

GOOD GOVERNANCE IN LOCAL GOVERNMENT

Report of the Leadership Group

Recommendation: that the draft Governance Statement be approved;

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The Council is required, annually, to prepare and publish a Governance Statement in accordance with CIPFA/SOLACE guidance and comply the Accounts and Audit (England) Regulations 2015, as amended, reviewing its system of internal controls in line with best practice. The Council is required to publish the statement alongside the Annual Statement of Accounts.

This will be the eleventh year for which the Council is required to produce a Governance Statement. Revised guidance issued during 2016 (based on the International Framework: *Good Governance in the Public Sector (CIPFA/IFAC, 2014)*) interpreted for a local government context incorporates revised core principles and sub-principles of good governance which form the basis of the accompanying, detailed schedule adapted from the International Framework.

It is a matter ultimately for individual Councils how to set out its commitment to the principles of good governance included in its Governance Framework and structures and to demonstrate how it operates effectively in practice. In line with advice from the External Auditor the Annual Governance Statement should be considered and signed-off by this Committee in parallel with the Council's Statement of Accounts.

As before and in recommending the adoption of the attached Annual Governance Statement the Leadership Group, Chief Officers and Heads of Service confirm that the organisational, financial, compliance and operational key controls referred to therein and the accompanying schedule continue to be appropriate and that statements of internal control which support the content of this Statement have operated, effectively, during the year in question.

This Report and the accompanying Statement have no specific equality, sustainability, public health or legal implications that are not already covered by or subsumed within the detailed policies or actions referred to therein.

**[Electoral Divisions: All]**

Local Government Act 1972: List of Background Papers

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| <u>Background Paper</u> | <u>Date</u> | <u>File Reference</u> |
|-------------------------|-------------|-----------------------|
| Nil                     |             |                       |

## **DEVON COUNTY COUNCIL Annual Governance Statement 2017/18**

### **Purpose of Annual Governance Statement**

To achieve good governance, a Council must not only take account of the legislative and constitutional arrangements that underpin them but should use all means at its disposal to explain to the community, service users, tax payers and other stakeholders how its governance arrangements work and how the controls it has in place manage risks of failure in delivering its outcomes.

An Annual Governance Statement should therefore provide a meaningful communication regarding the review of governance that has taken place, including the role of the governance structures involved (such as the authority, the audit and other committees). It should be high level, strategic and written in an open and readable style, in line with CIPFA guidance.

The County Council's Annual Governance Statement:

- a) acknowledges responsibility for ensuring there is a sound system of governance incorporating systems of internal control;
- b) recognises and assesses the effectiveness of key elements of the governance framework, including joint arrangements where appropriate and the roles of the Council, its Cabinet, Audit and other Committees as appropriate;
- c) provides an opinion on the level of assurances that the Council's governance arrangements can provide;
- d) recognises and reflects upon any appropriate action(s) identified or required in earlier Statements, and commits to monitoring any action(s) require as part of this Statement.

### **Scope of Responsibility**

Devon County Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. The County Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In discharging this overall responsibility, the County Council is responsible for putting in place proper arrangements for the governance of its affairs to facilitate the effective exercise of its functions and manage risk.

The County Council has approved and adopted a code of corporate governance which is consistent with the principles of the CIPFA/SOLACE Framework *Delivering Good Governance in Local Government* (2016). The Annual Governance Statement explains how the Council has complied with the code and also meets the requirements of the Accounts and Audit Regulations 2015.

### **Purpose of the Governance Framework**

The governance framework comprises the systems, processes, culture and values by which the Council is directed and controlled, and the activities through which it accounts to, engages with and leads the community. It enables the Council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost-effective services.

The system of internal control is a significant part of the framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing achievement of the Council's policies, aims and objectives, to evaluate the likelihood of those risks not being realised - and the impact should they be realised - and to manage them efficiently, effectively and economically.

Satisfactory controls to support statements made in this Annual Governance Statement are essential and in endorsing it the Council's officers confirm that input to systems and processing of transactions is complete for the financial year ended 31 March 2018 and that there were no material or significant delays or backlogs of either input or processes that would result in financial or other records being incomplete.

