

Report to: **Council**

Date: **25 March 2021**

Title: **Enhancing the Democratic Decision Making Process**

Portfolio Area: **Council – Leader Cllr Judy Pearce**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: If the recommendations are approved, the draft Calendar of Meetings for 2021/22 and the Constitution Review will be presented to Annual Council on 20th May 2021

Author: **Andy Bates** Role: **Chief Executive**
Drew Powell **Director of Governance and Assurance**

Contact: Drew.powell@swdevon.gov.uk

RECOMMENDATIONS:

That Council be RECOMMENDED to:

- 1. Support the overarching aims and principles as set out in section 4, with any consequential amendments being made to the Council's Constitution, and changes to come into effect from the Annual Council meeting in May 2021; and**
- 2. Instruct officers to continue to consult with Members prior to bringing a report and the amended Constitution to Annual Council on 20th May 2021.**

1. Executive summary

- 1.1** It is essential that Members and officers operate within a local governance framework of checks and balances to ensure that decision-making is lawful, informed by objective advice, transparent, and consultative.

- 1.2 There is also a duty to ensure that our governance processes support efficiency and value for money in delivering services to the community.
- 1.3 Members considered a Report at the last Council meeting on 11th February 2021 on enhancing the Democratic Decision-making Process (Minute 40/20 refers) and it was resolved that:
1. *That the overarching aims and principles (as set out in Section 4 of the presented agenda report) be supported, with any consequential amendments then being made to the Council's Constitution;*
 2. *That a further report be presented to the next Council meeting (to be held on 25 March 2021) that focuses on proposed revisions to:*
 - a. *the frequency and timing of meetings (Sections 4.8 – 4.11 of the presented agenda report refer);*
 - b. *the Public Participation Schemes at formal Member Meetings, including the introduction of a Scheme at Full Council meetings (Section 4.14 of the presented agenda report refers);*
 - c. *the role and purpose of Working Groups and Task and Finish Groups (Section 4.16 of the presented agenda report refers);*
 - d. *the ability to publish the draft minutes of Full Council meetings within a week of the meeting being held.*
 3. *That officers be instructed to continue to consult with Members prior to the next Council meeting to be held on 25 March 2021; and*
 4. *That officers be instructed to draft the Calendar of Meetings for 2021/22 with the provision for Overview and Scrutiny Panel meetings to take place two weeks after an Executive Meeting and the provision for six scheduled meetings of Council per Municipal Year.*

In line with the resolution, this report focuses on the following:

- the frequency and timing of meetings;
- The public participation schemes at formal member meetings, including the introduction of a scheme at full council meetings; and

- The role and purpose of working groups, and task and finish groups;

1.4 This report seeks approval in principle to:

- Bring forward the draft calendar of meetings for 2021/22 in line with minute 40/20 and specifically part 4 of the resolution;
- Introduce new procedures with regard to the timing and duration of meetings;
- Introduce a new scheme of public participation;
- Rationalise the role, purpose, and number of Working Groups and Task and Finish Groups; and
- To make any consequential changes to the Council's constitution to secure the above and to report back to the Annual Council meeting on 20 May 2021.

2. Background

- 2.1 Delivering good governance as a Council is dependent on a number of key principles: one of which is the need to take informed and transparent decisions, which are subject to effective scrutiny and the management of risk.
- 2.2 Another is the importance of engaging with the community and other stakeholders to ensure robust public accountability.
- 2.3 At present Members and officers work within the existing governance framework, the adopted Council Constitution, and established practice to deliver against these principles.
- 2.4 The potential to improve the clarity, efficiency, and accountability of decision-making has been identified through a number of different sources and was the subject of a report to Council on 11th February as detailed above.
- 2.5 Reflecting on the issues discussed on 11th February, and specifically with regard to the issues identified in 1.3 above, the Chief Executive has worked with the Director of Governance and Assurance and the Democratic Services Manager to develop a range of proposals for further consideration.
- 2.6 These proposals formed the basis for a series of meetings involving all Members, through a range of different forums.
- 2.7 The Chief Executive met with Members on the following dates:

- 03/03/21 - the four Group Leaders, Chairs of Overview and Scrutiny, Executive and Audit
- 04/03/21 - Independent Group
- 05/03/21 - Liberal Democrat Group
- 08/03/21 - Conservative Group
- 08/03/21 - Green Group

2.8 The consensus during these discussions was broad support for the proposals as set out in Section 4 below. The proposals are a combination of changes and additions to working practices and procedures and formal changes that will require changes to the Councils adopted Constitution and/or Standing Orders.

3. Outcomes

3.1 By implementing the proposed enhancements and changes to the current decision-making framework and arrangements, it is envisaged that improvements can be made to secure greater transparency, accountability, clarity of roles, and efficiency of the democratic process.

