

PART 10 WORKING PRACTICES

The Council's procedures are governed by its Constitution. This is supplemented by the approved Working Practices explained below which affect the operation of the Committee process or impact upon individual members. These Working Practices do not form part of the Constitution but are reproduced here for convenient reference.

CABINET MEMBER REMITS

The functions of Cabinet Members (including their powers of individual decision making) are set out in detail in Part 3 of the Constitution. There are also arrangements for the taking of Cabinet decisions in the absence of the assigned Cabinet Member.

PRE-AGENDA/BRIEFING MEETINGS

Pre-agenda meetings with a Chair or Vice-Chair of a Committee to determine the business to be considered at a meeting are not permitted.

Briefing meetings are only to be held — to which the Chair and Vice-Chair should be invited — to discuss administrative arrangements for the meeting and should normally be held on the same day as the meeting in question.

This arrangement does not apply to briefing meetings for the County Council to which the Party Group Leaders, Secretary and Whips will be invited. Nor does it preclude an Cabinet Member or the spokesperson of any group from seeking his/her own personal briefing from a Chief Officer/Head of Service.

This Working Practice does not apply to any Joint Committee.

ARRANGING AND CANCELLING MEETINGS

Arrangements for convening meetings of committees or working parties or for varying the date or time of any meeting included in the Council's approved calendar must be agreed by the Chair and the Vice-Chair. Before seeking the agreement of the Chair and Vice-Chair, Officers will attempt to seek the views of opposition groups represented on that body. In the case of the Standards Committee only, the Vice-Chair should also be consulted.

This Working Practice does not apply where the revised date is agreed at a meeting of the committee or working party itself, provided all groups are present, nor does it apply to any Joint Committee or to any Group convened by an Cabinet Member .

CABINET AGENDA

In line with the Council's Constitution, the Leader has responsibility for approving the running list (the 'Forward Plan') of matters to be considered by the Cabinet and for determining the agenda for meetings of the Cabinet.

In so doing the Leader will consult with other Cabinet Members to ensure that all relevant matters requiring a decision of the Cabinet are considered at the appropriate time. The Forward Plan will be submitted to and agreed by the Cabinet at each meeting.

The Constitution provides for non- Cabinet Members of the Council to ask the Leader to include an item on the agenda for a meeting of the Cabinet. The Leader will normally accede to such a request provided they are persuaded that the item is not intended simply to elicit information or to facilitate the making of a presentation.

MOVING, SECONDING AND RECORDING OF MOTIONS/AMENDMENTS

The wording of any motion or amendment proposed by a member at a committee or working party which is not accepted may be recorded in full in the minutes of that meeting if the Member so requests by completing the appropriate form provided for that purpose.

When at any meeting of the Council, the Cabinet or a committee or working party a member who has moved a motion or amendment fails to secure a seconded, the Chair of that meeting will, as a matter of course, formally second the motion or amendment in order to facilitate debate.

STARRING OF MINUTES

The minute of a decision which is within the delegated powers of a committee will be starred. For Committees other than the Cabinet, the Council may only amend or agree a different course of action if the starred minute has not yet been acted upon. In order to remove a star that has been properly applied to a minute 20 members must be in favour of doing so at the Council meeting, as is required by Standing Order 13(5).

In the case of the Development Management Committee there is an expectation that an individual planning application should be dealt with by that Committee and not referred to full Council for determination. Decisions which involve the formulation of new policy or the variation of existing policy will however be unstarred.

PARTY WHIPS AND SECRETARIES

There are two commonly used terms to describe Members Groups on the Council. These are 'Political Groups' and 'Party Groups'.

Political Groups are established in accordance with the Local Government and Housing Act 1989 for the purpose of appointing members to committees and allowances. The Council has in addition delegated to the Whips and Secretaries of those Groups responsibility for:

- the appointment of members to outside bodies;
- the filling of vacancies on Committees and Working Parties; and
- seating arrangements at meetings of the County Council.

The term Party Group is used to describe a Group of Members of the same political persuasion only. Presently that description only applies to the Conservative, Liberal Democrat and Labour Groups on the Council.

The distinction between a Political Group referred to above as defined by the 1989 Act (*for the purposes of political balance on committees and allocating special responsibility allowances*) and a Party Group (*a number of members of a particular political persuasion*) cannot be over emphasised.

SEATING ARRANGEMENTS

At meetings of the County Council members are seated in accordance with a formal seating plan agreed with the Party Whips and Secretaries which respects each Group's political integrity.

