
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 he/she needs it to carry out their duties as a Councillor. A copy will be 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 he/she is professionally interested or in which he/she has 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.

4.0 Members' access to information and to Council documents

4.1 Members are free to approach any council service area to provide them with such information, explanation and advice (about that services' functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a service's activities to a request for specific information on behalf of a constituent. Such approaches should however normally be directed to a Chief Officer or Head of Service for the service activity area concerned.

4.2 As regards the legal rights of members to inspect Council documents, these are covered partly by statute and partly by the common law.

4.3 Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting. This right applies irrespective of whether the member is a member of the Committee or Sub-Committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not however apply to documents relating to items which may appear in Part II of agenda for meetings. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, the care of children, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

4.4 The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This principle is commonly referred to as the "need to know" principle.

4.5 The exercise of this common law right depends therefore upon the member's ability to demonstrate that he/she has the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know." This question must initially be determined by the particular Chief Officer whose Directorate holds the document in question (with advice from the County Solicitor). In the event of dispute, the question falls to be determined by the relevant Committee – i.e. the Committee in connection with whose functions the document is held.

4.6 In some circumstances (e.g. a Committee member wishing to inspect documents relating to the functions of that Committee) a member's "need to know" will normally be presumed. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms.

4.7 Whilst the term "Council document" is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a "need to know", and therefore a right to inspect, a document which forms part of the internal workings of another party group.

4.8 Further and more detailed advice regarding members' rights to inspect Council documents may be obtained from the County Solicitor as Monitoring Officer.

4.9 *Finally, any Council information provided to a member must only be used by the member for the purpose for which it was provided i.e. in connection with the proper performance of the member's duties as a member of the Council, as emphasised below.*

4.10 *As a councillor or a committee or sub-committee member, you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information for the personal advantage of yourself or of anyone known to you, or to the disadvantage or the discredit of the council or anyone else.*