The Council's financial management arrangements also conform with the CIPFA/SOLACE guidance on the role of the Chief Financial Officer in Local Government (2010), enabling the County Treasurer to operate in line with the 5 principles set out in the 'Application Note Delivering Good Governance in Local Government: A Framework' to operate effectively and perform her core duties demonstrating commitment to good practice in governance and financial management.

### **The Governance Framework – The Council's Constitution**

The Constitution is fundamental to the working of the County Council and transcends the core principles and sub principles of corporate governance in the CIPFA/SOLACE Framework which form the basis of the attached schedule. Many of the structures and processes referred to here are readily available either through the Constitution or in the Council's website.

The Constitution is the Council's Code of Corporate Governance. Framed in accordance with statute and Government guidance, it has evolved in the light of experience and subsequent legislation. It sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.

The Constitution is the guarantor of the continuing openness, accountability and integrity of the Council's decision-making processes and sets a series of exacting standards against which the Council's actions can be judged and, if necessary, challenged.

The Constitution is at the heart of the Council's business:

- a) it allocates power and responsibility within the Council and between it and partner organisations;
- b) it delegates authority for specific issues to act to the Leader, Committees, Cabinet Members and officers;
- c) it enables the people of Devon to access information and ask questions or make representations or submit petitions at certain meetings;
- d) it sets down the procedures by which the people of Devon may give their views on the key decisions which the Council's Cabinet is to take;
- e) it regulates and identifies standards for the behaviour of individuals and groups through codes of conduct (including interests, conflicts of interest and whistleblowing), protocols and standing orders.

The Constitution comprises 16 Articles setting out the basic rules governing all aspects of the working of the Council (Part 2) and is then divided up into:

- a) the elements which define the Council's internal organisation, standing orders, financial regulations, schemes of delegation and terms of reference, procedures covering Cabinet and Scrutiny, Risk Management and Codes of Business and Personal Conduct – for Members and Officers (parts 3-9);

- b) working practices which supplement these formal rules (Part 10);
- c) The Framework of Corporate Guidance, which includes other Devon County Council strategies and plans (Part 11).

In formulating its Constitution in 2002, the Council adhered closely throughout to the framework presented in Government's *Modular Constitutions for English Local Authorities*, enabling it to produce a document which was logical, integrated and accessible to members, officers, citizens and others interested in the way a local authority makes decisions and governs itself and its area. Then and subsequently, wherever legislation permitted local choice, the Council has framed its Constitution to take advantage of the most open and inclusive of the available options.

The Constitution is designed to meet all the necessary statutory requirements for instruments of governance and to include matters traditionally covered by local authority standing orders, financial regulations, schemes of delegation and terms of reference. It also contains the elements necessary to describe the Council's Executive arrangements in a single, coherent document which can be used as a comprehensive point of reference by individuals and organisations both inside and outside the Council. All the familiar elements can be found in the Constitution and the Council has sought to use the model format to create a genuinely accessible and meaningful instrument of governance.

The Council is committed to involving the community in setting its priorities, enabling citizens to raise matters with and convey their concerns to the Council and to considering the needs of all groups in the community and promoting democratic understanding and participation. The Council's Constitution provides that framework and is underpinned by relevant policies and practices through the Council's website (e.g. consultations, feedback, and public participation).

### **Review of Effectiveness**

The County Council's Constitution has been in force since 2002 and is regularly reviewed (by the Council's Procedures and Standards Committees, as appropriate). The [Constitution](#) is published on the County Council's website at and is also available for inspection at the Council's offices.

In May 2017, the Council added amendments to the existing Constitution.

The Procedures Committee agreed numerous amendments to the Constitution. These included a change of practice that any Motions brought to the Council, that were not the responsibility of the Cabinet, be referred to the appropriate Committee, the introduction of a Scrutiny Voting Scheme, clarification on the process for motions and amendments and also changes to Cabinet, Council and Scrutiny Procedure Rules were also agreed. It was further resolved by Council in February 2018 that the Constitution be amended to reflect the revised Pay Policy Statement for 2018/19.