At Committees, different seating arrangements apply for different types of meeting to reflect the work they do. However, it is nearly always the case that Members of the same group will sit in close proximity to each other though that is not a requirement.

Members attending committee meetings under Standing Order 25(2) are expected to sit, where possible, at the back of the room coming forward to sit at the table to speak to the Committee (if invited to do so).

PRESS RELEASES/COMMUNICATIONS

Press releases will be prepared in line with the Council's Communications Protocol, as approved by the Procedures Committee, reflecting the Council's current political arrangements and consistent with the Government's Code of Practice for Local Authority Publicity.

In addition:

- Chief Officers/Heads of Service are responsible for ensuring that Members representing the Council on European, National or Regional Bodies are properly briefed on issues relating to Devon;
- Where the Press Office prepare a statement on any matter of civic or national significance it should be made by the Chair of the County Council alone and any personal statement by any other member in response to a direct approach by the media is
- made at that member's individual discretion.

REPRESENTATIONS

Copies of all representations sent on behalf of the County Council to outside bodies including Ministers, Government Departments, the Local Government Association, the European Community/Union and MPs or MEPs will — together with any responses received — be made available in the Members' Lounge and in each of the Party Group Rooms prior to their being reported to the relevant Committee(s).

Copies of responses shall also be sent as a matter of course to all Members of the Council, via email.

Representations made to the County Council or Committee about a matter to be considered will be reported by the Chief Officer (in writing or orally, indicating the number and nature of the representations received) who will also ensure that copies of any such letters or representations received are available for inspection by members.

If a decision is referred to another Committee or the full Council then any representations reported to the "original" meeting must also be reported in writing.

A Scrutiny Committee may invite representatives of another organisation to make a presentation. Schemes already operate for Members of the public to ask questions or make submissions to the Cabinet or Development Management Committee. Over and above these, individuals or deputations should not address a committee.

Where notification is received of a deputation wishing to present a petition (or other form of representation) to a Committee the Democratic Services Officer will consult with the Chair of that Committee, or the relevant Cabinet Member, and spokespersons for that committee about arrangements for representatives of all Groups to meet the deputation to accept the petition or other representation before or during the Committee meeting.

Where, in accordance with Article 3 of the Constitution, a petition is received the Cabinet, Committee or relevant Head of Service will respond to the issues raised in that petition within a period of 15 days, in line with the Council's Petition Scheme set out at Part 4 of the Constitution.

INVOLVING MEMBERS

All Councillors will be sent electronically, by email, the agenda sheets for meetings of all Committees and will be informed of individual items which are identified as affecting an area or matter within their electoral division.

Members can also be provided with any other reports referred to therein, on request. The agenda and reports of all of the Cabinet and major committees of the Council will be published on the 'Democracy Centre' in the Council's website.

Where a Member is unable to attend any meeting of a Committee of the Council they may submit their views in writing and these will be reported to the meeting.

County Councillors will be notified of any site inspection or formal member meeting taking place in their electoral division arranged by the Council and may attend, if they so wish, and take part.

County Councillors will also be notified of any visit by the Chair of the Council, a Committee Chair or Cabinet Member to a County Council site or establishment in their area and where a Chair or Cabinet Member is taking part in an official function, formal visit or public event organised by the Council in his or her capacity as Chair or Cabinet Member.

Where such a meeting is arranged by a third party every effort will be made to ensure the local member is made aware of the event and, if possible, invited.

This does not apply where a Chair/Cabinet Member is visiting an area or establishment informally or on a casual basis or as part of a 'familiarisation' or 'getting to know you' process or attending a routine or calendared meeting of a Council Committee at County Hall or any other of its administrative offices.

Officers will also keep members informed about any issues or services which affect their divisions and will alert members at the earliest possible stage of any matter or development proposal that is likely to be submitted to a Committee of the Council.

PROTOCOL FOR SENDING EMAIL ATTACHMENTS TO COUNTY COUNCILLORS

The Council's current code of practice (for employees) stipulates that files/documents should not normally be sent electronically as attachments but that alternative methods, such as links to webpages or shortcuts, should be used which allows the recipient to see the document but does not create multiple copies and fill up the Servers.

It is acknowledged that this practice is only effective where recipients are working on-line or have access to specific parts of the network. That is not currently the case for Councillors and when working off-line (as the majority of Councillors do) the most effective means of sending files/documents is as an attachment.

Incorporating the file/document into the email itself will neither solve the problems encountered by Councillors in the time taken to log-on/synchronise or in managing their Mail Boxes nor will it necessarily reproduce the document in its original form, which may itself create difficulties.

