

Cabinet Procedure Rules

1.0 FRAMEWORK OF MEETINGS

1.1 The arrangements for the discharge of Cabinet functions are set out in Article 6 of this Constitution. The Council and Leader, as appropriate, may approve arrangements for Cabinet functions to be carried out by:

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) a Cabinet Member;
- (d) an officer;
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority.

1.2 The following rules apply to the delegation of Cabinet functions:

- (a) The Cabinet may delegate to a committee of the Cabinet, an area committee or joint committee or to an officer any of its functions or powers in addition to those already delegated and set out in Part 3 of this Constitution.
- (b) A committee of the Cabinet or a Cabinet Member responsible for an Cabinet function, may delegate further to an area committee, joint committee or an officer.
- (c) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

1.3 The scheme of delegation containing the details required by Article 6 and set out in Part 3 of the Constitution may only be amended by the Leader. This provision does not affect any sub-delegation allowed for in Rule 1.2 above.

1.4 The Cabinet will meet at least 10 times per year in accordance with the Council's calendar and at such other times as may be agreed by the Leader. The Cabinet will meet at County Hall, Exeter or another location to be agreed by the Leader.

1.5 All meetings of the Cabinet will be convened in accordance with the Council's Access to Information Procedure Rules and will be held in public unless Paragraph 10 of those Rules applies.

2.0 CONDUCT OF CABINET MEETINGS

2.1 If the Leader is present they will preside. In their absence, the Deputy Leader will preside. If neither the Leader nor Deputy Leader is present at a meeting, the powers and duties of the Chair will be exercised by a member elected from among those members of the Cabinet present.

2.2 The quorum for a meeting of the Cabinet shall be four members of the Cabinet (including the Leader if they are present). Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole except that a quorum of three members only is required.

2.3 At each meeting of the Cabinet the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) questions tabled by members in accordance with Rule 4 below or under the Public Participation Procedure Rules;
- (c) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Part of the Constitution;
- (d) matters set out in the agenda for the meeting indicating those which are key decisions designated in the Forward Plan and those which are key decisions brought under paragraphs 7 and 8 below;
- (e) consideration of reports from Scrutiny Committees;
- (f) consideration of the Forward Plan and designation of key decisions to be taken at future meetings.
- (g) other items included by the Leader under paragraph 3 below.

3.0 AGENDA ITEMS

3.1 The Forward Plan will be considered at every meeting of the Cabinet after consultation with the Leader and Cabinet Member but the Leader may add items to the agenda at their discretion which they consider do not constitute key decisions.

3.2 Any member of the Cabinet may require the Chief Executive to place an item on the agenda for a future meeting of the Cabinet for consideration; provided that if it is a key decision the appropriate period of notice is observed or the approval of the Chair of the relevant Scrutiny Committee is obtained in line with paragraphs 6-8 below.

3.3 Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration and if the Leader agrees the item will be considered at the next appropriate meeting of the Cabinet. The agenda will name the member who asked for the item to be considered. Discussion of any items included with the agreement of the Leader shall not exceed 15 minutes in total except with the consent of the Cabinet .

3.4 The Chief Executive (as Head of the Paid Service), the Monitoring Officer and the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting in pursuance of their statutory duties. If there is no meeting of the Cabinet in the Council's Calendar soon enough to deal with the issue in question then the Monitoring Officer may require that a special meeting be convened at which the matter will be considered.

3.5 There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Scrutiny Committees.

- 3.6** All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the relevant Scrutiny Committee and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

4.0 MEMBERS' QUESTIONS AT THE CABINET

- 4.1** A member of the Council may ask the Leader or the appropriate Cabinet Member a question about any subject for which the Leader or Cabinet Member has responsibility.
- 4.2** A member's question must be delivered to the Chief Executive's office, in writing, by fax or by email by 12.00 noon on the fourth working day before the meeting at which it is to be asked.
- 4.3** Notwithstanding the above, where a question relates to a matter which is included on the agenda for a meeting at which the question is to be put but that agenda or any Officer's Report has not been made available before the normal deadline for submission of questions at 4.2 above then provided written notice of a question is received within 24 hours of that Agenda or Report a response to the question shall be provided.
- 4.4** All questions will be printed in the order they were received and circulated to Members before the meeting starts together with the answers to those questions.
- 4.5** There will be no discussion about any question except that a Member who has submitted a question is entitled to ask one supplementary question arising from the answer given and to receive a further answer.
- 4.6** The time allowed for member's questions shall not exceed 30 minutes.

