

Working Practices – Review of the Governance Working Group and Proposed Changes.

Report of the Director of Legal and Democratic Services

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

1) Recommendation

- (a) that the Committee review and endorse the revised Working Practices document for publication, attached at Appendix 1, with new text in red and removed wording via strikethrough and
- (b) that the Committee note that whilst the Working Practices are contained within the Constitution for ease of reference, they do not formally form part thereof.

2) Background / Introduction

2.1 As part of the wider work being undertaken to review Governance procedures in the Council, it was recommended that the current working practices be reviewed, with particular focus on site visits and invitation and involvement of Local Members.

2.2 The aim of the work strand was to ensure working practices were focussed and were reflective of modern meetings and ICT processes.

3) Consultations / Representations / Technical Data

3.1 Views were sought from the Governance Working Group.

4) Governance Working Group (GWG) Considerations

4.1 The Governance Working Group held a discussion on the 15th April and endorsed the proposed changes, with one or two suggested amendments which are reflected in the attached appendix 1.

5) Strategic Plan

5.1 This proposal aligns to the Council's Strategic Plan 2021 – 2025. The proposal supports the commitment of ensuring that the Council makes good

decisions and is transparent and supports being a trusted and inclusive Council that hears the voices of communities and listens and learns.

6) Financial Considerations

6.1 There are no financial considerations.

7) Legal Considerations

7.1 Under Section 37 of the Localism Act 2011, the Council must prepare and keep up to date a Constitution. The proposed arrangements would not compromise this requirement.

8) Environmental Impact Considerations (Including Climate Change, Sustainability and Socio-economic)

8.1 There are no environmental related issues.

9) Equality Considerations

10.1 There are no equality related issues.

10) Risk Management Considerations

10.1 No risks have been identified.

11) Summary / Conclusions / Reasons for Recommendations

11.1 The Procedures Committee is asked to note the work of the Governance Working Group in undertaking this review. The recommended changes to the working practices have been carefully considered and are therefore commended to the Committee for their endorsement for publication.

Name - Director of Legal and Democratic Services – Maria Price

Cabinet Member – **Andrew Saywell** (Organisational Development, Workforce & Digital Transformation)

Electoral Divisions: All

Local Government Act 1972: List of background papers

NIL

Contact for enquiries: Karen Strahan: 01392 382264, G31, County Hall, Exeter, EX2 4QD

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~~ **should only be for the purpose of work programming or determining agenda items for the meeting, not determining the business that will be considered at the meeting.**

Briefing meetings ~~are only to~~ **can be** held — to which **both** the Chair and Vice-Chair should be invited — to discuss administrative arrangements for the meeting and should normally be held **shortly before or** 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 a Cabinet Member or the spokesperson of any group from seeking his/her own personal briefing from a **Director or** ~~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 a 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. **It is noted that the Cabinet does not generally receive reports for information and the requirements of the Forward Plan need adherence thereto.**

~~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 **lost** ~~not accepted may~~ **will** be recorded in full in the minutes of that meeting ~~if the Member so requests by completing the appropriate form provided for that purpose.~~ **A motion that does not receive a seconder will fall and will not be recorded in the minutes unless 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 seconder, 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 **and when** 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:

- **Directors** 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, **MP's**, Government Departments, the Local Government Association, the European Community/Union and MPs or MEPs will — together with any responses received — be **held within the service area who wrote and sent the response.** ~~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,~~ **the Member who raised the issue (e.g. Notice of Motion) or the Chair of the relevant Committee from where the resolution was made.** ~~via email.~~

Representations made to the County Council or Committee about a matter to be considered will be reported by the **Director at the relevant meeting or will be encompassed in the Report due for consideration, depending on the timings of representations received.** ~~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 **also** already operate for Members of the public to ask questions or make submissions to the **Council, Cabinet, Scrutiny, Development Management and Public Rights of Way Committees.** **The full opportunities to address Members at Committee is outlined in the public participation scheme – <https://www.devon.gov.uk/democracy/document/public-participation-at-committee-meetings/>.** 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 **Director or** 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 – **THINK LOCAL MEMBER**

All Councillors will be sent ~~electronically,~~ by email, **a notification containing the agenda sheets and links to the reports** for meetings of all Committees. **They will**

also ~~and will~~ be informed of individual items which are identified as affecting an area or matter within their electoral division, **although the Local Member should already be aware and have been made aware as part of the Committee Report checklist sign off process.**

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 in Devon Centre' **pages of 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. **It should be noted that sometimes these matters are outside of the control of the Council, but best efforts will be made.**

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. **Officers should familiarise themselves with the Local Member Protocol (Think Local Member) guidance outlined in the Constitution (6h).**

Most local Councillor notifications relate to site or area/locality specific proposals and usually only affect a single electoral division. However, some proposals have a wider impact and Officers will need to judge whether to inform other local Councillors. Specific consideration to this should be given when proposals are close to adjoining / adjacent wards. Examples of matters involving a wider area could be the closure of a secondary school, road closures and changes to library services. In the case of Exeter, you need to alert all Exeter Members.

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 Director of Legal and Democratic Services 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 / **Local Member Protocol** (Part 4 of the Council's Constitution), the County Council has agreed **recommends** the following principles to be followed in distributing information to **M**embers 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 **M**ember 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 / or 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 Director 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 contains 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 Director of Legal and Democratic Services or the Cabinet Member/Chair of the Committee (who in turn may wish to contact the Director of Legal and Democratic Services) 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 Director of Legal and Democratic Services.

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	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 Director (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.

notice of election until the date of the election]			The Chief Executive in consultation with the Director 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 Director 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 Director 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 Director (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 Director 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	Consent of the Head or Officer in charge required.

		<u>own</u> constituency	The Head or Officer in charge should inform the appropriate Director 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.
	MPs and MEPs	Visiting any establishment in <u>another MPs or MEPs</u> constituency	Consent of the Head or Officer in charge required. The Head or Officer in charge should inform the appropriate Director Chief Officer (and Chair of Governors) who will in turn advise the Chief and the relevant Cabinet Member or Committee Chair and Group spokespersons.
	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 Director 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 Director 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 Director Chief Officer will advise on those persons who should be invited to accompany the visitor and who should invite them.
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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. **Groups will sometimes ask for briefings on particular issues from officers and this is perfectly acceptable.**

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 &~~ **Chairs PA or the Member Services Team within Democratic 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 Director of Legal and Democratic Services 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 Director of Legal and Democratic Services 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 Director of Finance and Public Value or the Director of Legal and Democratic Services.

CONTACTING OFFICERS: GIVING NOTICE

Standing Orders now provide that Members may submit questions or notices to the Chief Executive by **Teams and / or via Outlook email rather** than by letter or handwritten note.

Any **Teams or Outlook email** message to a member of staff in the **Democratic Services Committee Secretariat** and Members Services **Team Unit** will be regarded as having been sent to the Chief Executive.

Members are encouraged to use the **technology email facilities** provided to them, **such as Teams and Outlook** – as this is now the primary means of communication.