The County Council must, at least annually, review the effectiveness of its governance framework including systems of internal control. This review of effectiveness is informed by the work of managers within the authority who have a responsibility for the development and maintenance of the governance environment, the Head of Internal Audit's annual report, and by comments made by the external auditors and other review agencies and inspectorates.

### **The Council**

The Council currently comprises of 60 members, meeting together as the full Council for specific purposes, to decide the Council's overall policies and set the budget each year. Meetings of the Council and its Committees are normally open to the public. The Council appoints the Leader and Deputy Leader, Scrutiny Committees, the Standards Committee and all other committees. The Council receives the minutes of committees, and has power to vary or refer back decisions which are outside established policy. From time to time it also debates issues of particular relevance or topicality for the County.

The roles and responsibilities of the Council, as well as its Cabinet and non-Cabinet Members are set out more fully in Articles 2 and 4 of the Constitution and in Part 3 (Responsibility for Functions). These have been regularly reviewed and revised since the County Council elections in 2017 and are themselves balanced by the Codes of Personal Conduct set out at Part 6 of the Constitution.

### **The Cabinet**

The Cabinet is the part of the Council responsible for most day-to-day decisions. It is made up of a Leader (Cabinet Members), appointed by the Leader from amongst the membership of the Council. When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan in so far as they can be foreseen. These major decisions will be taken with Council officers present at meetings of the Cabinet which will be open to the public except where personal or confidential information is discussed in line with the Council's Access to Information Rules (Part 4 of the Constitution). The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this matter must be referred to the full Council to decide.

### **The Scrutiny Function**

Scrutiny Committees support the work of the Cabinet and the Council as a whole. They look at the effectiveness of the Council's own policies and inquire into matters of local concern. These investigations lead to reports and recommendations which advise the Cabinet and the Council on its policies, budget and service provision. Scrutiny Committees also monitor the Cabinet's decisions. They may "call-in" a decision which has been made by the Cabinet or an Officer but not implemented. This enables them to consider whether the decision is appropriate and they may recommend that the Cabinet/Officer reconsiders it. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy or service delivery.

Following the May 2017 Elections, it was resolved that three Scrutiny Committees (Children's / Health & Adult Care / Corporate, Infrastructure and Regulatory Services) would replace the former Place / People's / Health & Wellbeing / Corporate Services Scrutiny Committees. The Scrutiny Budget process was also reviewed and the Council agreed that the Joint Budget Scrutiny Meeting be no longer held, but the Corporate Infrastructure and Regulatory Services Scrutiny Committee undertaking its overview function in this regard.

The Health & Adult Care Scrutiny Committee also monitors the function and activity of the Devon Health & Wellbeing Board and its statutory responsibilities for the Joint Health & Wellbeing Strategy, the Joint Strategic Needs Assessment and the Pharmaceutical Needs Assessment.

Scrutiny Committees aim to operate in a non-partisan way which it is believed has served both the electorate and the Council well in line with the Constitution and the Council's protocol governing relationships between the Cabinet and Scrutiny Committees. Members of the Council may place items on the agenda of any Scrutiny Committee, a right which has always effectively existed in the Constitution since it was first adopted in 2002, reflecting the requirements of the Local Government & Public Involvement in Health Act and its definition of '*any Local Government matter*'.

It is widely acknowledged that, to be effective, call-ins must be used only in exceptional circumstances, sparingly and appropriately. In the year in question there was one instance – *Health and Care Integration in Devon* - called-in through the Health & Adult Care Scrutiny Committee - while this may not have resulted in any significant changes to decisions, it reinforces the independence and value of Scrutiny in applying an 'external' view on decisions.

Reflecting the Council's approach to the commissioning of services, Scrutiny continues to exercise influence through asking questions about delivery mechanisms, quality, monitoring, safety and responsiveness as an appreciative inquiry where problems are analysed and understood as a precursor to improvement and change rather than punitive action. To strengthen Scrutiny engagement in commissioning processes and commissioned services, the Scrutiny

Commissioning Liaison Members continue to review planned commissioning activity on a biannual basis, reporting back to Scrutiny Committees to inform their work programme.

