

# Public Document Pack

Mid Devon District Council

## Standards Committee

Wednesday, 5 February 2020 at 6.00 pm  
Exe Room, Phoenix House, Tiverton

Next ordinary meeting  
Wednesday, 10 June 2020 at 6.00 pm

Those attending are advised that this meeting will be recorded

## Membership

Cllr Mrs F J Colthorpe  
Cllr C J Eginton  
Cllr C R Slade  
Cllr Mrs M E Squires  
Cllr L D Taylor  
Cllr A White  
Cllr A Wilce  
Cllr Mrs N Woollatt  
Cllr A Wyer

## A G E N D A

*Members are reminded of the need to make declarations of interest prior to any discussion which may take place*

1        **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of Substitute Members (if any).

2        **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the Agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.

3        **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**  
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest, either at this stage of the meeting or as soon as they become aware of that interest.

4        **MINUTES** (*Pages 5 - 8*)  
Members to consider whether to approve the minutes as a correct record of the meeting held on 9 October 2019.

5 **CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements the Chairman of the Committee may wish to make.

6 **GOVERNANCE ARRANGEMENTS** (*Pages 9 - 36*)

To consider the following recommendation from the Cabinet:

The Standards Committee be asked to recommend to Council that the changes to the current arrangements set out in part 3 of this report be agreed and the Constitution amended accordingly and the Monitoring Officer be asked to draft the changes to the Constitution required to implement those changes for consideration by the Standards Committee. (*Original report to Cabinet attached*)

7 **STANDARDS WORKING GROUP** (*Pages 37 - 38*)

To consider the notes from the Standards Working Group meeting held on 21 January 2020.

8 **COMPLAINTS**

To receive an update from the Monitoring Officer with regard to any on-going complaints being dealt with. During the discussion it may be necessary to consider passing the following resolution to protect the Members of District, Town and Parish Council's being discussed.

During discussion of this item it may be necessary to pass the following resolution to exclude the press and public having reflected on Article 12 12.02(d) (a presumption in favour of openness) of the Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. The Committee will need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information.

**ACCESS TO INFORMATION ACT – EXCLUSION OF THE PRESS AND PUBLIC**

RECOMMENDED that under section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act, namely information relating to an individual

9 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING**

Members to consider items for the next meeting.

**Stephen Walford**  
Chief Executive  
Tuesday, 28 January 2020

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Sally Gabriel on:

Tel: 01884 234229

E-Mail: [sgabriel@middevon.gov.uk](mailto:sgabriel@middevon.gov.uk)

Public Wi-Fi is available in all meeting rooms.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **STANDARDS COMMITTEE** held on 9 October 2019 at 6.00 pm

### **Present**

#### **Councillors**

C J Eginton (Chairman)  
Mrs F J Colthorpe, C R Slade,  
Mrs M E Squires, L D Taylor, A White,  
A Wilce, Mrs N Woollatt and A Wyer

### **Also Present**

#### **Councillor(s)**

R Evans

### **Also Present**

#### **Officer(s):**

Kathryn Tebbey (Group Manager for Legal Services and Monitoring Officer) and Sally Gabriel (Member Services Manager)

## 12 **APOLOGIES AND SUBSTITUTE MEMBERS**

There were no apologies.

## 13 **PUBLIC QUESTION TIME**

There were no members of the public present.

## 14 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00-01-07)**

Members were reminded of the need to make declarations of interest when necessary.

## 15 **MINUTES (00-01-15)**

The minutes of the last meeting were approved as true record and signed by the Chairman.

## 16 **CHAIRMAN'S ANNOUNCEMENTS (00-02-00)**

The Chairman had no announcements to make.

## 17 **REGISTERS OF INTERESTS - PARISH COUNCILS (00-02-05)**

The Committee had before it a \*report of Monitoring Officer updating it on the number of outstanding registers from parish councils in the district and to consider what should be done to remedy this.

The officer outlined the contents of the report highlighting the requirements when it came to the completion of registers of interests: she explained that members were required to submit their completed register of interests to the Monitoring Officer within 28 days of taking office and within 28 days of any changes arising to those interests,

and that the same rules applied to parish councillors. She informed the meeting that despite the chasing of individuals, there were still a number of parish registers outstanding.

Section 34 of the Localism Act 2011 stated that it was an offence without reasonable excuse to fail to comply with the obligation to submit a register of interests in the manner required by the law which included the 28 day rule and that most codes of conduct would have the same requirements. It was therefore suggested that those parish councillors were in breach of the Code of Conduct and that this was also an offence under the Localism Act and therefore a matter for the police. She was willing to write to each councillor individually requesting them to rectify the situation within a tight timescale.

Consideration was given to:

- Whether the issue should be dealt with via the Code of Conduct complaints system
- One more formal letter to try to rectify the situation
- The impact of police action on local parish councils
- Whether police time would be justified on what seemed a minor offence
- Whether other councils were dealing with the same problem
- The fact that the Monitoring Officer could not ignore the situation
- The fact that the police were now aware of the issue and the timescales

It was therefore

**RESOLVED** that the Monitoring Officer issue a final warning to those councillors in default with the threat that if they failed to comply within 7 days then the police would be informed.

(Proposed by Cllr C R Slade and seconded by Cllr Mrs M E Squires)

Notes:

- i) Cllr Mrs F J Colthorpe requested that her vote against the decision be recorded;
- ii) \*Report previously circulated, copy attached to minutes.

