations under the provisions of the Highways Act 1980.
8. To take all actions necessary and to authorise other officers as appropriate to serve notices and grant authorisations under the provisions of the Traffic Management Act 2004.
9. To make Modification Orders for public rights of way in respect of (a) obvious administrative errors where applicable and (b) in respect of historic routes; as set out in Report HCW/16/47 endorsed by the Public Rights of Way Committee on 8 July 2016.
10. To review periodically the charge for Public Path Orders and to apply such increases as may from time to time appear to be reasonable.
11. To approve the design and siting of bus shelters and settle terms of agreements for the removal of shelters and display advertisements.
12. To authorise street closures, signing, bunting in connection with street parties/official celebrations.
13. To authorise emergency closures, weight restrictions etc., on county bridges.
14. To implement small schemes costed at less than £50,000 in the Devon Local Transport Plan and to vary the programme as necessary in line with DLTP objectives, to maximise delivery.
15. To remove unauthorised signs on/adjacent to the Highway in accordance with Policy and charge for such removal.
16. To make, in consultation with the appropriate Cabinet Member any change to operational procedures of the highway winter service policy/practice.
17. To approve any changes in project costs of schemes included in the approved Capital Programme for schools up to a maximum of £100,000 per scheme, in consultation with the Chief Finance Officer and the relevant Cabinet Member.

#### Transport Co-ordination Service

1. To authorise expenditure on experiments, publicity, grants, subsidies, tendering and capital schemes in connection with Public Transport Support and Development.
2. To take all necessary action to comply with the Bus Service Tendering Regulations 1985.
3. To negotiate revenue payments with bus service operators for journeys on the approved network.
4. To approve the Vehicle Replacement Programme for vehicle purchases for all Directorates after consultation with the Chief Finance Officer.
5. To plan and manage operational aspects of school, social care and NHS transport and contract compliance.

#### **TO EITHER DIRECTOR OF CLIMATE CHANGE, ENVIRONMENT AND TRANSPORT OR DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES IN RESPECT OF HIGHWAYS AND TRAFFIC ORDERS FUNCTIONS**

1. To advertise and/or implement all Traffic Orders after consultation with the Chair of the relevant HATOC and local County Councillor(s) in line with the agreed 'Processes for Implementation of the Local Transport Plan' submitted to HATOCs, from time to time; provided that where a Traffic Order relates to a county-wide matter, only after consultation with the relevant Cabinet Member.

2. To advertise Gateway Orders after consultation with elected members as outlined in the processes for implementation of the Local Transport Plan and to implement such Orders where there have been no objections.
3. To make temporary traffic regulation orders.
4. To grant consents, approvals, licences and minor property rights in connection with operations on under over or adjacent to the highway.
5. To protect the rights of the public to use highways safely.
6. To consult on the schemes on the agreed priority list in conjunction with local members prior to bringing forward the schemes for formal approval as necessary.
7. To receive petitions and undertake consequent investigations/actions thereon as they may relate to Traffic Orders, the administration of the Advance Payment Code, the private street works procedure and the making of highway agreements arising from development proposals.
8. To institute, defend and conduct any legal proceedings, criminal or civil or any process before any court or other tribunal in connection with highway matters and to settle any claim.
9. To authorise the entry onto land for the purpose of survey or to maintain any structure on, over or under such land.
10. To make improvements within or adjoining the highway up to a value of £50,000 (works) including land acquisition within specific allocations made to projects in the approved works list, all maintenance works and markings.
11. To express a technical view when consulted by other organisations on minor issues such as Pavement Cafe licences and to take any necessary administrative action in connection therewith.

HATOC Terms of Reference	Relevant Director Schedule of Delegation power	Comparison
To develop, approve details and monitor and implement the Statutory Devon Local Transport Plan local area improvement programmes, up to a value [works costs] of £250,000.	To implement small schemes costed at less than £50,000 in the Devon Local Transport Plan and to vary the programme as necessary in line with DLTP objectives, to maximise delivery.	Both have 'Implement' in their wording and different figures – HATOC up to £250,000 and Director up to £50,000 -
To approve details and implement improvement schemes from the Statutory Devon Local Transport Plan, countywide, sub-regional and local safety scheme programmes, up to a value [works costs] of £250,000		
To approve details and implement Traffic Regulation Orders, and schemes for the control of parking on the highway and to be involved in the development of proposals for park and ride schemes.	To make temporary traffic regulation orders.	Similar in nature – HATOC approves but DCCET makes the official order
To comment on proposals by third parties to stop up or divert highways and stop up private means of highway access.	To respond to consultations from the Secretary of State in respect of proposals to stop up or divert a public highway under the Town & Country Planning Act 1990, subject to consultation with the local County Councillor and provided that proposals which appear to HoPTE to be major or controversial are referred to the relevant Cabinet Member for consideration	Both have powers to respond to plans to 'stop up' or divert a public highway.
To control the use of highways by the granting of consents, approvals, licences, minor property rights in connection with operations, uses or activities on, under, over or adjacent to the highway.	To grant consents, approvals, licences and minor property rights in connection with operations on under over or adjacent to the highway.	Similar in nature – both have powers to grant consents, approvals etc.
To ensure the effectiveness of the maintenance of highways, bridges and street lighting.	Responsible for the maintenance and management of the local highway network and related assets and infrastructure and the provision of public rights of way.	HATOC has more of a checking/assurance role in this, but should this be for Scrutiny ??
To consider and approve proposals for the making up of private streets.	1) To receive petitions and undertake consequent investigations/actions thereon as they may relate to Traffic Orders, the administration of the	

HATOC Terms of Reference	Relevant Director Schedule of Delegation power	Comparison
	<p>Advance Payment Code, the private street works procedure and the making of highway agreements arising from development proposals.</p> <p>2) To administer the Advance Payment Code, the private street works procedure and the making of highway agreements arising from development proposals.</p>	
<p>To maintain an overview on issues relating to repeated obstruction of the highway and advise when action to enforce public rights of way may be considered appropriate.</p>	<p>N/A</p>	
<p>To approve the establishment or deletion of school crossing patrol sites, within the criteria and budget defined by the Council.</p>	<p>N/A</p>	
<p>To approve the revocation of New Street Orders</p>	<p>N/A</p>	
<p>To approve applications to the Magistrates' Court for the stopping-up or diversion of a public highway.</p>	<p>N/A</p>	
<p>To make all the Orders required to implement a highway or transportation scheme approved by the Cabinet recognising that if, following public advertisement of such an Order, a HATOC has concerns about a proposal it should refer it to the Cabinet for final determination.</p>	<p>To advertise and/or implement all Traffic Orders after consultation with the Chair of the relevant HATOC and local County Councillor(s) in line with the agreed 'Processes for Implementation of the Local Transport Plan' submitted to HATOCs, from time to time; provided that where a Traffic Order relates to a county-wide matter, only after consultation with the relevant Cabinet Member.</p>	<p>HATOC makes Orders, DCCET advertises them</p>
<p>To make Gateway Orders under the Clean Neighbourhood Act 2005.</p>	<p>To advertise Gateway Orders after consultation with elected members as outlined in the processes for implementation of the Local Transport Plan and to implement such Orders where there have been no objections.</p>	<p>HATOC makes Orders, DCCET advertises them</p>



