

## Access to Information Procedure Rules

### 1.0 SCOPE

1.1 These rules apply to all meetings of the Council, the Cabinet, Scrutiny Committees, area committees, the Standards Committee and regulatory committees (together called meetings).

### 2.0 ADDITIONAL RIGHTS TO INFORMATION

2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### 3.0 RIGHTS TO ATTEND MEETINGS

3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.

### 4.0 NOTICES OF MEETING

4.1 The Council will normally give at least five clear days' notice of any meeting by posting details of the meeting at County Hall, Exeter (the designated office) or on its website at: <https://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1>

Meetings may only be convened with less than five days' notice as a matter of urgency, in exceptional circumstances.

4.2 The notice of any meeting of the Cabinet will list the key decisions to be taken at that meeting.

### 5.0 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

5.1 The Council will make copies of the agenda and of all reports except those marked "Not for Publication" available for inspection at the designated office at least five clear days before the meeting. If a Chair subsequently agrees that a matter should be added to the agenda as an urgent item any supporting papers will be made available for inspection by the public as soon as these are sent to councillors. Copies of agenda and reports will also be available on the County Council's website, as soon as practicable, at : <https://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1>

5.2 Where any documents are not publicly available the Council will publish a Notice indicating that is so and the reasons therefor, in accordance with the Cabinet Procedure Rules.

### 6.0 SUPPLY OF COPIES

6.1 The Council will supply to any person on payment of a charge for postage and any other costs, copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to explain the nature of the items on the agenda; and
- (c) if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item.

## **7.0 ACCESS TO MINUTES ETC. AFTER THE MEETING**

**7.1** The Council will make available for public inspection at its designated office and website at: <https://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1> copies of the following for six years after a meeting:

- (a) the agenda for the meeting;
- (b) reports relating to items considered when the meeting was open to the public;
- (c) the minutes of the meeting (including a record of all decisions taken when the meeting was not open to the public);
- (d) a register of decisions taken other than at meetings in accordance with the Council's scheme of delegation;

[NB: The Council uses a document management system known as Modern.Gov which means that Agendae and Reports can also be accessed through a free 'Modern.Gov App' which can be downloaded in the normal way. This App allows anyone with a suitable device to access to Agendae, Reports and Minutes; it allows subscribers to specify Committees of interest and will then automatically keep itself updated with all the latest documents]

## **8.0 BACKGROUND PAPERS**

### **8.1 List of background papers**

The Monitoring Officer will ensure that every report contains a list of those documents (called background papers) relating to the subject matter of the report which in his opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on by the author to a material extent in preparing the report (other than published works or documents which contain exempt or confidential information as defined in Rule 10).

### **8.2 Public inspection of background papers**

The Council will make available for public inspection at its designated office and on its website at: <https://democracy.devon.gov.uk/ieDocHome.aspx?bcr=1> for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9.0 SUMMARY OF PUBLIC'S RIGHTS**

**9.1** A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at and is available to the public at the designated office.

## **10.0 EXCLUSION OF THE PUBLIC FROM MEETINGS**

### **10.1 Confidential information**

- (a) The public will be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information will be disclosed.
- (b) Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## 10.2

### Exempt information

- (a) The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted that exempt information will be disclosed.
- (b) Where a public authority is making a decision that has an impact upon a person's civil rights or obligations, Article 6 of the Human Rights Act 1998 establishes a right to a fair (and public trial). There is therefore a presumption that the meeting will be held in public unless a private hearing is necessary for reasons specified in the Article.
- (c) Exempt information means information falling within any of the following 7 categories subject to the condition(s) set out in the right hand column and where, in the opinion of the Council's Monitoring Officer, disclosure would, or would be likely to, inhibit:
- free and frank provision of advice;
  - free and frank exchange of views for the purposes of deliberation; or
  - the effective conduct of public affairs

Category	Condition
<b>1</b> Information relating to any individual	Information is not exempt information unless it constitutes personal data as defined under data protection laws, and its disclosure would contravene the Data Protection Act 2018.
<b>2.</b> Information which is likely to reveal the identity of an individual	(as above)
<b>3</b> Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information within paragraph 3 is not exempt if it must be registered under statutes, such as the Companies Act or Charities Act. To be exempt, the information must relate to an identifiable person and the disclosure of this information into the public domain must be contrary to the council's obligations under legislation such as the Enterprise Act or the Data Protection Act 2018.

<p><b>4</b> Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders, under the authority</p>	<p>Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter.</p> <p>“Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute</p>
<p><b>5</b> Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	
<p><b>6</b> Information which reveals that the authority proposes:</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made</p>
<p><b>7</b> Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Information is not exempt information unless its disclosure into the public domain, would prejudice the prevention and detection of crime, or the apprehension or prosecution of offenders.</p>

- (d) Information falling within any of paragraphs 1–7 is not exempt if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.
- (e) Information falling within any of paragraphs 1–7 will be exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **11.0 REPORTS NOT AVAILABLE TO THE PUBLIC**

**11.1** Article 11 authorises the Monitoring Officer to exclude access by the public to reports which in his opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed and a short explanation of why members may wish to decide that the paper contains exempt material.

## **12.0 APPLICATION OF RULES TO THE CABINET**

**12.1** In addition to the aforementioned rules, specific rules apply to the Cabinet if it meets to discuss or take a key decision collectively. These are set out in Paragraphs 6.0 to 15.0 of the Cabinet Procedure Rules.

## **13.0 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS OF THE COUNCIL**

### **13.1 Material relating to previous business**

All members are entitled to inspect any document which contains material relating to any business previously transacted at a meeting of the Council, the Cabinet or a Committee unless it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the above categories of exempt information and within category 3, in relation to terms or proposed terms for a contract.

### **13.2 Nature of rights**

These rights of a member are additional to any other right they may have.

### **13.3 Inspection of Documents**

Subject to 13.1 above, a Member may see any report or document which has been considered by the Council, the Cabinet or other committee (or any background paper used in preparing that report) – if they need it to carry out their duties as a Councillor. A copy will normally be provided upon request and if there is any doubt the request will be referred to the Monitoring Officer. The Monitoring Officer may refuse any request to see a document if, in his opinion, it would be protected by privilege arising from the relationship of solicitor and client.

Members must not ask to see any document in which they are professionally interested or in which they have a prejudicial interest under the terms of the Members' Code of Conduct.

All Committee Agenda, Minutes and Reports are available for inspection at the Council's offices during normal office hours and, in many cases, on the County Council's website, Information Devon.

The rules about Members access to Information and Committee Reports are set out in more detail in paragraph 4 of the Protocol on Member/Officer Relations.