5.0 THE FORWARD PLAN

- 5.1** A Forward Plan will be prepared by the Leader on behalf of the Cabinet to cover a period of no less than four months from the date of the meeting of the Cabinet at which it is approved.
- 5.2** The Forward Plan will be available for inspection at reasonable hours free of charge at the designated office or on the Council's website.
- 5.3** The Forward Plan will indicate whether a written report will be submitted to the Cabinet for consideration in relation to a key decisions on the plan.
- 5.4** The Forward Plan will contain matters which the Leader believes will be the subject of a key decision to be taken by the Cabinet during the period covered by the plan and any Framework Decisions to be made by the County Council under the Policy and Budget Framework. It will describe the following particulars in so far as the information is available or might reasonably be obtained:
- (a) the matter in respect of which a decision is to be made;
 - (b) the date on which, or the period within which, the decision will be taken and whether or not it is to be taken in public or private (in the absence of the press and public) and, if the latter, the reasons therefor;
 - (c) the identity of the principal groups whom the Cabinet proposes to consult before taking the decision;

- (d) the means by which any such consultation is proposed to be undertaken;
- (e) the steps any person may take who wishes to make representations to the Cabinet about the matter in respect of which the decision is to be made and whether it is to be considered in public or private, and the date by which those steps must be taken; and
- (f) a list of the documents likely to be submitted to the Cabinet for consideration in relation to the matter.

6.0 PROCEDURE BEFORE TAKING KEY DECISIONS

6.1 If the Cabinet meets to discuss or to take a key decision collectively, with an officer present, then it must also comply with the following Rules unless Rule 7.0 (general exception) or Rule 8.0 (special urgency) applies. A key decision is as defined in Article 13.4 of this Constitution. This requirement does not include meetings whose sole purpose is for officers to brief members.

6.2 Subject to Rule 7.0 (general exception) and Rule 8.0 (special urgency), a key decision may only be taken when:

- (a) notice (called here a Forward Plan) has been given at least 28 days before the meeting at which the matter is to be considered and if the matter is to be considered in private, the reasons therefor;
- (b) the Cabinet has determined that the matter is to be defined as a key decision and specified the date of the meeting at which it will be considered;
- (c) within 2 working days of that determination by the Cabinet, a notice to this effect is given to all members and this information is then included in the next version of the Forward Plan.

7.0 GENERAL EXCEPTION

7.1 If it becomes impracticable to delay a decision which the Cabinet has defined as a key decision until the date fixed for its determination, then subject to Rule 8.0 (special urgency), the decision may still be taken by the Cabinet if:

- (a) the Monitoring Officer has informed the chair of the relevant Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
- (b) the Monitoring Officer has made copies of that notice available;
- (c) at least 5 clear days have elapsed since the Monitoring Officers took these steps; and
- (d) notice of that decision is made available at the Council's offices and on its website (at <http://www.devon.gov.uk/dcc/committee/mingifs.html>), as soon as is practicable.

8.0 SPECIAL URGENCY

8.1 If by virtue of the date by which a decision must be taken Rule 7.0 (general exception) cannot be followed, then the decision can only be taken if the Leader obtains the agreement of the chair of the relevant Scrutiny Committee that the taking of the

decision cannot be reasonably deferred. If there is no chair of the relevant Scrutiny Committee, or if the chair of that Scrutiny Committee is unavailable, then the agreement of the Chair of the Council, or in his/her absence the Vice-Chair will suffice.

- 8.2** Notice of that agreement shall be published at the Council's offices and on its website as part of the agenda and minutes of the meeting at which the matter was considered.

9.0 QUARTERLY REPORTS ON SPECIAL URGENCY DECISIONS

- 9.1** In any event the Leader will submit quarterly reports to the Council on Cabinet decisions taken in the circumstances set out in Rule 8.0 (special urgency) during the preceding 3 months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

10.0 CALL-IN AND REFERENCE BACK OF DECISIONS

- 10.1** Notice of all decisions by the Cabinet and Cabinet Members will be sent by email to all Members of the Council within 2 working days of their being made. The notice will bear on it the date on which it is published and will specify that the decision(s) it records will come into force 5 working days after that date unless they are called-in or referred back.