18 **STANDARDS WORKING GROUP REPORT - REVIEW OF THE JANUARY 2019 REPORT FROM THE COMMITTEE ON STANDARDS IN PUBLIC LIFE (00-19-40)**

The Committee had before it a \*report of the Monitoring Officer updating it on the Standards Working Group's consideration of the report of the Committee on Standards in Public Life issued in January 2019.

The Chairman outlined the contents of the report and walked through the actions recommended by the working group.

Consideration was given to whether council's should report on separate bodies they had set up or which they owned as part of their annual governance statement and whether those bodies should abide by the Nolan Principles of openness and publish their board agendas and minutes. The Monitoring Officer stated that she found this

recommendation from the Committee on Standards in Public Life unusual, bearing in mind commercial confidentiality and sensitivity and she felt that any of this information should not be put into the public domain. As stated within the notes, she had looked at some of the board agendas and minutes in confidence and found that those documents particularly the minutes did contain personal data and commercially sensitive information on 3 Rivers and third party owners, developers and contractors.

It was therefore:

**RESOLVED** that the recommendations of the Standards Working Group be agreed and that the actions taken to date be noted.

(Proposed by the Chairman)

Further:

**RECOMMENDED** to Council that the consequential revisions to the Code of Conduct as set out in part 3 of the report be approved and that the revised Code be adopted.

(Proposed by the Chairman)

Note: \*report previously circulated, copy attached to minutes.

## 19 **THE CHALLENGE OF SOCIAL MEDIA FOR MEMBERS (00-26-44)**

The Committee had before it an \*open letter from Jonathan Evans, Chair of the Committee on Standards in Public Life. The Monitoring Officer stated that we lived in a social media age and that the use of social media was an instant platform for members to engage with their electorate, however there was a difference between member's public and personal life and that members would have to be very careful to separate these.

Consideration was given to:

- The use of social media in a public and private capacity
- The possibility of a policy on social media being progressed
- There had been some social media guidelines provided to members by the Communications Team which had included a reminder about the risk of using social media
- Whether the working group should be reconvened to consider such a policy

It was therefore:

**RESOLVED** that the working group comprising of Cllrs C J Eginton, L D Taylor, A Wilce and Mrs N Woollatt be reconvened to consider the need for a policy on the use of social media by members and that the findings of the working group be considered by the Committee at its next meeting.

(Proposed by Cllr C R Slade and seconded by Cllr Mrs N Woollatt)

Note: \*open letter previously circulated, copy attached to minutes.

## 20 COMPLAINTS

The Monitoring Officer provided an update regarding the number of complaints received since the previous meeting.

## 21 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING

It was **AGREED** that the following be considered at future meetings of the committee:

- Report from the Standards Working Group on a social media policy
- Update on the outcome of the Register of Interests issue
- Training needs for the committee
- The LGA were preparing a draft model Code of Conduct which would be considered when it was available
- Complaints update
- Information regarding the new Independent Person if appropriate.

(The meeting ended at 6.42 pm)

**CHAIRMAN**



**CABINET  
19 DECEMBER 2019**

**THE CURRENT AND FUTURE GOVERNANCE ARRANGEMENTS OF MID  
DEVON DISTRICT COUNCIL**

**Cabinet Member(s):** Cllr Bob Deed, Leader of the Council  
**Responsible Officer:** Kathryn Tebbey, Group Manager for Legal Services and Monitoring Officer

**Reason for Report:** to outline the current governance arrangements and discuss the potential for a Governance Working Group to review arrangements and make recommendations.

**RECOMMENDATION: that**

- 1 the Standards Committee be asked to recommend to Council that the changes to the current arrangements set out in part 3 of this report be agreed and the Constitution amended accordingly and the Monitoring Officer be asked to draft the changes to the Constitution required to implement those changes for consideration by the Standards Committee; and**
- 2 it be recommended to Council that a politically-balanced Governance Working Group be established, such working group to-**
  - (a) comprise 12 members;**
  - (b) carry out a comprehensive review of the Council's governance arrangements, such review to include –**
    - (i) exploring the views of members and other stakeholders;**
    - (ii) taking advice where appropriate from experts in the field; and**
    - (iii) identifying the cost and value for money implications;**
  - (c) Report its findings, options and make recommendations to the Council (via the Standards Committee where major changes are proposed to the Constitution); and**
  - (d) ensure that such recommendations are made by no later than December 2020 with a view to any changes taking effect for the municipal year 2021/22**

**Financial Implications:** None directly arising from this report, save that the costs of officer time in supporting the review are estimated to be circa £5k-£10k and there may be costs incurred by bringing in external advice/guidance where required.

**Legal Implications:** As set out in this report. Legal advice will be provided on any alternative arrangements considered by the Governance Working Group (if agreed by Council), including on the procedures to implement them. Depending on the outcome, there may be other consequential work which needs to be put in place

before any alternative arrangements can be brought in, including a revised Constitution and the setting of a new members' allowances scheme.

**Risk Assessment:** None directly arising from this report.

**Equality Impact Assessment:** None directly arising.

**Relationship to Corporate Plan:** There are overarching priorities in the Plan – efficiencies and value for money, digital transformation and staff/member development.

