

Report to: Council



Date of Meeting 19<sup>th</sup> October 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## Temporary continuation of virtual meetings

### Report summary:

At the Extraordinary Council meeting of 26<sup>th</sup> July 2021, members agreed to put in place arrangements for the holding of virtual 'consultative' meetings with decision taking delegated to Senior Officers due to concerns around the impact of COVID. The arrangements were time limited to 17<sup>th</sup> January 2022. At the EGM of 8<sup>th</sup> December 2021, Council agreed to extend these arrangements until 11<sup>th</sup> May 2022. The arrangements were extended again on 3<sup>rd</sup> May 2022 until 31<sup>st</sup> October 2022. This report seeks member's agreement on how to hold meetings after that date.

### Is the proposed decision in accordance with:

Budget Yes  No

Policy Framework Yes  No

### Recommendation:

Council agrees;

- 1) To continue the current virtual meeting arrangements until 20<sup>th</sup> January 2023 as per the arrangements detailed in Recommendation 2 noting a further report be brought to December's Council meeting to determine whether to implement a hybrid meeting approach or an alternative approach to meetings going forward.
- 2) The arrangements which shall apply are;
  - a) Save as provided for in paragraph c) below, that until 23:59 on 20<sup>th</sup> January 2023;
    - i) 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.
    - ii) 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.
    - iii) in taking decisions under paragraph a) ii), 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.
  - b) Until 23:59 on 20<sup>th</sup> January 2023 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.

- c) Paragraph a) above is not intended to apply to any of the following;
- i) any sub-committee for quasi-judicial purposes (e.g. Standards Hearing Sub Committee or Licensing Sub Committee when considering taxi licensing matters) where the Chief Executive or the Monitoring Officer shall give specific consideration to what are the most suitable arrangements to use at the relevant time and determine the appropriate way to hold the meeting,
  - ii) decisions that legislation already permits as ones that can be made by virtual meetings (e.g. Licensing Act 2003).
  - iii) where in the opinion of the Chief Executive or the Monitoring Officer either the matter should be decided by Members or it would otherwise be inappropriate for the Chief Executive or a Senior Officer to decide the matter, in which case the Chief Executive or the Monitoring Officer shall give specific consideration to what are the most suitable arrangements to use at the relevant time and determine the appropriate way to hold the meeting,

### **Reason for recommendation:**

To ensure that the Council's decision making arrangements continue to be appropriate given the current situation in relation to COVID and climate change commitments.

Officer: Henry Gordon Lennox, Monitoring Officer

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Portfolio(s) (check which apply):

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

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Medium Risk;

### **Links to background information**

[Extraordinary Council 26<sup>th</sup> July 2021](#)

[Council 8th December 2021](#)

[Extraordinary Council 3rd May 2022](#)

[Note from the Chair to all Councillors](#)

[LGA June 2022 press release](#)

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

Priorities (check which apply)

- Better homes and communities for all
  - A greener East Devon
  - A resilient economy
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## Introduction

1. The previous reports to Council (see background links) cover the wider background. Since those reports there still remains little sign of the matter being addressed by the Government. The LGA continues to push for change – although perhaps not as vociferously as at first – with their last press release being in June 2022 (see background links). In response the DLUHC are reported to have said “*We recognise some councils would like the choice to be able to meet remotely. We launched a call for evidence to better understand the view of councils on remote meetings and we will set out our response in due course.*” So the legal position remains as previously reported, essentially that for meetings to be lawful they need 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.

