

PROCEDURES COMMITTEE

26 September 2023

Present:-

Councillors J Hart (Chair), S Hughes, C Whitton, J Brazil, Y Atkinson and D Cox (for Councillor Leaver)

Councillors F Biederman and J Hodgson attended remotely.

Apologies:-

Councillors C Leaver and P Prowse

Members attending in accordance with Standing Order 25

Councillor P Twiss

* **34** **Election of Chair**

It was **MOVED** by Councillor Hughes, **SECONDED** by Councillor Whitton, and **RESOLVED** that Councillor Hart be elected Chair for the meeting.

* **35** **Minutes**

RESOLVED that the minutes of the meeting held on 25 April 2023 be signed as a correct record.

* **36** **Items requiring urgent attention**

There was no item raised as a matter of urgency.

37 **Review of Financial Regulations - Section 5 of the Constitution**

The Committee considered the Report of the Director of Finance and Public Value (DF/23/86) which sought approval to update financial regulations and recommend the changes to the Council.

The Committee further noted that the Governance Working Group considered and endorsed the changes at its meeting on 4 September 2023.

The Report highlighted that a new Finance System had been procured by the Council and would be implemented during 2023/24 ready for "go live" in 2024. The procurement had focused on purchasing a system that was a market leader and would provide the Authority with the latest technology, specifically tailored

for Local Government. The impact of this would be that processes and systems within the Authority would change significantly.

The review of the Financial Regulations had been expedited due to the implementation of the new finance system, but also as part of the overall review of Governance for the Authority.

The proposal was to remove the detailed procedures and place them in the Finance Standards SharePoint site, accessible only to Officers of the Authority. The detailed standards would be renamed Financial Procedures in line with terminology used by other, benchmarked local authorities. The second part of the proposal was for a complete review of all areas of the Financial Regulations to update the content to reflect current legislation, guidance and practice.

The review and update of the Financial Regulations was a workstream within the Future Finance Project and during the review it was noted that the contents fell fall within two distinct areas:

1. The framework describing the accountabilities and delegations from Council which ensured the proper administration of the Authority's financial affairs; and
2. Detailed Standards which described the financial procedures that Officers of the Authority's must follow to process day to day transactions.

The current format of the document meant that the Financial Regulations had become a weighty document (49 pages), not easily navigated, details of confidential internal operations were in the public domain and the complexity of the document had made it harder to use and enforce.

The recent changes in leadership meant there was a stronger focus on accountability and control and updated and newly focussed Financial Regulations would enable clarity and accessibility for all Members and Officers.

The Committee noted there had been benchmarking with other Authorities (West Sussex County Council, Hampshire County Council, Kent County Council and Oxfordshire County) which highlighted that Devon published significantly more details than the comparators.

Internally, staff had been invited to review the newly drafted regulations and to feedback, which had been incorporated.

The updated Financial Regulations positively supported the "How We Will Work" element of the Council's Strategic Plan 2021–2025, specifically enabling greater financial resilience and improved financial planning as well as increased discipline and rigour around decision making.

In summary, the proposal aimed to ensure that Financial Regulations within the Constitution were clearer, focused, accessible to all, shorter and relevant to Members and the external audience. Furthermore, financial operational

standards would be able to be updated swiftly as the new finance system was implemented and sensitive information would no longer be in the public domain.

Members asked the following questions and raised issues as follows:

- clarification of the governance at the lower level of decision making, for example updating operating standards;
- the Chair of the Corporate Infrastructure and Regulatory Services Spotlight Review into the future finance system welcomed the updates in terms of how they supported the roll out of the new system;
- clarification of the financial thresholds related to decision making, including that for FIN letters (delegated decisions by the Cabinet Member for Finance);
- the importance of Local Members being consulted on matters that impact on their divisions and that a Local Member Protocol was being prepared as part of the Governance Working Group; and
- clarification over the meaning of 'guarantees' as outlined at section C8 of the revised regulations.

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

RESOLVED

(a) that the proposed changes to the Financial Regulations which update these regulations to reflect current legislation, best practice guidance and current practice be endorsed and recommended to Council; and

(b) that the removal of the "Detailed Standards" from the Financial Regulations and for these detailed standards to become internal documents which continue to govern the actions of Officers of the Authority and for these standards to be directly under the jurisdiction of the Director of Finance and Public Value further be recommended for adoption.

38 Policy Framework Review

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/23/14) which presented a review of the Council's Policy Framework, as considered by the Governance Working Group.

The Report highlighted the Council's current Policy Framework as outlined in Article 4 in the Constitution and those plans currently requiring Council approval. It further highlighted the requirements of Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which listed those functions not to be the sole responsibility of an Authorities Executive as well as outlining those additional strategies or matters not currently reflected in the Policy Framework, such as the Member Development Strategy and Members Allowances.

Views had been sought from the Governance Working Group and benchmarking across other Authorities as well as a review of Regulation 4 of the 'Local Authorities (Functions and Responsibilities) (England) Regulations 2000', which included considering other plans and Strategies that other Authorities had detailed within their policy frameworks, also having regard to those matters which were also the responsibility of an Authorities Executive.