3.2 In order to test the effectiveness of the new approach it is proposed that a review of the new arrangements be undertaken following the first year in operation, with officers asked to report back and to recommend any modifications in September 2022. The Chief Executive will undertake the review with the Leader in full consultation with Committee Chairs and political Group Leaders, in the same way the current proposals were formulated.

4. Proposals and Areas for Development

Frequency and Timing of Meetings

4.1 In line with the recommendations from the meeting on 11th February, the Calendar of Meetings for 2021-22 will allow for Overview and Scrutiny Panel to meet two weeks after the Executive as opposed to in advance.

4.2 In addition, there will be provision for six scheduled Council meetings per year, as opposed to four. The Calendar will also be drafted to allow for a reasonable break during the summer (August) and over the Christmas and New Year period to enable Members and officers the opportunity to take leave. It is also proposed to change the start time for some meetings in order to remove potential diary clashes for Members.

4.3 The draft Calendar of Meetings for 2021/22 will be presented to the Annual Council meeting on 20 May 2021 for approval. As part of the Calendar, provision will be included for Question and Answer Sessions with members of the Senior Leadership Team.

Management of meetings

- 4.4 To further improve the efficiency and accessibility of meetings, it is recommended that consideration be given to taking steps to ensure meetings are not overly long and that there is provision for regular breaks.
- 4.5 Managing meetings effectively is a collective responsibility which extends from setting the agenda, the role of the Chair in conducting the meeting, to the actions and behaviour of Members and officers.
- 4.6 A number of recent meetings have extended beyond four hours, which is considered excessive and risks items towards the end of the agenda not receiving full consideration. This has been reiterated by a number of Members during their meetings with the Chief Executive, and was evidenced at the last Council meeting held on 11 February 2021 at which a Closure Motion was approved after four hours with some items of business not being considered.
- 4.7 It is common within council constitutions for there to be a time limit on the duration of the meeting – typically three hours. In the absence of adopting similar provisions (which was not supported by a number of Members) then it is essential that we introduce a package of measures which, taken together, are aimed at enhancing meeting efficiency:
- 4.8 Agenda Setting and Notification in Advance
- A focus on important decisions by reducing items to simply 'note' (i.e. not requiring a decision);
 - Drafting succinct, clear reports and recommendations;
 - Ensuring questions/motions are relevant to the business of the Council;
 - Both Motions and Questions on Notice to be received by 1.00pm seven clear working days before the meeting is held;
 - Wherever possible Members should make clear their intention to propose amendments in advance (by 12 noon the day before) so that all Members have time to consider them ahead of the meeting; and
 - Amendments affecting proposals for the Council's revenue budget (i.e. the annual budget setting process) must be made in advance in writing to the HoPS (as they are already

for Council) when those draft budget proposals are considered in the Joint DM and O&S Panel and in Executive.

4.9 Duration

- Move Full Council meetings to a 1:00pm start time with an agreed comfort break (20 minute recess) after two hours;
- Introduce a time limit (one hour maximum) for Questions and Motions on Notice at Council Meetings;
- Introduce a limit of one motion per Member or that second/ subsequent motions will only be debated once all first motions are considered; and
- In view of the increase to six Council meetings per year, it is proposed to clarify the Constitution to confirm that there will be no motions or questions on notice at Annual Council in view of its civic and ceremonial nature.

4.10 Equitable contribution

- Reduce the duration of speakers' contributions in a debate at Full Council from five minutes to three minutes;
- The introduction of an electronic timer system (green, amber, red to cut off automatically);
- Manage individual speaker's inputs – adhere to the provision in the Rules of Debate whereby each Member has an opportunity to contribute once per item, with Chair to rule in exception;
- Focus on precise, relevant, and non-repetitive inputs – ones that help to inform the decision; and
- Move to next item – once an item has been given a reasonable airing – recognise that, in line with the Constitution, the Chair (or others) should at times move that the meeting move to next item – this is about balancing the time and focus of the meeting.

4.11 Chairing Skills

- Introduce training for all Committee Chairs – this should be a requirement for all newly appointed chairs, even if they are very experienced councillors;

- Effective training and chairing skills will support some of the proposals set-out above that cannot be put into procedural rules; and
- A key role of the Chair will be to act with impartiality and to encourage contributions from the Members that allow for a constructive dialogue and debate.

4.12 Officer Input

- Actively support officer advice on procedural matters - value the timely officer input via, for example, the Monitoring Officer, Democratic Services Manager, etc.

Public Participation

4.13 A key part of the democratic process is ensuring that members of the public can engage in an appropriate manner and ask questions. In view of this, it is proposed to introduce a scheme at Full Council meetings and to review and amend the existing schemes at Executive, and Overview and Scrutiny Panel meetings.

4.14 It is not proposed to review the schemes at either of the Regulatory Committees (Development Management and Licensing) nor Salcombe Harbour Board, nor to introduce a scheme at Audit Committee meetings.