**Impact on Climate Change:** None directly arising from this report. However, an increase or decrease in council meetings (regardless of the form of governance arrangements), may result in more or less travel to and from meetings by Members, as the case may be.

## 1.0 Introduction/Background

1.1 The purpose of this report is to consider the current governance arrangements and make recommendations for change, where appropriate. The current governance arrangements operated in Mid Devon District Council are that of the strong leader and executive (cabinet) model.

1.2 Section 9B of the Local Government Act 2000 prescribes the forms of governance which may be adopted by local government bodies. These are executive arrangements, committee system or 'prescribed arrangements'. The Council can only choose between those options.

1.3 Executive arrangements include the Leader/Cabinet system deployed by the Council and set out in the Constitution. A cabinet must consist of the Leader and at least two more councillors appointed by the Leader – as required by section 9C of the Local Government Act 2000. So the Leader appoints and has the sole power to select the Cabinet. The only constraint is that the number of councillors in the Cabinet (in addition to the Leader) must not be less than the minimum (2) nor more than the maximum (10). The political balance rules are expressly dis-applied by law.

1.4 The Council's Constitution transfers the Leader/Cabinet system into its rules and procedures. It is important to recognise that the Council is not free to pick and choose the functions and responsibilities which are to be a matter for the Cabinet. Where a Cabinet system is operated, all functions are to be the responsibility of the Cabinet, unless the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 prescribe otherwise. The 2000 Regulations prescribe the functions which:

- must not be the responsibility of the executive e.g. certain consents, licences, elections etc.

- may be the responsibility of the executive if that is what the Council wants (local choice)
- may or may not be the responsibility of the executive, depending on particular prescribed circumstances e.g. decisions outside the policy framework or budget

1.5 The committee system is what it says it is – there are a number of committees discharging the business of the Council either under delegated powers from the Full Council or by recommending up to Full Council. Some Members may have experienced this arrangement when it was previously in operation at the Council, although that does not mean that new committee arrangements could not be designed in a way which overcomes any historic concerns over how committees operate.

1.6 Prescribed arrangements are additional permitted governance arrangements may be prescribed by the Secretary of State in regulations. They need to be proposed to the Secretary of State with an explanation of how the following conditions would be met:

- (a) the operation of the proposed arrangements would be an improvement on the arrangements in place;
- (b) the proposed arrangements would be likely to ensure that the decisions are taken in an efficient, transparent and accountable way; and
- (c) if prescribed, the arrangements would be appropriate for all local authorities to consider adopting.

## 2.0 **Current arrangements for participation and scrutiny**

2.1 The Strong Leader and Cabinet model enables decisions to be made at pace in line with the policy and budgetary framework and the corporate plan. There are clear lines of accountability. Members naturally want to have the opportunity to influence decisions and to be involved. They want openness and transparency. Whilst the forward plan is no longer a statutory framework, it has been retained to show the major decisions coming up. Cabinet meetings are not only open to all members, but all members are entitled to attend and participate – a practice which is now in the Constitution.

2.2 Decisions of the Cabinet can be called in to Scrutiny Committee. Those who can call in are:

- the Chairman of Scrutiny
- any 3 members of Scrutiny

- any 4 members of the Council

On decisions called in, the Scrutiny Committee can already make recommendations to Full Council if it wishes - but the Full Council has no locus to make a decision in respect of a Cabinet function or responsibility unless it is contrary to the policy framework or budget. Full Council cannot override the Cabinet where such a decision is a matter for the executive.

### 3.0 **Some options which might enhance the current arrangements**

- Option 1      The Leader has suggested that the Cabinet may, at its discretion, “self-refer” to Full Council for a view before making a decision on controversial or locally significant matters - unless the decision is particularly urgent and cannot wait for the next scheduled meeting and an extraordinary meeting would be impractical. That would enable the Cabinet to sound out what all members think on a matter before taking the final decision. Of course, the Cabinet may decide not to go with the views of Full Council, but it will at least have a more detailed understanding of fellow members’ views – and such views can be expressed in the public domain at a formal meeting, rather than through informal consultation. The challenge is the potential for slower decision-making and delay.
- Option 2      Reports to Cabinet should include a section setting out whether the decision is within the Policy Framework and the Budget. This would assist members in understanding whether the decision is purely a Cabinet decision or one which could (or at times, must) be taken by Full Council.
- Option 3      Special urgency – decisions to be published “in any event on the next working day” although the Constitution accords with statute by requiring “as soon as reasonably practicable”.
- Option 4      Special urgency decisions referred to next Full Council, rather than quarterly. This would include decisions taken after the publication of the agenda but before the meeting. At times, it may require a verbal rather than a written report to meet this timescale.