The Report proposed that the Article 4 be amended as outlined below, with amendments shown in red.

- The Council's Strategic / **Corporate** Plan;
- **Performance Plan and Summary**
- Minerals and Waste Development Plan documents;
- Local Transport Plan;
- Municipal Waste Management Strategy;
- Pay Policy Statement
- **Youth Justice Plan**
- **Corporate Parenting Policy / Plan**
- **Children and Young People's Plan**
- **Member Development Strategy**
- **Members Allowances**
- **Constitution (except those minor updates which MO has delegated power to authorise as outlined in Article 15)**

Any other Plan, Strategy or matter (whether statutory or non-statutory) in respect of which the Council from time to time determines that the decision on its adoption or approvals should be taken by full Council rather than the Cabinet.

The Committee also recognised there was a need to consider the (Sustainable) Community Strategy and Crime and Disorder Reduction Strategy following further discussions with the partnerships and current arrangements.

The revisions to the Policy Framework ensured that the Council was compliant with the requirements of the 'Local Authorities (Functions and Responsibilities) (England) Regulations 2000' and also the inclusion of those matters previously signed off by Council but not reflected in the framework ensured clarity of decision.

Members commented on Economic Development Strategies and the link to the Council's Corporate Plan, the future of the Local Enterprise Partnerships and any financial arrangements as part of this and potential Devolution deals and the Governance thereof and whether this impacted on the proposed changes, which it was confirmed it did not at this stage.

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

RESOLVED

(a) that Council be recommended to amend Article 4 of the Constitution as outlined in section 4 of the Report (with the additions to the policy framework shown in red);

(b) that further work be undertaken in relation to sign off processes for the (Sustainable) Community Strategy and Crime and Disorder Reduction Strategy following further discussions with the partnerships regarding current arrangements; and

(c) that Council delegates Authority to the Director of Legal and Democratic Services in consultation with the Governance Working Group to further amend the policy framework after the work at (b) is undertaken.

39 **Decision Making - Revised Definition of Key Decision**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/23/16) which presented a revised definition of the key decision threshold, as considered and endorsed by the Governance Working Group.

The Governance Review Group had reviewed and benchmarked the Key Decision threshold and determined that the financial threshold of £1 million remained the appropriate threshold.

A copy of the current key decision was attached at appendix 2 to the Report and the proposed amendments could be found at appendix 3.

Views were sought from the Governance Working Group and benchmarking data from across other Authorities as well as specialist support from the Local Government Association (LGA). The Benchmarking information was attached at Appendix 1 of the Report.

In accordance with article 2 of the Constitution (section 13.4), Key decisions were those which by reason of their strategic, political or financial significance or which would have a significant effect on communities in more than one division.

The Report proposed that the definition of a Key Decision was further defined to provide additional clarity in decision making. The revised definition was therefore proposed to include the following wording:

10.3 Devon County Council Defines a Key Decision as

- any decision which would result in the closure of an amenity or total withdrawal of a service;
- any decision in accordance with the Council's Financial Regulations (Part 9), involving financial expenditure of £1,000,000 or above, with the exception of operational expenditure by the Chief Executive identified within the approved budget and policy framework;

- any proposal to change the policy framework; • any proposal which would have a significant effect on communities living or working in an area comprising two or more electoral divisions, unless this falls under the delegation or terms of reference of another Committee of the Council;
- any contract (or programme) which: exceeds an annual value of £1 million; and
- proposes significant changes to the Constitution together with any other decision which the Monitoring Officer in consultation with the Leader and Head of Paid Service considers to be a key decision within the Regulations.

10.4 If Key Decisions are to be discussed with Council officers at a meeting of the Cabinet, the meeting will be open for the public to attend except where matters of a confidential or exempt nature are to be discussed.

10.5 The Cabinet has to make decisions which are in line with the Council's budget and policy framework. If it considers that a decision is required which is outside the budget or policy framework, it must refer the matter to the whole Council for a decision."

In order to retain a degree of flexibility, the Committee noted that the revised definition would also allow for matters which fell outside of the definition. The Monitoring Officer in consultation with the Leader and Head of Paid Service could deem the matter a key decision.

The proposal aligned to the Council's Strategic Plan 2021 – 2025 and supported the commitment of ensuring the Council made good decisions, was transparent and supported being a trusted and inclusive Council.

Members raised issues relating to the external transfer of services from the Council, how the process for schools converting to Academies impacted on this and decisions which resulted in redundancies.

It was proposed by Councillor Atkinson that the definition of a key decision should also include services being externally transferred from the Council, to which the Leader and Committee agreed.

It was therefore **MOVED** by Councillor Hart, **SECONDED** by Councillor Biederman, and

RESOLVED that Council be recommended to amend Part 3c of the Constitution as articulated in Appendix 3 of the Report (outlined above in red), including adding the issue of services being externally transferred out of the Council into the above revised definition, and cross referencing with Article 2 – Section 13.4.