In the present circumstances, the following protocol for sending emails/attachments to County Councillors has been adopted:

- The length of any emails sent to County Councillors should be kept to a minimum;

- A file/document should only be sent as an attachment to an email when it is absolutely necessary by virtue of the timescale of the matter or issue concerned and it is not possible to get that file/document to the Councillor by an acceptable alternative means within that timescale;
- Any file/document sent as an attachment should not normally exceed 4 A4 pages of text and should be a text only version (i.e. it should not include graphics or pictures).

Where Members of the Council all receive an identical approach from a third party it would be prudent to reply indicating that to avoid conflicting or confusing answers the query/correspondence would be passed direct to the County Solicitor to respond on behalf of the Council.

DISTRIBUTION OF INFORMATION TO MEMBERS OF THE COUNCIL

In addition to the rights of members set out in the Access to Information Procedure Rules (para 13.3 of the Council's Constitution) and the Member/Officer Protocol (Part 4 of the Council's Constitution), the County Council has agreed the following principles to be followed in distributing information to members of the Council.

When Information is asked for by a Member

If it is purely a local constituency problem or question of fact a reply will only be sent to the member raising the question.

If the issue raised impinges on the policy of a specific Cabinet Member holder or Committee the member will be advised that, unless they have asked that the exchange of correspondence be confidential, a copy of the correspondence will be sent to the appropriate Cabinet Member/Committee Chair and spokespersons.

Information Prepared by an Officer for a Cabinet Member or Chair of a Committee

If the information is provided at the request of the Cabinet Member or Chair it will not be further distributed. If the information being provided also raises questions of appointments or nominations by a Committee, the Group Whips/Secretary will be advised. If the information provided for an Cabinet Member /Chair is general information relating to a particular area of the County then a copy will be sent to the Local Member(s) for information and that Officers be reminded of the need to maintain confidentiality of information provided to a local member, in line with the protocol, where so requested.

Information Prepared by a Cabinet Member or Chair of a Committee

Where information is prepared for distribution by or on behalf of a Cabinet Member or a Chair it should be sent out under the appropriate Officers name in line with paragraph 7.2 of the Protocol on Member/Officer Relations. The general principles of right to know shall apply and where it communicates information about council services or any matter affecting council services it shall be sent to all members and that Officers be reminded of the need to maintain confidentiality of information provided to a local member, in line with the protocol, where so requested.

Rights Under the General Law

A Member also has a right to see papers where they genuinely have a "need to know" in connection with their duties as a County Councillor. This test is easily satisfied if they are a Member of the Committee to which the issue relates but less so in other cases. Applications should be made to the Chief Officer/Head of Service who will refer the request to the Monitoring Officer in doubtful cases.

Conventions Adopted Constraining the Legal Rights set out above

The following Code of Guidance has been adopted by the Council:

- (i) a member who has a right to inspect documents should consider whether they have a personal or prejudicial interest in the matter covered by the document and whether any action contemplated in the light of the information obtained might conflict with the Members' Code of Conduct;
- (ii) a member requiring information should make application to a senior officer of the Department holding that information. Applications should not be made direct to junior officers;
- (iii) an application must allow the officer time to satisfy themselves that records do not contain exempt information which a member cannot have access to. If they do, such material may have to be removed;

Code of Conduct for Members Concerning the Disclosure of Confidential & Exempt Information

The Council has adopted the following guidelines in relation to the code of conduct concerning the disclosure of confidential and exempt information:

- (i) that where a member during the course of discussion of a Part II item (where the press and public are excluded from a meeting because of the confidential nature of the business) is aware that they would wish to make a statement to the press or communicate information to a third party, they should advise the Committee of their intention and at that time seek guidance as to the extent to which it would be proper for them to do so and, if possible, determine a text or form of words which would not breach the responsibility for maintaining confidentiality;
- (ii) that where after the meeting has closed, a member is approached either by press or media or a member of the public for information they should, before making any comment, contact either the County Solicitor or the Cabinet Member/Chair of the Committee (who in turn may wish to contact the County Solicitor) to seek advice, when it will be possible for the text of any statement that the member may wish to make to be agreed;
- (iii) that, alternatively if the member so wishes, they should refer the person inquiring to the Cabinet Member/Chair of the Committee for the Chair to make a statement on the matter after consultation with the County Solicitor.

VISITS TO COUNTY COUNCIL ESTABLISHMENTS

The following table outlines the protocol to be followed, in the instances described.