### 4.0 **A more thorough review of Governance Arrangements**

- 4.1 Some Members have expressed the wish for a more thorough review of governance arrangements. If the Council changes its governance structure, it cannot change again within five years unless a public referendum is held. Any changes would come into effect at the annual meeting in May – so there is time to get things done with careful thought and diligence

- 4.2 If a review takes place, it is essential that the first consideration is what the review is trying to achieve i.e. what is it that the membership thinks is not working for them, the Council and Mid Devon as a whole in the current arrangements and what, in overarching terms, would they like to see in any new arrangements.
- 4.3 A working group may be the best way forward to arrive at some clear proposals. At the same time, there is some clear merit in letting all members feel that they have made a contribution. If a working group is established, as a starting point it would be useful to get some information about why members want to change; the problems they see with the existing governance system, and what they are hoping for in terms of benefits from a new one. What are their key objectives? For example, these could be:
- Making the most of the range of skills and experience of members
  - More involvement of more members in more decision making
  - Greater member participation in policy development at earlier stages
  - Cost and other resource savings
  - A 'better' political balance across all the council does
  - The balance between officers and members
  - Greater transparency and accountability
  - Speed of decision making- does it in reality happen more quickly under the Cabinet?
- 4.4 Until members, officers and any other appropriate stakeholders are asked, it would be difficult for any working group to move forward in a structured review. There is a risk that the working group might arrive at some firm(er) options and ideas for the Council as a whole to consider which would not hit the collective mark. It might therefore be appropriate to hold a workshop open to all members and senior officers discussing the points above and more. Such a workshop could be facilitated by the Local Government Association (if available) or a third party with particular national expertise in local authority governance arrangements. The outcome of the workshop could then be used by the working group to finalise the terms of reference, any further consultation plans (including surveys perhaps) and its work programme.
- 4.5 It is important that the working group is representative of the Council as a whole – it does not have to be politically-balanced, but members might feel that to be an important element to achieving consensus. A working group of 12 members would provide a good sample of views across the Council and, with the current membership, allow for an easy political balance calculation.

**Contact for more Information:** Kathryn Tebbey, Group Manager for Legal Services and Monitoring Officer (01884) 234210 [ktebbey@middevon.gov.uk](mailto:ktebbey@middevon.gov.uk)

**Circulation of the Report:** The Leader; the Cabinet; Leadership Team

**List of Background Papers:** None.

## **Changes to the Cabinet Procedure Rules:**

Proposed new rule

### **3.0 Cabinet may consult Council**

- 3.1 Where it appears to the Cabinet that a decision involves matters on which it would like to receive the views of members at a meeting of the Council, the Cabinet may resolve so to do.
- 3.2 The effect of a resolution under Rule 3.1, is that the decision will stand deferred to the next meeting of the Cabinet which follows the Council's consideration of the matter in question.
- 3.3 For the avoidance of doubt,
- (a) a resolution under Rule 3.1 is entirely a matter for the Cabinet at its absolute discretion;
  - (b) the views of the Council are not binding on the Cabinet; and
  - (c) nothing in this Rule 3 (or a decision or resolution under it) transfers responsibility for any function or matter to the Council where, under this Constitution and the Local Authorities (Functions and Responsibilities) Regulations 2000, such function or matter is the responsibility of the Cabinet.

## **Changes to the Access to Information Rules:**

### **Rule 16 - Special Urgency**

Existing

- 16.4 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.3, he/she must make available at and publish on (if any a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

Proposed

- 16.4 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.3 (and in any event by no later than the next working day), a notice of the decision must be published setting out the reasons why the decision is urgent and has been taken under this Rule 16.

## **Rule 17 - Report to Council**

### Rule 17.3 – Quarterly reports on special urgency decisions

#### Existing

- 17.3 In any event the Leader of the Council will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three 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.

#### Proposed

- 17.3 The Leader will report all Cabinet decisions taken under Rule 16 (special urgency) to the next meeting of the Council, such report to include a summary of the decision(s) taken. The report may be given verbally where the decision is taken after the publication of the agenda for the Council meeting.



## **Cabinet Procedure Rules**

### **1.0 HOW DOES THE CABINET OPERATE?**

#### 1.1 Who may make Cabinet decisions?

The arrangements for the discharge of executive functions are determined by the Leader. The Leader may provide for executive functions to be discharged by:

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

#### 1.2 Delegation by the Leader

Following the annual meeting of the Council, the Monitoring Officer, at the direction of the Leader, will draw up a written record of Cabinet delegations made by the Leader for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. This will contain the following information about executive functions in relation to the coming year:

- (a) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- (b) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet members appointed to them;
- (c) the nature and extent of any delegation of Cabinet functions to any other authority or any joint arrangements; and
- (d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

#### 1.3 Sub-delegation of Cabinet functions

- a) Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for an Cabinet function, they may delegate further to joint arrangements or an officer or another local authority.
- b) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- c) Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### 1.4 The Council's scheme of delegation and Cabinet functions

- a) The Leader may amend the scheme of delegation relating to Cabinet functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- b) Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when he has served it on its Chairman.

#### 1.5 Conflicts of Interest

- a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- b) If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- c) If the exercise of an cabinet function has been delegated to a committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### 1.6 Cabinet meetings – when and where?

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader.

The Cabinet will meet at least 10 times per year at times to be agreed by the Leader of the Council. In addition:

- (a) the Leader of the Council may also arrange other meetings at his/her discretion;
- (b) The Head of Paid Service may also call for additional meetings at his/her discretion with the approval of the Leader of the Council, or in his/her absence the Deputy Leader of the Council;
- (c) The Monitoring Officer and/or the Section 151 Officer may call an additional meeting if either believes it is necessary to do so in order to fulfil their statutory duties; in other circumstances where any of the Head of Paid Service, Monitoring Officer and Section 151 Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision he/she will have the right to call a meeting

#### 1.7 Public or private meetings of the Cabinet?

The Cabinet will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (c) of Regulation 4(2) of the Local Authorities (Executive Arrangements) (meetings and Access to Information) (England) Regulations 2012. Briefly, these circumstances cover:

- (a) confidential information;
- (b) exempt information; and
- (c) disorderly conduct.