4.15 It is proposed that the following is applied to the scheme, with two notable exceptions¹

- Questions will be ruled out if they are substantially the same as a question that has been put within the past six months or could be considered by the Council to be confidential;
- In the event of questions being received that are of a similar nature, then one statement may be given in response to them. (NB. this would not preclude a supplementary from being asked);

¹ 1. Questions related to specific Development Management and Licensing Committee decisions – the minutes of these Committee meetings are presented to Full Council, so without such an exception we could receive such questions at Full Council, and
 2: Questions related to specific Standards Complaints – since Overview & Scrutiny is responsible for the Standards Complaints process, without this exception we could be receiving questions on such complaints).
 (Precise definitions, a full list of reasons as to why questions will be declined, and clear wording for the Constitution, to be determined by the Monitoring Officer).

- Questions are restricted to a word limit (currently 50 words for Exec) with an overall time limit for this agenda item (say 15 minutes);
- A limit of one question per questioner/organisation and only one question per agenda item, (the first one received on any item to be the question asked);
- Provision for one supplementary question that must relate to the response given to the original question;
- Questions need to be received in advance of the meeting date. It is proposed for consistency that this is 3 days before the meeting is held (i.e. 1:00 pm on the Monday ahead of the meeting). Questions will be taken in the order they are received;
- In recognition of the ability for urgent items to be brought forward once an agenda has been published, (or the publication of late reports) the Chairman be given the discretion to allow questions on matters that are felt to be urgent that don't comply with our deadline(s). Such questions would need to be accepted by the Monitoring Officer and would still be part of the agreed Public Forum time allocation;
- Questions to receive succinct written replies to be provided at the meeting. Neither the question nor the response will be read aloud at the meeting. If in attendance, the person who asked the question could ask a supplementary based on the written answer given and will be given a verbal response;
- Should question time expire before all questions have been answered then written responses will be sent and included in the formal Minutes (as Questions will be taken in the order they are received, this action will be taken regardless of whether or not the questioner is in attendance at the meeting);

Member Engagement - Questions on Notice

4.16 In addition to asking questions during the debate on Agenda items at Executive and Overview & Scrutiny, it is proposed that Members should also be allowed to ask on other matters provided questions relate to matters over which the Council has some control, or is responsible for, or the services it provides (or are provided on its behalf) to local people, or current key issue of interest/concern for our communities. Questions relating to matters outside the Council's remit will not be accepted.

4.17 As with the Public Scheme:

- Questions will be ruled out if they are substantially the same as a question that has been put within the past six months;
- In the event of questions being received that are of a similar nature, then one statement may be given in response to them;
- Questions are restricted to a word limit (say 50 words) and the agenda item a time limit (say 15 minutes);
- A limit of one question per Member and only one question per subject, (the first one received on any item to be the question asked);
- Provision for one supplementary question that must relate to the response given to the original question;
- Questions need to be received in advance of the meeting date, possibly in line with the public scheme with similar provision for questions on late or urgent items, again needing to be accepted by the Monitoring Officer and Chairman;
- Questions will be taken in the order they are received;
- Questions to receive succinct written replies to be provided at the meeting. Neither the question nor the response will be read aloud at the meeting. If in attendance, the Member who asked the question could ask a supplementary based on the written answer given and will be given a verbal response; and
- Should Member Question Time expire before all questions have been answered then written responses would be sent and included in the formal Minutes.

Reviewing the Role of Member 'Working' Groups

- 4.18 Historically, the Council has utilised a range of formal and informal Member groups to, for example, support policy development, service change, and project delivery. These groups have proved effective and have been periodically reviewed and amended as necessary.
- 4.19 However, the approach to setting up the groups, their purpose and lifespan has, to an extent, been ad hoc and incremental, as has the review process.
- 4.20 There are a range of groups with a range of names, including 'Working Group', 'Panel', 'Steering Group', and 'Board'. There is no clear differentiation between groups that, for example, are

partnerships, have wider governance functions, have decision making powers, or are simply advisory.

- 4.21 In addition, there is inconsistency in how the groups are constituted and how they function. There are also examples of 'Working Groups' that perhaps should have been formed as 'Task and Finish' groups; that is a group set up to fulfil a discrete purpose which is time bound.
- 4.22 In advance of the Annual Council meeting on 20 May 2021, and with a view to improving efficiency, it is opportune to set out the principles of when and how such groups should be set up, their function, and their name. Having agreed the principles, applying this logic to the existing list of groups would help ensure consistency and transparency in the future.
- 4.23 We currently have a number of meetings under the heading of working groups, some of which are active and others that have served their purpose and are no longer needed. It is therefore proposed that we review and rationalise each of these, assign them as appropriate against the categories below, and disband any that are no longer needed. This will also help to provide clarity as to the role and purpose of each group.
- 4.24 In terms of the groups and how we might wish to progress, the following is proposed:

1. 'Task and Finish' – A time-limited and single focus advisory group to support policy development and provide Member oversight of key projects.

