

## **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.

#### 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.

- 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).

- 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.

- 2) This standing order does not apply to motions which can be moved without written notice in accordance with standing order 11.
- 3) All motions submitted under this standing order will be set out on the agenda for the meeting of the Council in the order they were received. A motion may only be withdrawn — in writing — by the member who originally submitted it.
- 4) A motion which has been placed on the agenda must be formally moved at the meeting of the Council by the member who submitted it or, with his/her written consent, by another member. If it is not moved it will be regarded as withdrawn unless the Council agrees to postpone it.
- 5) The mover may if the Council agrees, without discussion, alter a motion provided that the alteration could have been made as an amendment under standing order 14(7).
- 6) The Council shall only consider a motion if it relates to some matter on which the Council has powers or duties, or which directly affects the County as a whole. Members are expected to demonstrate the impact on or for Devon in the wording of the motion. Motions will be rejected where they:
  - a. do not relate to a matter for which the Council has a responsibility, or is accountable for, or which do not affect the Council's administrative area or those living in that area;
  - b. are defamatory, frivolous, offensive, vexatious or unlawful;
  - c. relate to any non-determined planning application;
  - d. name or identify individual service users, Council staff or staff of partner agencies; or
  - e. are considered by the Monitoring Officer (in consultation with the Chair and relevant Group Leader) to place the Council at risk and / or undermines the purposes of the Constitution.
- 7) At any ordinary meeting of the Council, a motion shall, after being formally moved and seconded, be passed to the Cabinet. The mover shall be permitted to briefly introduce their motion after it has been moved and seconded. The time allowed will be one minute, although this can be extended at the discretion of the Chair. There will be no debate at this stage, as the motion has been referred to the Cabinet.
- 8) If the motion is on a matter for which the Cabinet has no remit, then it shall be passed to the relevant Committee (Local Authorities (Functions and Responsibilities) (England) Regulations 2000).
- 9) However, and subject also to standing orders 9 and 29, the Council may decide to discuss a motion at the meeting to which it is submitted if, in its view, there is sufficient reason to do so. The Council needs to ensure the action proposed is within the gift of the Council and there are no significant legal and / or financial issues that require further research. The final decision must be made having consulted the Monitoring Officer, Leader and Chair.

- 10) There is no restriction on the number of motions per Member or per meeting and Motions will be printed on the agenda in the order received. However, if a Member submits more than one motion, the first motion will be prioritised and subsequent motions will be placed at the end of the agenda item.
- 11) At the start of the meeting, the Chair will determine how much time will be permitted to debate motions, up to a maximum of 2 hours.
- 12) Motions will not be permitted at Special meetings of the Council.

## **7. Notice of Motion: To Rescind a Previous Resolution**

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

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

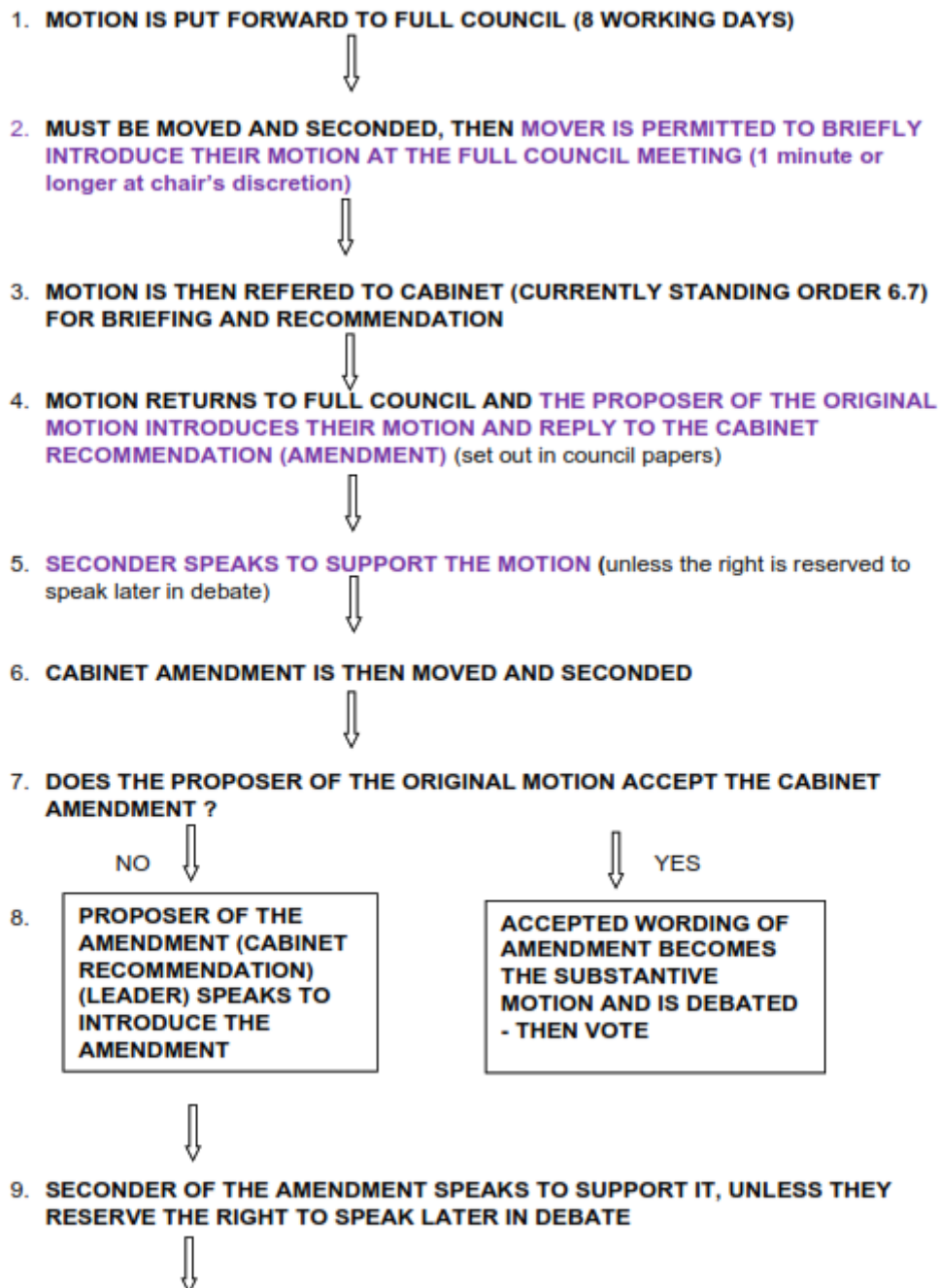
NIL

### **Contact for enquiries:**

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Motions at Council Meeting – Revised Process for Returning Motions

**PROPOSED NEW RULES OF DEBATE**





**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**