#### 1.8 Quorum

The number of members of the Cabinet is seven including the Leader of the Council and Deputy Leader of the Council.

The quorum for a meeting of the Cabinet shall be 4 including the Leader or Deputy Leader, or any 4 members in circumstances to be considered exceptional by any two of the Statutory Officers.

#### 1.9 How are decisions to be taken by the Cabinet?

- a) Cabinet decisions made by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- b) Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

### **2.0 HOW ARE CABINET MEETINGS CONDUCTED?**

#### 2.1 Who presides?

The Leader will preside at any meeting of the Cabinet or its committees at which he/she is present. In his/her absence, the Deputy Leader will preside. In his/her absence, then a person appointed to do so by those present shall preside.

#### 2.2 Who may attend?

These details are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

#### 2.3 What business?

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

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by Scrutiny Committees or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (d) consideration of reports from Scrutiny Committee; and
- (e) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the

Access to Information Procedure rules set out in Part 4 of this Constitution.

#### 2.4 Consultation

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 undertaken with stakeholders 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.

#### 2.5 Who can put items on the Cabinet agenda?

- a) The Leader will decide upon the schedule for meetings of the Cabinet. He/she may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter.
- b) Any member of the Cabinet may require the Head of Paid Service to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Head of Paid Service will comply.
- c) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- d) In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be considered at which the matter will be considered.
- e) Full Council may require any item to be placed on the agenda of the next reasonably available meeting of the Cabinet
- f) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by non-Cabinet bodies of the Council but the amount of business which can reasonably be dealt with at any one meeting of the Cabinet shall be within the discretion of the Leader of the Council.

#### 2.6 Non-Cabinet member involvement in Cabinet meetings

At a meeting of the Cabinet, the Leader may allow non-Cabinet members to speak on any item of Cabinet business on the agenda.

### **3.0 The Cabinet may consult Council**

3.1 Where it appears to the Cabinet that a decision involves matters on which it would like to receive the views of members at a meeting of the Council, the Cabinet may resolve so to do.

3.2 The effect of a resolution under Rule 3.1, is that the decision will stand deferred to the next meeting of the Cabinet which follows the Council's consideration of the matter in question.

3.3 For the avoidance of doubt,

(a) a resolution under Rule 3.1 is entirely a matter for the Cabinet at its absolute discretion;

(b) the views of the Council are not binding on the Cabinet; and

(c) nothing in this Rule 3 (or a decision or resolution under it) transfers responsibility for any function or matter to the Council where, under this Constitution and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, such function or matter is the responsibility of the Cabinet.

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## **Access to Information Procedure Rules**

### **1.0 Scope**

- 1.1 Subject to paragraph 1.2 below, these rules apply to all meetings of the Council, the Cabinet, the Scrutiny Committee, area committees (if any) the Audit Committee, Policy Development Groups, Standards Committee and Regulatory Committees (together called meetings).
- 1.2 Where the Standards Sub-Committee is convened to consider or review, as the case may be, an allegation that a member has contravened the Council's Code of Conduct for Members, the provisions set out in the Standards Committee's Procedure for Local Assessment of Complaints shall apply and the meeting and papers will not be open to the public

### **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 nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

### **3.0 Rights to attend meetings**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in these Rules.
- 3.2 If a member of the public or press interrupts the proceedings at any meeting the Chairman may warn him/her. If he/she continues the interruption and a warning has been given, the Chairman may order his/her removal from the meeting place.
- 3.3 In the event of a general disturbance in any part of the meeting place open to the public, the Chairman may order that part to be cleared.
- 3.4 If the Chairman considers the orderly dispatch of business impossible, he/she may without question adjourn the meeting.
- 3.5 The above powers of the Chairman are in addition to any other power vested in him/her.

### **4.0 Notices of meeting**

- 4.1 The Council will give at least five clear days notice of any meeting by posting details of the meeting at Phoenix House, Phoenix Lane, Tiverton Devon known as the designated office or on its website at [www.middevon.gov.uk](http://www.middevon.gov.uk).

### **5.0 Access to Agenda and Reports before the meeting**

- 5.1 The Members of the Scrutiny Committee shall be provided with full copies of the agenda and reports presented to the Cabinet including those containing exempt and/or confidential information.
- 5.2 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and available on the website (if any) at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared

after the summons has been sent out, the Member Services Manager shall make each such report available to the public as soon as the report is completed and sent to Councillors).

## **6.0 Supply of copies**

6.1 The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (save during any part of the meeting to which the public are excluded)

6.2 The Council will supply copies of:

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

to any person on payment of a charge for postage and any other costs.

## **7.0 Access to Minutes etc. after the meeting**

7.1 The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) records to decisions taken by individual Members or officers
- (c) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (d) the agenda for the meeting; and
- (e) reports relating to items when the meeting was open to the public.

## **8.0 Background Papers**

8.1 The Chief Executive Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information.

8.2 Public inspection of background papers



The Council will make available for public inspection 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 will be kept at and made available to the public at the Council's main offices at Phoenix House, Phoenix Lane, Tiverton, Devon and on the Councils website [www.middevon.gov.uk](http://www.middevon.gov.uk).