A Member group set up by the Overview and Scrutiny Panel and selected from the whole Membership. The group will have a clear, time bound purpose and will report back to the Overview & Scrutiny Panel with its recommendations, i.e. its role is advisory with no decision-making powers. The group will then be dissolved. A good example of the effective use of the Task & Finish (T&F) approach is the Consultation and Engagement T&F Group, with the active support and commitment of the Executive Lead Member, through the recovery planning process. It had clearly defined Terms of Reference and scope, and reported back in a timely manner with recommendations that informed and ultimately resulted in new policy/working practices being adopted. It is proposed to retain 'Task & Finish' groups as the main vehicle for policy development.

There may also be occasions where the Executive will wish to establish a 'Task & Finish' group to provide oversight of a key corporate project.

It is further proposed to develop a standard set of terms of reference and operating procedures, including reporting deadlines, and agree a nominations protocol via group leaders. One of the clearly expressed ambitions of Members is that the talents of the whole membership should have opportunities to contribute to the work of 'Task & Finish' groups.

2. 'Governance Boards' – Constituted to oversee Governance arrangements for partnership activity and with specified decision-making powers

In practice these boards occur where the Council has a shared/joint responsibility with other partner councils or organisations. Examples – Devon Building Control Partnership and Joint SH/WD/PCC Local Plan Partnership Board. The terms of reference are agreed by Council (and set out in the Constitution) for each Board, which include voting rights for appointed Members.

It is proposed to retain Governance Boards in line with the definition above

3. 'Panels' – An occasional, ad hoc, Committee of the Council with specific decision-making powers.

These meet occasionally to carry out a specific task to exercise delegated authority – example Rate Relief Panel, Council Tax Setting Panel. This does not include the Overview and Scrutiny Panel which is clearly a fully constituted Committee of the Council

It is proposed to retain 'Panels' in line with the definition above

4.25 It has long been recognised that the iterative changes to the adopted Council Constitution over time have resulted in a document that is difficult to navigate and far from user-friendly.

4.26 Members are reminded that a key point that arose during the Member Workshops on the Governance Theme, within the Council's draft Recovery Plan, was that the Constitution required a full review and this would be undertaken in the upcoming months, with a priority being given to the changes needed to implement the proposals arising from this report.

4.27 It is proposed to undertake a full review of the Constitution with an initial focus on securing the changes as set out within this and the previous report.

Draft Minutes of Full Council Meetings

- 4.28 At the Council meeting on 11 February 2021, Members will also recall that it was resolved that this review should also include consideration of publishing the draft minutes of Full Council meetings within a week of the meeting being held to ensure that Members could cascade the decisions made to their local town and parish councils.
- 4.29 In light of these discussions, officers produced (and circulated to all Members) a 'Decision Log / Actions Arising' document from the Council meeting held on 11 February 2021 within a week of the meeting being held that set out the decisions made at this meeting, and any key actions that had arisen. The feedback from Members to this document was very positive and it is intended for this to become a permanent working practice upon the conclusion of Full Council meetings.

5. Proposed Way Forward

- 5.1 The report sets out a range of issues and proposals to improve the clarity, efficiency, and accountability of decision-making. The proposals are a combination of changes and additions to working practices and procedures and formal changes that will require changes to the Council's adopted Constitution and/or Standing Orders. It is recommended that the changes will be reported back to Members at Annual Council on 20 May 2021.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council's governance and decision-making powers are enshrined in legislation, primarily the Local Government Acts of 1972 and 2000. These set out what the Council can and cannot do, together with providing discretionary powers to determine its procedural rules within these parameters. Only the Council can make decisions regarding the Constitution and decision making processes
Financial implications to include reference to value for money		There are no direct financial implications arising from this report.

Risk		The report sets out a range of proposals to enhance the democratic decision-making process. Failing to consider and implement changes may result in the decision making process being inefficient and unclear to stakeholders.
Supporting Corporate Strategy		Supports all six corporate themes
Climate Change - Carbon / Biodiversity Impact		There are no direct impacts on climate change and biodiversity however maintaining effective decision-making through virtual committee meetings has the potential to reduce the need for travel and the associated carbon emissions.
Comprehensive Impact Assessment Implications		
Equality and Diversity		No direct implications.
Safeguarding		No direct implications.
Community Safety, Crime and Disorder		No direct implications
Health, Safety and Wellbeing		No direct implications
Other implications		No direct implications

Background Documents:

Council Constitution

Annual Council Agenda and Minutes – 16 May 2019

Council Agenda and Minutes – 11 February 2021

Appendices:

None