## Current approach

2. At the July and December 2021 and May 2022 meetings, Members agreed that meetings would be held virtually, as they had been throughout the pandemic, with consultative views expressed. The authority to actually take the decision is delegated to the Chief Executive or relevant Senior Officer who then takes a decision taking into account the views of the consultative meeting. As has been made clear previously, the decision maker has to exercise their own judgment when taking the decision – having regard to the views expressed by the consultative meeting – and it is not simply a rubber-stamping exercise.
3. Despite there being an increase in administrative work associated with this approach, the arrangements continue to work well and there does not appear to have been any significant public concerns or criticisms around the approach. There have only been a small number of matters that have / are necessitating Members physically meeting to take decisions outside of the virtual arrangements.
4. It is considered that there continues to be a number of wider benefits in relation to virtual arrangements in terms of the opportunity for increased openness, transparency and public engagement (including quality and ease of access to the audio visuals) and access to meetings in terms of equalities and diversity considerations. There are also benefits aligned to climate change objectives, such as reduced travel (which also results in savings in Member expenses) for members and officers.
5. Members will recall some of the above considerations were highlighted in the May 2022 Council report and, along with others, were subject to debate at the meeting. The link to that meeting and the note from the Chair prepared at the time of that meeting can be found in the background links.

## Looking forward

6. Since the last report, there has been further relaxation in relation to COVID precautions – within the Council offices the requirement for a one-way system and mask wearing has been dispensed with as has restrictions on where people sit. Meetings are regularly being held in the offices. However, providing sanitiser as an appropriate and responsible precaution designed to minimise infection risk and protect individuals remains. As a general observation there seems to be an acceptance within the populace that life is returning to ‘normal’ and the need to have to live with COVID as part of everyday life. On the flip side, recent reporting has COVID cases on the rise again and naturally some people remain very concerned about the prospect of

catching COVID or passing it on to family or those they care for. It cannot be ignored that there remains a risk to the public, staff and councillors of returning to physical meetings and that the Council continues to have a responsibility towards protecting individuals.

7. At May's meeting – see background links for link to the report and minutes – Members were presented with various factors to consider as part of determining which approach to agree. This are mentioned briefly above. This included comment on the legal position and risk aspects and Members also raised a number of issues explaining respective views / positions for returning to physical meetings, continuing virtually and why the recommendation in relation to hybrid meetings wasn't appropriate.
8. At this stage, there is not a definitive solution on a hybrid option, which can be presented to members to consider the meeting arrangements going forward. Members should be reassured that work is ongoing in this respect and the Chair attended a demonstration recently. Unfortunately the presentation did not give necessary confidence in the solution and there is further work to be done. This includes an expectation that a wider Member group will be engaged as part of solution refinement. The intention is to bring a report to December's Council on the future approach to meetings. In the meantime the recommendation is to continue the current arrangements for a further period into the New Year to allow this to happen. The report to May's Council highlights the relevant considerations and risks and the position remains the same in that respect.
9. Other options that Members may wish to consider at this stage include returning to physical meetings exclusively or having a combination of physical meetings (Cabinet / Council for example) and virtual meetings. The Chair's note to May's Council meeting identifies in broad terms those meetings that might most appropriately be held physically and those virtually. Given the comments at May 2022 Council's meeting, it is not considered that the hybrid solution previously relied upon – being Members in the chamber but each attending Zoom via their own device – is something that Members will wish to consider. In relation to reverting to physical meetings, this would necessitate all decision-makers, those wishing to contribute (whether Members or members of the public) and officers being physically present in the Chamber. This would essentially mean reverting to the pre-COVID approach. One point to note about this is the chamber equipment. Members will recall that the audio of the meeting was recorded using the Bosch equipment and uploaded to the Council pages for people to listen to. Following a recent check, the Democratic Services Team have reported that the current microphone setup is not providing a good enough quality of recording to upload. There will need to be further investigation to rectify this and while it might just simply be a wire (loose, damaged or missing) it could be related to the Bosch kit or related software and so there may be a cost and implication. It should be remembered that the equipment hasn't been used since around March 2020.
10. Irrespective of which approach Members agree at this meeting, the options mentioned above will be considered as part of the report to December's Council meeting to enable Members to consider all the issues and options and take an informed decision on the Council's approach to meetings going forward.

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### **Financial implications:**

There are no direct financial implications arising from the recommendation.

### **Legal implications:**

The legal position is as detailed in the report.