- 10.2** Any decision of the Cabinet, a Cabinet Member or an Officer exercising delegated powers, an area committee or under joint arrangements may be "called in" under the procedure detailed at Paragraph 11 of the Scheme of Delegation at Part 3 of this Constitution and Paragraph 17 of the Scrutiny Procedures Rules.

- 10.3** Any Member may also ask for any decision of the Cabinet which relates particularly to his/her electoral division to be referred back once for further consideration at the next meeting of the Cabinet. This entitlement does not apply to decisions which affect the County as a whole.

- 10.4** A Member who wishes to refer back a decision so notified must give notice in writing or by email to the Chief Executive.

- 10.5** A Member may also ask for any decision taken by a Cabinet Member to be referred back in line with Paragraph 11.0 of the Scheme of Delegation set out in Part 3 of this Constitution.

- 10.6** When a decision concerns land or premises located in or an issue arising in one division which has a major impact upon an adjoining division, a member may contact the Monitoring Officer and make the case that the matter is sufficiently specific to his/her division to justify its reference back.

- 10.7** A request to refer back a decision will be subordinate to a request by a Scrutiny Committee to call that decision in for consideration by that Committee (paragraph 17.0 of the Scrutiny Procedure Rules).

11.0 RECORD OF DECISIONS

- 11.1** After any meeting of the Cabinet, whether held in public or private, the Monitoring Officer will produce the minutes of that meeting as soon as practicable. This record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

- 11.2** Decisions of the Cabinet requiring the consent of the Council or matters relating to the policy or budget framework (i.e. Framework Decisions) as set out in Part 2 of the

Constitution, will be submitted to the next appropriate meeting of the Council together with all relevant reports and other documentation for consideration and will be formally moved at that meeting by the Leader or appropriate Cabinet Member.

11.3 Any decision of the Cabinet on a key decision shall be known as a 'starred minute' and be denoted by an asterisk (*) immediately in front of that minute number and will not be before the Council for approval.

12.0 RECORD OF DECISIONS – DECLARING INTERESTS & CONFLICTS OF INTERESTS

12.1 If any member of the Cabinet has a Disclosable Pecuniary or Personal Interest in any matter before the Cabinet within the meaning of Standing Order 34 and the Member's Code of Conduct then they must declare it in the prescribed manner.

12.2 If any member of the Cabinet has a Disclosable Pecuniary Interest in any matter which is the subject of a proposed decision by them acting in an individual capacity within the meaning of Standing Order 34 and the Members' Code of Conduct then they must declare it in the prescribed manner and the Leader or the Deputy Leader of the Council shall exercise all the powers delegated to that Member in that matter in accordance with paragraph 11.1 of Section Two of Part 3 of the Constitution.

12.3 If any member of the Cabinet has, in their opinion (and in addition to any personal interest they are required to declare under the Members' Code of Conduct), any other conflict of interest relating to a matter to be decided by the Cabinet or in their capacity as a Cabinet member in accordance with para 11.1 of the Council's Scheme of Delegation then they must disclose it and may remain and speak and vote on and determine the matter provided the disability to discuss and determine that matter has been removed by the Monitoring Officer exercising powers delegated to them by the Head of the Paid Service in accordance with Regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

12.4 Members are expected to put service to the public and their constituents ahead of their own personal interests or self-interest and should, wherever possible, avoid taking decisions in circumstances that could reasonably be perceived as contradicting that basic tenet of public service ethos. The pitfalls of 'conflict of interest' is acknowledged in the Members' Code of Conduct adopted by the Council which recognises the potential conflict between Public Duty and Private Interests and the need to embrace and observe the Principles of Public Life and, inter alia, Members acting solely in the public interest and not placing themselves under an obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties. It is nonetheless acknowledged that members and their constituents should have a communion of interests inasmuch as elected members may share and understand the problems of their electors – but it is also necessary to distinguish between a Members' own special interests and the general interests of all constituents. Failure to do so could not only call into question the integrity of the member and his/her observance of the Members' Code of Conduct but could create the perception of impropriety and possibly leave the Council open to challenge and, ultimately, result in a decision taken being invalidated.

12.5 While there is no clear definition as to what is meant by a conflict of interest, the following advice may be of assistance to Members.