COUNTY COUNCIL PROTOCOL FOR VISITS BY MINISTERS, MPs, MEPs AND PARLIAMENTARY CANDIDATES			
When	Who	What	Action
At the time of an election [NOTE: For a general election, from the date of the announcement by the Prime Minister until the date of the election. For local elections, from the date of the publication of the notice of election until the date of the election]	MPs and MEPs	Visiting any establishment in <u>any</u> constituency	Consent of the Head or Officer in charge required. The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the Chair of the relevant Committee or Cabinet Member and Group spokespersons. The Chief Executive in consultation with

			the Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.
	Government Minister or Shadow Spokesman	Visiting any establishment	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the Party Group Leaders and the Chair of the relevant Committee or Cabinet Member and Group spokespersons.</p> <p>The Chief Executive in consultation with the Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.</p>
	Parliamentary candidate	Visiting an establishment in the constituency they are contesting	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive who will then advise the relevant Cabinet Member or Committee Chair and Group spokespersons.</p> <p>The Chief Executive in consultation with the Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.</p>
At any other time	MPs and MEPs	Visiting an establishment in their <u>own</u> constituency	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member holder or Committee Chair and Group spokespersons.</p>
	MPs and MEPs	Visiting any establishment in <u>another MP's or MEP's</u> constituency	<p>Consent of the Head or Officer in charge required.</p> <p>The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member or Committee Chair and Group spokespersons.</p>

	Parliamentary candidate	Visiting an establishment in the constituency they are contesting.	Consent of the Head or Officer in charge required. The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member or Committee Chair and Group spokespersons.
		Visiting an establishment in any other constituency	Not normally advisable to allow! Refer to Chief Executive. Only if premises were of countywide significance should permission be countenanced
	Government Minister or Shadow Spokesman	Visiting any establishment	Consent of the Head or Officer in charge required. The Head or Officer in charge should inform the appropriate Chief Officer (and Chair of Governors) who will in turn advise the Chief Executive, the Party Group Leaders and the relevant Cabinet Member or Committee Chair and Group spokespersons. The Chief Executive in consultation with the Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.

OFFICERS OF THE COUNCIL

Officers are employed by the Council as a whole and their overriding responsibility is to the Council and not to any one party or political group. An Officer may, if invited, attend a Group Meeting of any of the groups.

Any Officer who does attend a group meeting must maintain strict neutrality. An Officer should not attend such a meeting other than as normally constituted although it is recognised that at such meetings there may be one or two persons present who are neither elected Members nor Officers of the Council but who customarily attend those meetings.

The Council has adopted a separate Protocol for Member/Officer Relations the purpose of which is to guide members and officers of the Council in their dealings with one another which is included in the Council's Constitution.

OPENING OF COUNTY COUNCIL ESTABLISHMENTS

For any opening, launch or event, the Chair of the County Council will normally be invited to attend and perform the ceremony. In the event of the Chair or the Vice-Chair being unable to do so the local County Councillor will be invited to perform the ceremony, but in all instances the relevant Cabinet Member should be invited, wherever possible, to play a part in the event.

Detailed guidelines outlining procedures to be followed and the involvement of local members can be obtained from the Committee Secretariat & Member Services Unit.

PROTOCOL RELATING TO APPOINTMENT OF DEVON COUNTY COUNCIL (DCC) MEMBERS TO DCC JOINT VENTURE COMPANIES OR ANY DCC COMPANY

[NB: The Procedures Committee on 7 July 2014 considered a report from the County Solicitor in relation to the recent appointment of a DCC Member to a joint venture company. The purpose of this protocol (dated 11 August 2014) is to put in place arrangements in relation to the appointment process of such a Member to such a company.]

If in future a Member of Devon County Council should apply for a position in relation to any joint venture company or a Devon County Council company of the Council then no existing Member of Devon County Council shall be party to the appointment procedure or appointments committee.

Any officer of the Council invited to participate in any appointments process shall be of such seniority as to be a head of service or above and shall before commencing any involvement in the appointment process seek advice of the County Solicitor to determine whether or not the relationship between themselves and the Member involved is such as to prejudice the officer from any further involvement in the process. In such circumstances, should the officer need to withdraw from the process then the Council shall be represented on the panel by one of the statutory officers, namely the Chief Executive, the County Treasurer or the County Solicitor.

CONTACTING OFFICERS: GIVING NOTICE

Standing Orders now provide, in a number of instances, that Members may submit questions or notices to the Chief Executive by fax or email and other than by letter or handwritten note.

The appropriate fax number is Exeter (01392) 382286. Any email message to a member of staff in the Committee Secretariat and Members Services Unit will be regarded as having been sent to the Chief Executive.

Members are encouraged to use the email facility provided to them – as this is now the primary means of communication.