The Cabinet and Leadership Team remain appreciative of the work undertaken by the Scrutiny Committees and acknowledge that it has made a major contribution to the work of the Council, especially in areas where detailed objective research and analysis needed to be done. A summary of the work of Scrutiny Committees during the year is presented to the County Council yearly in an Annual Scrutiny Report.

### **Organisational Performance**

The impact of the Government's reform of the public realm and local government finances continues to influence the Council's current and future performance.

In October 2017, Council expressed its considerable disappointment at the Government's recently announced proposals which notionally leave Devon Schoolchildren with a funding gap of £268 per pupil below the national average. The Council will continue the campaign for fair and adequate funding for all Devon children (including school funding, high needs funding for those with SEN and additional needs and early years pupils).

In July 2016 the County Council endorsed the Leaders approach to devolution and agreed to sign up to the principle of creating a Combined Authority for the Heart of the South West, as set out in the Prospectus for Productivity, as the basis for negotiation with Government towards a Devolution Deal for the area. Approval was given in December 2017 to form a Heart of the South West Joint Committee.

The Council has embarked upon a 'purposeful systems' transformation approach, *Doing What Matters*. The Council's External Auditors Grant Thornton fully support the purposeful systems approach the County Council had adopted.

The Council also agreed the following significant actions, specific policy changes or revised strategic objectives during 2017/18 which will impact on future performance:

- a) the Treasury Management Strategy for 2018/19;
- b) the inclusion of Torbay Council in the Devon, Somerset and Torbay Trading Standards;
- c) that from April 2019 the Council's Children's Services be the provider of the 0-19 Public Health Nursing Service. When the Council is satisfied that the Public Health Nursing Service is achieving the objectives that the Council has set, the Council will explore alternative delivery models;
- d) approval of a new contract to start from April 2019 that involves the joint commissioning of Occupational Therapy (OT) and child and adolescent mental health services (CAMHS) as part of the Community Health and Care Services with NEW Devon CCG acting as lead commissioner;
- e) the Admission & Education Transport Policies for 2018-19 and 2019-20;
- f) the Medium Term Financial Strategy (MTFS) to 2021/22;
- g) approval of the 2018/19 Flood Risk Management Action Plan;
- h) the introduction of 'Promoting Independence in Devon'.

## **The Standards Committee**

The Standards Committee continued to exercise its role in monitoring complaints and standards. The Committee met 4 times in 2017/18 and its work during 2017/18 is set out more fully in its Annual Report. A total of 8 complaints were received under the Members Code of Conduct. There were 2 cases where a formal investigation was required. For the first case, allegations were not proven. The second case is ongoing and has not formally reported yet.

Efficient, effective and ethical governance protects the public interest and the Council itself. Members and Officers are supported by a wide range of policies and Codes of Practice enunciated in the Council's Constitution and also by a wide range of training opportunities tailored to meet their needs. The Council's Governance Framework is reviewed annually and any issues for the future governance of the Council are highlighted and addressed at that time.

Co-opted Members of the Committee continue to attend other meetings of the Council, Cabinet and other Committees, selected at random, to monitor and observe compliance with the Council's Governance Framework and behaviours, reporting back to the Standards Committee. There were no reports of any specific actions or behaviours that might be felt to have resulted in a potential breach of the Code or warranted further action.

One of the main issue for 2017/18 was ensuring that the new Council was conversant with the Council's governance framework, it's interpretation and application of the Code of Conduct and the Council's own working practices to ensure compliance. A number of training and induction events were held covering these matters.

In March 2018, the Committee considered the [Review on Standards in Public Life](#). Members noted that the report made recommendations meaning that all those across public life must work together to address the problem of intimidation and harassment. There needs to be greater action from social media companies, political parties, Parliament, the police, broadcast and print media, and from MPs and Parliamentary candidates themselves. This in turn means leadership by the largest political parties, which, as the report highlights, is all the more important in the light of recent allegations of sexual harassment and bullying in Parliament which will have shaken public confidence.