12.6 A Member of the Cabinet may be regarded as having or being perceived to have a conflict of interest that would be incompatible with his/her general duty to take decisions in accordance with the general principles of decision-making set out in the County Council's Constitution (Article 13) and in the public interest where, for example;

- they may have two or more differing interests held by or entrusted to them in a particular matter and or which are incompatible with each other or are incompatible with the general principles of the Members' Code of Conduct and the Principles of Public Life;
- they may profit personally from decisions made in his or her official capacity;
- they may owe separate duties to act in the best interests of two or more constituents in relation to the same or related matters and those duties conflict or there is a significant risk that those duties may conflict;
- their duty to act in the best interest of any constituent in relation to a matter conflicts or there is a significant risk that it may conflict with their own interest in relation to that or a related matter.

12.7 Notwithstanding the above, the need to declare any 'conflict of interest' can necessarily only apply where any such conflict has not already been declared as is required to be declared as a personal interest in accordance with the Members' Code of Conduct.

12.8 Where a member of the Cabinet is of the opinion that they may have a conflict of interest over and above any personal interest they are already required to declare under the Members' Code of Conduct, then they are advised to consult the Monitoring Officer with a view to determining whether or not a Dispensation is required and may be granted to enable them to continue to speak and vote at the meeting or determine the matter.

12.9 However, where a member of the Cabinet has a conflict of interest which is significant or does not meet the criteria above, such that a Dispensation cannot be granted, then they shall withdraw from the meeting or refer the decision to the Leader or Deputy Leader of the Council in accordance with paragraph 11.3 of Part 3 of the Council's Constitution (Scheme of Delegation).

13.0 NOTICE OF MEETINGS OF THE CABINET

13.1 Members of the Cabinet will be entitled to receive 5 working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

13.2 Notice of meetings of the Cabinet will be served on the Chairs of all Scrutiny Committees and all other Members of the Council at the same time as notice is served on members of the Cabinet.

14.0 ATTENDANCE BY CHAIRS OF SCRUTINY COMMITTEES AT MEETINGS OF THE CABINET WHERE CONFIDENTIAL OR EXEMPT INFORMATION IS CONSIDERED

14.1 The Chair of a Scrutiny Committee is entitled to attend any meeting of the Cabinet at which a matter within the remit of his/her committee is to be discussed and to speak to that item.

15.0 ATTENDANCE BY OFFICERS AT MEETINGS OF THE CABINET

15.1 The Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, or their nominees, are entitled to attend any meeting of the Cabinet. The Cabinet may not

meet unless these officers have been given reasonable notice that a meeting is to take place. Any of these officers may however be asked to leave the meeting if his/her personal position is under discussion.

16.0 CABINET MEMBER REPORTS AT COUNCIL MEETINGS

16.1 A regular item shall be placed on the agenda of all meetings of the County Council (Standing Order 5(1)(m) refers) to enable Cabinet Members to report, save in exceptional circumstances, in writing, on:

- any decisions taken by the Cabinet (i.e. key decisions) or by them under delegated powers (i.e. routine matters); and
- any other areas of interest or service related developments relating to his/her remit that may have occurred since the previous meeting or are likely to impact on the service in the coming months; and
- any other issue or matter specifically requested by a Member (by no later than 12 noon 4 working days before the meeting), which cannot adequately be covered by the opportunity that already exists under Standing Orders for Members to submit a Notice of Motion or written questions to Cabinet Members or Chairs of Committees relating, particularly, to factual and local issues.

16.2 The Cabinet Member shall first present his/her Report and make any statement(s) in response to any issue or matter specifically requested by a Member. Councillors may then, without notice, comment upon or ask a question of the Cabinet Member on any matter referred to in his/her Report or relating to his remit. As indicated above, this facility is not intended to replace the opportunity that already exists under Standing Orders for members to submit written questions to Cabinet Members or Chairs of Committees, relating, particularly, to factual and local issues. The Cabinet Member will then respond to the points raised, either taking all questions at once or three at a time before the conclusion of the item.

16.3 The Cabinet Member will, when presenting his/her Report, speak for a maximum of 7 minutes, with all other speeches being confined to a maximum of 5 minutes. In replying to questions from Members the Cabinet Member shall speak, at the discretion of the Chair.

17.0 COUNCIL PROCEDURE RULES

17.1 Except where these rules expressly provide for different arrangements, the Council Procedure Rules (Standing Orders) will apply mutatis mutandis to meetings of the Cabinet.