## **10.0 Exclusion of Access of the Public to Meetings**

Extent of Exclusion

- 10.1 The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

Confidential information – requirement to exclude public

- 10.2 The public must 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 would be disclosed.

Exempt information – discretion to exclude public

- 10.3 The public may 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 exempt information would be disclosed. Such a decision to exclude the public is to be made by resolution of the relevant decision making body.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Meaning of confidential information

- 10.4 Confidential information means information given to the Council by a Government Service or Agency on terms which forbid its public disclosure or information which cannot be publicly disclosed by any enactment or Court Order.

Meaning of exempt information

- 10.5 Exempt information means information falling within the following categories (subject to any qualification)

Categories of exempt information

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
6. Information which reveals that the authority proposes –
  - a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b) To make an order or direction under any enactment
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

The above categories are subject to qualifications and to the public interest test. These are laid down in Schedule 12A to the Local Government Act and further details can be found in Appendix E

#### Extent of Exclusion

- 10.6 The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information would be divulged.

[NOTE Information falling within any of paragraphs 1 – 7 is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.]

#### **11 Exclusion of Access by the Public to Reports**

- 11.1 If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her 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. If the information is exempt information, the category of the exempt information must also be marked on the report.
- 11.2 The relevant body is requested in the agenda to confirm the action set out in 11.1 by resolution. Arrangements will be made to recall the press and public immediately should the motion not be passed.
- 11.3 If the matter is considered in public, any related report will also become available to the public.

#### **12. Application of Rules to the Cabinet**

Rules 13–27 apply to the Cabinet and its Committees (if any). If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 15 of this Constitution.

#### **13. Procedure before taking Key Decisions**

Notice of Key Decision

- 13.1 Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:
- a) a notice (called here a "Notice of Key Decision") has been published in connection with the matter in question;

b) at least 28 clear days have elapsed since the publication of the "Notice of Key Decision"; and

c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Rule 4.1 (notice of meetings).

#### Contents of Notice of Key Decision

13.2 The Notice of Key Decision will state that a key decision is to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, Officers, area committees or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

a) the matter in respect of which the decision is to be made;

b) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its membership;

c) the date on which, or the period within which, the decision is to be made;

d) a list of the documents submitted to the decision maker for consideration in relation to the matter;

e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;

f) that other documents relevant to those matters may be submitted to the decision maker; and

g) the procedure for requesting details of those documents (if any) as they become available.

#### Publication of the Notice of Key Decision

13.3 The Notice of Key Decision must be made available for inspection by the public at Phoenix House, Phoenix Lane, Tiverton Devon known as the designated office or on its website at [www.middevon.gov.uk](http://www.middevon.gov.uk).

### **14. The Forward Plan**

14.1 The Council is not required by law to publish a Forward Plan. However, the a Notice of Key Decision and a Notice of Private Meeting of Cabinet published by the Council set out not just details of specific key decisions, but also details of key decisions over a four month period (including decisions to be made by Cabinet, individual Cabinet members or delegated officers, which are not key decisions. In this constitution, such notices are together referred to as the "Forward Plan". The Forward Plan does not have to include exempt information and should not include confidential information.

### **15. General Exception**

15.1 If a Notice of Key Decision has not been published in the Forward Plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the appropriate month to which the next Forward Plan relates;
- b) the Chief Executive has informed the Chairman of the Scrutiny Committee, or in his/her absence the Vice-Chairman, and the Monitoring Officer in writing, of the matter about which the decision is to be made;
- c) the Chief Executive has made copies of that notice available to the public at the offices of the Council and on the Council's website [www.middevon.gov.uk](http://www.middevon.gov.uk) ; and
- d) at least 5 clear days have elapsed since the Chief Executive complied with b)and c).

15.2 As soon as reasonably practicable after the Chief Executive has complied with Rule 15.1, he must make available at the Council offices at Phoenix House, Phoenix Lane, Tiverton, Devon and publish on the Council's website [www.middevon.gov.uk](http://www.middevon.gov.uk) (if any) the reasons why compliance with Rule 14 is impractical.

## 16. Special Urgency

16.1 If a decision, (whether a key decision or otherwise), is so urgent that Rule 15 (general exemption) cannot be followed the Leader of the Council or the relevant Cabinet Member may take the decision if he/she has obtained the agreement of the Chairman of the Scrutiny Committee and the Monitoring Officer that the taking of the decision cannot be reasonably deferred. If the Chairman of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.

16.2 A decision taken under this rule will not normally be taken in public by reason of its urgent nature. A decision will be urgent if any delay would seriously prejudice the Council's or the public's interests. The record of the decision shall state why the decision is an urgent one.

16.3 If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed, then the key decision can only be taken if the decision maker obtains the agreement of the Chairman of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Scrutiny Committee, or if the Chairman of the Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Deputy Chairman of the Council will suffice.

16.4 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.3 (and in any event by no later than the end of the next working day), a notice of the decision must be published he/she must make available at and publish on (if any) a notice setting out the reasons that the decision is urgent and has been taken under this Rule 16. cannot reasonably be deferred.