## **The Audit Committee / Devon Audit Partnership**

The Council's Audit Committee monitors the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources including the work of the Council's Internal Audit team and the External Auditor and the application of the Council's Risk Management policy.

The Audit Committee continues to review separately, and on a regular basis, progress with and implementation of any recommendations made in Audit Reports into specific areas of activity to ensure they have been adhered to and appropriate management action taken. It also reviews the Council's Risk Management Strategy and Registers on a regular basis.

The Annual Audit Letter (for the year ended 31 March 2017) from the Council's external auditors, confirmed that the accounts had been produced to a good standard with an excellent level of support provided by the Council's Finance Team.

The Devon Audit Partnership was established by the Council in conjunction with Plymouth City and Torbay Councils in 2009 to provide shared internal audit services (as a means of improving services through joint working and maximising efficiencies and economies of scale). Mid Devon District Council and Torridge District Council have subsequently joined the Partnership. The Devon Audit Partnership currently undertakes audit work for a number of District Councils, Devon and Somerset Fire and Rescue Service, Devon and Cornwall Police, the University of Plymouth and many other public authorities and plans to continue expanding on their work with external

partners. The Partnership and democratic arrangements are functioning well and will continue to be reviewed.

The Ethics Review carried out by Devon Audit Partnership in February 2018 confirmed that the Council has a robust ethical framework in place which is set out in the Code of Corporate Governance (Constitution). There was found to be clear dissemination, delivery, monitoring and maintenance of the ethical standards throughout. Areas of strength identified were the monitoring being carried out by the Standards Committee of compliance with the Ethical Governance Framework, and Member induction training.

### **The Investment and Pension Fund Committee**

Accounting arrangements require separate accounts to be prepared for the County Council and the Devon Pension Fund. Recognising the need for clear governance arrangements for managing these accounts the Council's Investment & Pension Fund Committee undertakes the role of reviewing and approving the Pension Fund Annual Report, which incorporates the Statement of Accounts. The Devon County Council Audit Committee undertakes the role to review and approve the accounts of the Devon Pension Fund to ensure appropriate accounting policies were introduced in the same way as it is responsible for monitoring and approving the Council's main accounts.

### **Devon Pension Board**

The Pension Board, which was established in 2015/16, is required to ensure that the Devon Pension Fund is managed and administered effectively and efficiently and to ensure that it complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator. The Devon Pension Board (comprising employer and fund representatives with an independent member) has met six times in total and twice in the past financial year. The operation of the Board will be kept under review.

A summary of the Board's activities and deliberations over the period in question had been included in the [Devon Pension Fund's Annual Report and Accounts 2016/17](#) (and the action taken by the Fund/Fund Manager as a consequence) in scrutinising and satisfying itself with the operation and management of the Fund during that period.

### **Engagement and Participation**

The County Council has always prided itself on the work it does, over and above statutory consultations, to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the Council. Examples of this are the Council's Communications Strategy, the Devon Voice (Residents Panel), Parent Carers Voice, and the Tough Choices events held by the Leader of the Council across the County as part of a wider exercise by the County Council to consult and involve local people in determining the Council's budgets and priorities.

The [Have your say](#) consultation pages allow views to be gathered on service specific proposals and provide opportunity for local people to shape their local services.

### **Public Participation**

Those who live and work in Devon have a number of direct opportunities to [participate](#) in the Council's decision-making process which are explained in more detail in the Access to Information Procedure Rules in Part 4 of the Council's Constitution and in addition to being available to attend meetings and lobby Councillors in the normal way may also ask questions at meetings of the County Council or the Cabinet and make representations at the County Council and a number of other Committees of the Council.



## **Governance Issues**

One of the biggest issues addressed by the Council in 2017/18 was the setting of the Revenue Budget for 2018/19 and the Medium Term Financial Strategy to 2021/2022 given the continued cuts to local government funding.