40 Public Participation - Updated for Modern Meetings

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/23/13), which presented an updated public participation scheme, which reflected updated working practices and the views of the Governance Working Group.

The Report highlighted that the Council's public participation guidance had been in existence for a number of years, with the ability for members of the public to engage with the democratic processes of the Council.

It further reported on the changes to the scheme over the years to increase democratic engagement, such as the ability to submit questions to the Cabinet and Council (introduced in 2014). At the same time, revised arrangements were made so that the public may make oral representations at meetings of the Council.

In 2016, the facility for public speaking at Scrutiny Committees was introduced, initially for a trial period of 12 months but permanent after the trial period had ended.

The guidance on Public Participation formed a dedicated work strand of the Governance Working Group. This was initially discussed at its meeting on 7th August 2023 as well as the Centre for Governance Scrutiny's four principals of good scrutiny.

The main changes proposed to the scheme including a number of amendments which reflected more modern meetings and working practices, for example the ability to attend some meetings virtually.

The Committee noted there were no changes proposed to the deadline on submitting representations or questions, as the benchmarking data showed that the Council had reasonably long deadlines when compared to others.

A number of other small changes had been proposed, for example the ability of Members and / or Officers to respond to any points made by the public, particularly if clarification was required and also improved sign posting towards which Committee would be best suited for questions and or representations, furthermore, highlighting that Scrutiny was not a decision-making body.

Whilst this proposal was not directly aligned to the Council's Strategic Plan 2021 – 2025, it supported the commitment of being a trusted and inclusive Council that heard the voices of communities, listened, learned and made good decisions.

In summary, the Committee noted that the revised public participation guidance had not significantly changed, for example deadlines remaining the same and no public engagement opportunities had been withdrawn. The updates sought to

clarify the expectation at meetings in terms of responses and also reflect more modern working practices.

Members expressed concern that the ability of right of reply should not turn into a debate with public participation at meetings. It was further clarified that the public were informed by Committee Clerks that if large numbers of speakers registered or numerous questions were received, then the time limit allowed may expire before they could be heard. The guidance highlighted that if questions could not be dealt with in the timescale, then a response would be sent via email.

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

RESOLVED that the changes to the Public Participation guidance, attached at appendix 1 to the Report, be endorsed, and recommend that Council adopt accordingly for publication on the website and make the necessary amendments to the Constitution.

* **41** **Draft calendar of meetings for 2024/2025**

The Committee considered the draft calendar of meetings for 2024/25 prepared in line with the pattern of previous years, known determinants and relevant factors.

The Committee noted that the budget cycle had been pushed back as far as was possible in terms of Scrutiny meetings and Budget Consultations in order to support the finance process as part of budget setting.

The calendar also included Scrutiny masterclasses and Member Development sessions.

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

RESOLVED that the draft Calendar for 2024/2025 be approved for publication.

42 **Devon County Boundary Divisions - Tiverton East and Willand and Uffculme**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/23/9) which sought approval to support the proposal that the boundary between the County's Tiverton East Electoral Division and the Willand and Uffculme Electoral Division, be amended.

Mid Devon District Council had recently completed a Community Governance Review (CGR) of Mid Devon Council parish boundaries, following the Local Government Boundary Commission for England (LGBCE) in respect of the Commission's review of the district ward boundaries completed in 2021, which resulted in a change of most ward boundaries.

The Committee noted that in publishing its final report, the Commission had suggested that the District Council carry out a CGR of all parishes which had been completed in December 2022. As a consequence, the parishes of Halberton, Uffculme and Willand boundaries were approved by the Council and took effect for the May 2023 District and Parish elections. The new parish boundaries no longer fell into line with the new District Ward boundaries and the LGBCE had agreed to consider a “related alteration” of those boundaries and as such had asked the County Council to consider agreeing that the boundary between the County’s Tiverton East Electoral Division and the Willand and Uffculme Electoral Division, be altered in line with what would be the new district boundary, the map showing the area under consideration was appended to the Report.

The earliest that the changes could be implemented were for the May 2025 County elections and if the proposals were agreed, the district wards would be implemented for the 2027 district elections.

Views were sought from Group Leaders, Local Members and also relevant officers within the Council. The Local Members then confirmed they were content to go ahead with the proposals and Officers had no objections.

The Committee commented that the proposal appeared a sensible solution to ensure the County’s Tiverton East Electoral Division and the Willand and Uffculme Electoral Division, were in line with what would be the new district boundary.

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

RESOLVED that Council be recommended to support the proposal that the boundary between the County’s Tiverton East Electoral Division and the Willand and Uffculme Electoral Division, be altered in line with, what will be, the new district boundary, as outlined in the map appended to the Report.

NOTES:

1. *Minutes should always be read in association with any Reports for a complete record.*

* **DENOTES DELEGATED MATTER WITH POWER TO ACT**

The Meeting started at 10.30 am and finished at 12.00 pm