17. **Report to Council**

- 17.1 When the Scrutiny Committee can require a report if the Scrutiny Committee thinks that a key decision has been taken which was not:
- a) the subject of a Notice of Key Decision; or
  - b) the subject of the general exception procedure (under Rule 15); or
  - c) the subject of an agreement with the Chairman of the Scrutiny Committee, or the Chairman or Deputy Chairman of the Council under Rule 16 (special urgency);

it may require the Cabinet to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies. The report must include details of the decision and the reasons for the decision, the decision maker, and the reasons, if any, for the Cabinet believing that the decision was a key decision. The power to require a report rests with the Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman of the Scrutiny Committee or any 5 members of the Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

Cabinet's report to Council

- 17.2 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual member or body making the decision, and Leader of the Council is of the opinion that it was not a key decision the reasons for that opinion.

#### **Quarterly reports on special urgency decisions**

- 17.3 ~~In any event~~ The Leader of the Council will report submit quarterly reports to the Council on all the Cabinet decisions taken ~~in the circumstances set out in~~ under Rule 16 (special urgency) to the next meeting of the Council, such report to include a summary of the decision(s) taken. The report may be given verbally where the decision is taken after the publication of the agenda for the Council meeting. in the preceding three 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

#### **18. Record of Decisions**

- 18.1 After any meeting of the Cabinet or any of its Committees, whether held in public or in private, the Monitoring Officer or, where no Officer was present, the person presiding at the meeting, will produce a written record of every decision taken at that meeting as soon as practicable. The record will include:
- a) a record of the decision including the date it was made;
  - (b) a record of the reason for the decision;
  - (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;

- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

**19. Meetings of the Cabinet to be held in public**

- 19.1 Meetings of the Cabinet and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

**20. Notice of Private Meetings of the Executive**

- 20.1 Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

- 20.2 At least 28 clear days before a private meeting, the decision-making body must:-

- a) make available at the offices of the Council a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); and
- b) publish that notice on the Council's website.

- 20.3 At least five clear days before a private meeting, the decision-making body must:-

- a) make available at the offices of the Council a further notice of its intention to hold the meeting in private; and
- b) publish that notice on the Council's website.

- 20.4 A notice under paragraph 20.3 must include:-

- a) a statement of the reasons for the meeting to be held in private
- b) details of any representations received by the decision-making body about why the meeting should be open to the public; and
- c) a statement of its response to any such representations.

- 20.5 Where the date by which a meeting must be held makes compliance with this Rule impractical, the meeting may only be held in private where the decision-making body has obtained agreement from:-

- a) the Chairman of the Overview and Scrutiny Committee; or
  - b) if there is no such person, or if the Chairman of the relevant overview and scrutiny committee is unable to act, the Chairman of the Council; or
  - c) where there is no Chairman of either the relevant overview and scrutiny committee or of the Council, the Deputy Chairman of the Council,
- that the meeting is urgent and cannot reasonably be deferred

- 20.6 As soon as reasonably practicable after the decision-making body has obtained agreement under paragraph 20.5 to hold a private meeting, it must

- a) make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- b) publish that notice on the Council's website.

## **21. Attendance at Private Meetings of the Cabinet**

### **21.1 Notice and Attendance**

- a) All members of the Cabinet will be served notice of all private meetings of the committees of the Cabinet, whether or not they are members of that committee.
- b) All members of the Cabinet are entitled to attend private meetings of the Cabinet, and its committees.
- c) Members other than Cabinet members will not be entitled to attend private meetings of the Cabinet and its committees.

### **21.2 Officer Involvement**

- a) The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet and its committees. The Cabinet may not meet unless the Head of Paid Service has been given reasonable notice that a meeting is to take place.
- b) The Monitoring Officer shall arrange for an officer to attend private Cabinet meetings to record and publish the decisions. In the absence of such officer this will be the responsibility of the Chairman of the meeting.
- c) There is no requirement for the Cabinet to meet in the presence of the officers named in paragraphs a) and b)

## **22. Key Decisions By Individual Members of the Cabinet**

Reports intended to be taken into account

- 22.1 Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he will not make the decision until at least 5 clear working days after receipt of that report.

Provision of copies of reports to Overview and Scrutiny Committee

- 22.2 On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of the Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

### **22.3 Record of individual decision**

- a) As soon as reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Monitoring Officer to prepare, a report containing:
  - (i) a record of the decision including the date it was made;
  - (ii) a record of the reasons for the decision;
  - (iii) details of any alternative options considered and rejected by the member when making the decision;

(iv) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and

(v) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

(b) The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political or Chairman's assistant.

#### 22.4 Inspection of documents following executive decisions

a) Subject to Rule 28 , after a meeting of a decision-making body at which an executive decision has been made, or after an individual member or an officer has made an executive decision the Monitoring Officer must ensure that a copy of-

(i) any records prepared in accordance with Rules 18 or 22; and

(ii) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with Rules 18 or 22 or, where only part of the report is relevant to such a decision, that part, must be available for inspection by members of the public, as soon as is reasonably practicable, at the offices of the Council, and on the Council's website.

b) Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under Rule a), those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

#### 22.5 Inspection of background papers

a) Subject to Rule 28, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5 or 22.4, at the same time-

(i) a copy of a list compiled by the proper officer of the background paper to the report or part of the report, must be included in the report or, as the case may be, part of the report; and

(ii) at least one copy of each of the documents included in that list, must be available for inspection by the public at the offices of the Council and on [www.middevon.gov.uk](http://www.middevon.gov.uk).

### 23. **Joint Committees**

23.1 These Rules apply to the Council's Joint Committees as follows:

(a) If all the members of a joint committee are members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.