The challenging financial situation justifies the continuing focus on treasury management practices. The County Council's treasury management practices are soundly based on the principle that when balancing risk and return the security and liquidity of an investment is given a higher priority than the yield.

The Council also regularly reviews and updates its Investment Strategy and its Treasury Management Policy and Practices to ensure that they reflect best practice guidance as issued by CIPFA. The Treasury Management Stewardship Annual Report for 2016/17 had not identified any issues to highlight. No new long-term borrowing was undertaken during 2017/18 and it was not envisaged that any new long-term borrowing will be required over the next three-year period but this will be reviewed annually. The report confirmed that investment income targets had been achieved and all lending had been carried out in accordance with the Council's Treasury Management Strategy.

## **Conclusion**

The preparation of the budget for 2018/19 had been set by the detailed assessment of the risks associated with each budget and the goals and objectives of the Council. The Cabinet was assured that the Budget was an effective and balanced budget which could be commended to the Council. A 6.1% increase in spending on Adult Care and Health and a 5.5% increase on Children's Services were highlighted in the budget.

New powers were introduced in 2016/17 that allowed authorities with Adult Social Care responsibilities to increase Council Tax by 2% each year between 2016/17 and 2019/20. The Government changed these regulations to allow authorities to increase the Adult Social Care precept to a maximum of 3% each year over the period 2017/18 to 2019/20 as long as the total increase over the three years did not exceed 6%. The Adult Social Care precept is in addition to the general increase permitted before a referendum is required, which had been 2% in 2017/18 and this was increased to 3% by Government for 2018/19. The New Homes Bonus Scheme for 2018/19 remains largely unchanged from 2017/18.

Devon's bid for the Business Rates Pilot has been successful. Although final figures will not be known until May 2019, the pilot bid submitted in October 2017 estimated a benefit of approximately £17 million across Devon including £10 million to the County Council. District Councils (the Billing Authorities) which operate the business rates system have provided updated estimates at the end of January 2018, which indicate that the gain to geographic Devon will increase and the benefit to this Authority could increase to an estimated £16.6 millions.

The impact of the next Government's spending plan on future financial settlements will also be a key issue for the Cabinet and the Council to address in 2018/19 and beyond. Revenue Support Grant from Government in its current form would be phased out by 2020.

The Medium Term Financial Strategy (MTFS) to 2021/22 was agreed by Council in February 2018. The MTFS has been prepared with the best information available but the uncertainties around Brexit, the Business Rates Pilot, and the Improved Better Care Fund make it impossible to plan with any certainty. The MTFS contains as much information as available at this time but may need updating if more information becomes available from Government that has a significant impact on the Authority.

The Council's Leadership Team (Chief Officers and Heads of Service) has confirmed that the organisational, financial, compliance and operational key controls referred to in the Annual Governance Statement and the accompanying schedule continue to be appropriate and that statements of internal control supported the content of this Statement; having operated, effectively, during the financial year. Sundry issues identified in the AGS will be relevant and

actioned as appropriate over the coming year. All necessary monitoring and/or implementation of key issues identified in the previous AGS have or are continuing to be addressed.

The Council is satisfied that the governance arrangements can and do provide a high level of assurance, that the arrangements continue to be regarded as fit for purpose and that its governance structures reflecting the core and sub-principles of the Statement.

The Council formally places on record and expresses its appreciation to all staff and partners for their continuing commitment to the delivery of high quality services for the people of Devon throughout this period. The spirit and ethos of good governance cannot be achieved by rules and procedures alone. It is vital that shared values that are integrated into the culture of an organisation and are reflected in behaviour and policy, as a hallmark of good governance.

**Certification**

In light of the aforementioned and the reviews of the effectiveness of the governance framework undertaken by the Cabinet, the Standards Committee, the Audit Committee, the Investment & Pension Fund Committee and by Scrutiny Committees and the plans, as summarised above, to address weaknesses and ensure continuous improvement of systems is in place. We will over the coming year continue to address the above matters to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

**Signed**.....

Chairman of the Audit Committee, on behalf of Devon County Council

**Signed**.....

Chief Executive, on behalf of Devon County Council,

16 May 2018.