

PROCEDURES COMMITTEE

25 July 2024

Present:-

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

Councillor F Biederman (remote attendance)

Apologies:-

Councillors Y Atkinson

* **65** **Declarations of Interest**

The Chair reminded Members they should declare any interests they may have in any item to be considered, prior to any discussion taking place on that item. The details of District and or Town and Parish Twin Hatters was on the attached list - [A list of county councillors who are also district, borough, city, parish or town councillors](#).

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* **66** **Minutes**

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

RESOLVED that the minutes of the meeting held on 2 May 2024 be signed as a correct record.

* **67** **Items requiring urgent attention**

There was no item raised as a matter of urgency.

* **68** **Locality Budgets - Elections**

The Director of Legal and Democratic Services recommended that, as was the case prior to previous quadrennial elections, the Committee consider the arrangements for the use of locality budgets in the period immediately prior to County Council elections in May 2025.

Members discussed the potential for any unspent funds and the needs of communities and asked that a reminder be sent to all Members as soon as possible, outlining the dates agreed at the meeting.

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

RESOLVED

(a) that, recognising the need for Members to exercise caution in the use of locality budgets in the period leading up to the County Council elections on the 1 May 2025, Members be authorised to initiate the allocation of any monies from 2024/25 to be approved under the normal arrangements by no later than Friday 1st March 2025 (noting submission will be by the 14th February 2025);

(b) thereafter, the use of any potential unspent carry-forwards or of new funds allocated for 2025/26 be deferred until after the Elections;

(c) that Members do not give any undertaking as to the allocation of funds in the period between 1 March 2025 and the Elections and the Director of Legal and Democratic Services or Head of Communities will advise Members accordingly at the appropriate time;

(d) the use of any unspent funds from 2024/2025 be ring fenced pending a discussion on how best to use those monies, noting that this relates to unspent funds rather than allocated funds;

(e) that any locality budget allocations start afresh from 2025/2026 with no carry forward from 2024/2025; and

(f) that a separate communication be sent to Members in due course, outlining the guidance referred to above.

69 **Review of Officer Decisions (Criteria for Recording and Publishing)**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/31) which proposed amendments to the Constitution (Section 3c) (Paragraph 14) in relation to the recording and publication of officer decisions, following a review by the Governance Working Group.

The Committee noted this was the next work strand following review of the Policy Framework, Key Decisions and then Member Delegated Decisions. The officer Scheme of Delegation review would be undertaken next.

A wholesale review of the process had been undertaken, commencing with how the decisions are currently published (and where), benchmarking of other authorities and an analysis of the legal position, as outlined in the Openness of Local Government Bodies Regulations 2014.

The Council had assessed at what financial value the requirement to publish a Record of Officer Delegated Decision came in at and the suggestion had been £1 million. The rationale was that under Financial Regulations, Chief Officers must sign all contracts above £1 million and as such, £1 million was felt to be the material value for the Council and the point at which a RoD should come in.

The Governance Working Group had taken into account best practice, as far as possible, and considered the Constitution and held a number of discussions on the matter at three separate meetings.

This included a proposed new template for Officer delegated decisions, attached at appendix A.

The meeting of 8 July 2024 considered the revised wording to the Constitution and the working practice arrangements for uploading and recording Delegated Officer decisions.

It is proposed that the procedures for dealing with Officer Decisions at section 3c of the Constitution (section 14), be amended as follows, with additional text shown in red (as agreed at the Governance Working Group) and purple (following the Governance Working Group), noting that some of the changes simply reflected the new leadership roles, previously agreed.

14.0 Delegation to Officers

- 14.1** For the purposes of this paragraph the words ‘Chief Officer / Director’ are defined as the holders of the following posts: Chief Executive, the Chief Officers for Children and Young People’s Futures, ~~for~~ Integrated Adult Social Care, ~~for~~ Climate Change, Environment and Transport, Director of Finance and Public Value (Chief Finance Officer), Director of Legal and Democratic Services (Monitoring Officer), Director of Public Health **and** Communities **and** Prosperity, Director of Transformation and Business Services, ~~and~~ Director of People and Culture **and** **Director of Performance and Partnerships**.

- 14.2** A Chief Officer / Director ~~or Head of Service~~ (as defined in the Council's pay Policy Statement at Part 6 of the Constitution) is empowered to make all the day-to-day decisions which relate to the efficient discharge of the Council's statutory functions and which are within the directorate or management responsibilities identified in ~~his or her~~ **their** terms of appointment. **They may also and for this purpose may** authorise an officer in ~~his/her~~ **their** Service to make any such decision on ~~his/her~~ **their** behalf.
- 14.3** Any Chief Officer / Director ~~or Head of Service~~ **is** authorised to make the decisions referred to in paragraph 10.0 above but before doing so shall exercise careful, professional judgement, involving appropriate consultation, as to whether that decision is one which should be taken by a Cabinet Member.
- 14.4** **The Council has a statutory responsibility to keep a record of and / or publish any executive decisions taken by an officer, in line with the criteria outlined at paragraph 14.7. Officers, however, are not permitted to make key decisions as this is reserved for the Cabinet.**
- 14.5** **Many administrative and operational decisions taken by officers about how they go about their day to day work will be delegated within the County Council's scheme of delegation and may not require publication.**
- 14.6** Any decision under Paragraph 14.3, shall, in line with the Openness of Local Government Bodies Regulations 2014 **and** be published on the Council's website at: <https://new.devon.gov.uk/democracy/officer-decisions/> - **insert new link**
- 14.7** **In relation to the Openness of Local Government Bodies Regulations 2014, a Record of Delegated Officer Decision is required to be published when:**
- 14.7.1** **the decision would otherwise have been taken by the Council, Cabinet or a Committee but has been delegated to an officer, either via an express authorisation or a general authorisation.**
- 14.7.2** **the effect of the decision grants a permission or licence, affects someone's rights, or awards a contract / incurs expenditure which materially affects the Council's financial position.**
- 14.7.3** **Any other decision where the Chief Executive, Monitoring Officer or Director identifies that a record should be kept.**