(b) If the joint committee contains members who are not on the Cabinet of any participating authorities then the access to information rules in Part VA of the Local Government Act 1972, as applicable to meetings of the full Council and its committees will apply.

**24. Scrutiny Committee- Access to Documents**

**24.1 Rights to copies**

Subject to Rule 24.2 below, the Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet or any of its Committees and which contains material relating to:

any business transacted at a meeting of the Cabinet or its Committees;

any decision taken by an individual member of the Cabinet; or

any decision taken by an Officer of the Council in accordance with executive arrangements.

**24.2 Limit on rights**

The Scrutiny Committee will not be entitled to:

any document that is in draft form;

any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision the Committee are reviewing or scrutinising or intend to scrutinise

**25. Additional Rights of Access for Members**

**25.1 Material relating to business to be transacted at a Public Meeting**

a) All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which contain material relating to any business to be transacted at a public meeting unless a) (i) or a) (ii) applies:

(i) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or

(ii) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract; or

b) Any document which is required by Rule a) to be available for inspection by any member of the Council must be available for such inspection for at least five (5) clear days before the meeting except that-

(i) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and

(ii) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 0 in relation to that time, must be available for inspection when the item is added to the agenda.

**25.2 Material relating to previous business**

All members will be entitled to inspect any document (except those available only in draft form) which is in the possession or under the control of the

Cabinet or its committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member or Officer in accordance with executive arrangements unless a) (i) or a) (ii) applies.

Any document required to be made available for inspection under 25.2 must be made available when the relevant meeting concludes or, where an executive decision is made by an individual member or officer, immediately after the decision has been made, and in any event, within twenty four (24) hours of the conclusion of the meeting or the decision having been made as the case may be.

**26. Nature of rights**

26.1 These rights of a Member are additional to any other right he or she may have.

**27. Members Other Rights to Information**

27.1 A Member of the Council may, for the purposes of his or her duty as a Member and no other, inspect any document that has been considered by a committee or the Council including background papers. Applications should be made to the Monitoring Officer and, if available, copies will be supplied upon request.

27.2 A member shall not knowingly inspect or request a copy of any document relating to a matter in which he:

is professionally interested; or

has a disclosable pecuniary interest or personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

27.3 This shall not preclude the Monitoring Officer from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under either the Freedom of Information Act or the Data Protection Act.

27.4 All reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.

27.5 Any Councillor may attend any meeting of a committee of the Council and may speak on any agenda item for that meeting. However, in relation to the Planning Committee, the right to speak on a planning application, enforcement item, or other report relating to a particular ward of the Council shall be limited to the rights of a Ward Member to speak as set out in paragraphs 9.2 and 9.3 of the Protocol of Good Practice for Councillors Dealing in Planning Matters (Appendix J to the Constitution)

**28. Confidential information, exempt information and advice of a political adviser or assistant**

28.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

28.2 Nothing in these Rules:

a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or

b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the proper officer, that document or part of a document contains or is likely to contain exempt information or the advice of a political advisers or assistant.

28.3 Where a member of the Cabinet or an officer makes an executive decision in accordance with executive arrangements, nothing in these Rules:

a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or

b) requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the member or officer making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **STANDARDS WORKING GROUP** held on 21 January 2020 at 5.55 pm

### **Present Councillors**

C J Eginton, L D Taylor, A Wilce and  
Mrs N Woollatt

### **Also Present**

**Officer(s):** Kathryn Tebbey (Head of Legal (Monitoring Officer) and  
Sally Gabriel (Member Services Manager)

## 1 **APOLOGIES**

There were no apologies.

## 2 **SOCIAL MEDIA**

The Standards Committee had requested that the working group be reconvened to consider the need for a policy on the use of social media by members.

The working group had before it a selection of information documents which consisted of the following:

- Civility in public life – programme of work which would in time bring forward a revised code of conduct
- The Council's Social Media Guide
- Connected Councillors – a guide to using social media produced by the i&Dea (2010)
- Stratford-on-Avon District Council – social media policy
- Medway Council – an amended code of conduct to include social media use

The Monitoring Officer informed the meeting that the LGA were reviewing and updating the member model Code of Conduct (expected Summer 2020, with a possible consultation in the Spring) in response to the recommendations made by the Committee on Standards in Public Life and that it was likely that social media use would form part of an updated model code. The Lawyers in Local Government (LLG) was also expected to be providing guidance on Social Media and Local Government in the next few weeks.

Consideration was given to:

- the information attached to the agenda
- The LLG guidance and the new model code that was expected
- Whether an amendment to the Mid Devon code referring to social media use could be made in the interim
- Members needed to be clear when using social media whether they were commenting in a private or public capacity

- Whether the Monitoring Officer had received complaints with regard to the misuse of social media
- Acceptable and non-acceptable behaviour
- A social media member briefing taking place on 29 January
- The possibility of re-circulating the Mid Devon guidance to newly elected members
- The wording within the current code which made mention of ‘acting in your capacity as a councillor...’

It was therefore **AGREED** that no action be taken at the current time and that the working group be reconvened when the guidance from the LLG and the model code of conduct were made available. In the meantime the Mid Devon guidance be recirculated to all members and that they be encouraged to attend the member briefing on 29 January 2020.

### 3 **NEXT STEPS**

The working group would be reconvened when further information was available.

(The meeting ended at 6.15 pm)

**CHAIRMAN**