

Report to: Council



Date of Meeting 26<sup>th</sup> July 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## Time limited change to decision taking due to current COVID situation

### Report summary:

This report is brought forward in light of the relaxation in COVID restrictions and the current situation with COVID in East Devon, it seeks Council's agreement to holding virtual 'consultative' meetings with the decision taking delegated to the Chief Executive / relevant Senior Officer to take the decision having regard to the views of the consultative meeting. This would be for a limited time period.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

That Council agrees;

1. That until 23:59 17th January 2022 (or such earlier period as may be decided by subsequent decision);
  - a. all meetings of the Council and its committees (but not sub-committees), panels and forums and the Cabinet shall be held virtually using available technology but shall be on the basis of being consultative only other than where specific legislation permits decision making at virtual meetings.
  - b. decisions (including all executive and regulatory matters) that would have been taken by those meetings if the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 had continued in force shall be delegated to the Chief Executive or relevant Senior Officer in consultation with those meetings.
  - c. In taking decisions under paragraph b, the Chief Executive or relevant Senior Officer shall have heard all of the debate having been at the consultative meeting or seen the recording of it.
2. Agree that until 23:59 17th January 2022 (or such earlier period as may be decided by subsequent decision) the Constitution shall be treated as having been amended to give effect to the above and shall be interpreted purposively on that basis with the final decision on its interpretation to rest with the Chair of Council (having regard to the advice of the Monitoring Officer and / or Head Paid of Service) in accordance with Part 1, Article 5.1.2 of the Constitution.
3. Where it is necessary to convene any sub-committee for quasi-judicial purposes then the Head of Paid Service or the Monitoring Officer shall determine the appropriate way to hold the meeting.

## Reason for recommendation:

To ensure that the Council's decision making arrangements are appropriate to deal with the current COVID situation.

Officer: Henry Gordon Lennox, Monitoring Officer

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Portfolio(s) (check which apply):

- Climate Action and Emergencies
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Culture, Tourism, Leisure and Sport
- Democracy and Transparency
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk;

**Links to background information** None.

**Link to [Council Plan](#):**

Priorities (check which apply)

- Outstanding Place and Environment
  - Outstanding Homes and Communities
  - Outstanding Economic Growth, Productivity, and Prosperity
  - Outstanding Council and Council Services
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## Report in full

### Introduction

1. Members will recall that in late April 2021 the High Court confirmed that the Local Government Act 1972 requires meetings to be held in a physical location and for those voting to be physically in attendance and also that members of the public are entitled to attend. With the full relaxation in COVID restrictions occurring yet an increasing rate of infections locally, there is concern that requiring physical meetings to be held presents a significant risk that should be addressed.

### Addressing concerns over COVID relaxations

2. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which permitted virtual meetings throughout the majority of the pandemic, expired on 7<sup>th</sup> May 2021. The Government did not legislate to extend them or permit virtual or hybrid meetings beyond then. The High Court were asked to confirm that the underlying legislation – the Local Government Act 1972 – permitted virtual meetings. Unfortunately the Court confirmed that this was not the case and the legislation required meetings to be in a physical location with those

wishing to vote being physically present and that members of the public must be permitted access if they wished to attend. The Government has recently consulted on how local authorities might like to hold meetings going forward and are expected to legislate in due course. In the intervening period between then and now there is an escalating issue with COVID infections locally. This against the backdrop of the Government relaxing restrictions.

3. There are concerns within the Council about this situation and therefore the Council is asked to consider whether it wishes to adopt an approach that would avoid having to meet physically to mitigate the risk of COVID infections occurring within Council premises or through meetings generally.
4. The advocated approach means that meetings will be held virtually, as they have been throughout the pandemic, and while they will provide a view on any matter to be decided having regard to any public views that might be expressed, those views will be consultative only. The authority to actually take the decision is delegated to the Chief Executive or relevant Senior Officer who will then take a decision taking into account the views of the consultative meeting.
5. This approach is put forward on the basis of the predicament currently being faced in terms of increasing COVID cases within the district. For this reason it is suggested that it is only adopted for a relatively short period of time, being until 17<sup>th</sup> January, following which it will revert to the current situation unless a decision is made to extend it.
6. For the avoidance of doubt, this recommendation is not intended to apply to decisions that legislation already permits as ones that can be made by virtual meetings i.e. Licensing Act 2003. Equally, sub-committees with quasi-judicial responsibilities are excluded (e.g. the Licensing Sub Committee when considering taxi licensing matters) and where it is necessary to convene such a meeting then specific consideration will need to be given to what are the most suitable arrangements to use at the relevant time.

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### **Financial implications:**

There are no direct financial implications from the recommendations of this report.

### **Legal implications:**

The legal position is as detailed in the report.