- 14.8** £1 million is the threshold above which the record of officer decision is completed and published for awarding of contracts or incurring expenditure.
- 14.9** For decisions between £500,000 and £1 million, a record of decision should be completed and filed with the Democratic Services Team.
- 14.10** For decisions under £500,000, individual services ~~should~~ will keep a record of those decisions.
- 14.11** Officer decisions exempt from publication are those adequately recorded elsewhere. This could relate to appointments and dismissals of staff (except those decisions under the terms of reference of the Appointments, Remuneration and Chief Officer Conduct Committee and / or Appeals (Chief Officer) Committee), or individual casework decisions across the Council. It also refers to administrative decisions that do not directly affect any person outside the Council, has no significant direct impact on local services or residents and involves expenditure within existing agreed budgets.
- 14.12** Decisions must be published as soon as possible after the decision is made. A failure to record/publish when necessary can make the decision invalid. The Monitoring Officer will advise as appropriate.
- 14.13** For the avoidance of doubt:
- All the specific delegations of subsisting duties and powers to members and individual officers in this Part of the Constitution and which are in the Register maintained by the Chief Executive under the Local Government (Access to Information) Act 1985 (as set out in the table overleaf) are hereby approved by the Leader of the Council (adjusted as necessary to reflect any variation in the title of job description of the officer concerned);
 - Any statutory reference to "the Proper Officer" shall mean the Director of Legal and Democratic Services as Monitoring Officer.
 - Any Officer making decisions under this process must engage with the relevant Cabinet Member(s) and / or Local Member, as appropriate.

Members, at the meeting, thanked the Governance Working Group for their hard work and asked for two amendments, reflected above in green text. They also highlighted the importance of the Local Member Protocol and further work would be required to embed this within the organisation.

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

RESOLVED

(a) that Council is recommended to amend section 3c of the Constitution (paragraphs 14), as outlined in section 6 of the Report, with new text shown in colour, above;

(b) that the revised officer decision template, attached at appendix A, be further endorsed; and

(c) that the proposal for Delegated Officer decisions to be uploaded to the website using the Council's Committee Management System (Modern.Gov), be endorsed, to bring publication in line with Delegated Cabinet Member Decisions).

70 **Section 85(1) of the Local Government Act 1972 - Consideration of Delegation**

The Committee considered the Report of the Director of Legal and Democratic Services (LDS/24/32) which sought endorsement for a proposal for a delegation from Council, in certain circumstances, of section 85(1) of the Local Government Act 1972 (6 month rule).

Section 85 of the Local Government Act 1972 stated that

*'if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, **cease to be a member of the authority**'.*

Attendance as a Member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, or who were appointed to advise the authority on any matter relating to the discharge of their functions, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed for the purposes of subsection (1) above to be attendance at a meeting of the authority.

The process for obtaining the necessary dispensation in relation to the 6 month rule was a matter for the Authority (Full Council).

The Committee noted that the Council now met four times per year, which had been a decrease of one meeting per year since 2022 and in recent times there had been occasions, where due to ill health, Members had been close to breaching the 6 month rule.

The proposal in the Report was for the Monitoring Officer, in consultation with the Chair of the Council, to be able to determine any application made by a Member, in advance, for the authorisation of their continued absence from all meetings of the Council for a period of six months or more. When time permitted, the decision would still be made by the full Council.

The Report proposed that the scheme of delegation (under the Director of Legal and Democratic Services) be amended.

There was general support for the proposal, but in discussion, Members asked that the role of Group Leaders in the process be better recognised as well as ensuring the Monitoring Officer considered mitigating circumstances, such as attending meetings remotely. Members were also keen to see a maximum of a 6 month extension and only one dispensation to be dealt with in this way.

Suggested wording for the delegation had been outlined in the Report, and this is replicated below, with additional text agreed at the meeting in red type.

*'where there might be a difficulty in bringing the matter before full Council within the required six month period, to determine, in consultation with the Chair of the Council **and informing other Group Leaders**, any application made by a Member, in advance, for the authorisation of their continued absence from all meetings of the Council for a period of six months or more, pursuant to section 85(1) of the Local Government Act 1972'. **This process may only be used once and for a timescale of no more than 6 months.***

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

RESOLVED that Council be recommended to amend the scheme of delegation to permit the Monitoring Officer, to approve the absence of an elected Member of the Council pursuant to Section 85 of the Local Government Act 1972, the wording and process to be included in the Constitution being outlined above.

NOTES:

1. Minutes should always be read in association with any Reports for a complete record.
2. If the meeting has been webcast, it will be available to view on the [webcasting site](#) for up to 12 months from the date of the meeting

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

The Meeting started at 10.31 am and finished at 11.15 am