



Leicester
City Council

**PROCEDURES WORKING PARTY
STANDARDS COMMITTEE**

**27th September 2004
29th September 2004**

POLITICAL CONVENTIONS

Report of the Town Clerk

1. Purpose of the Report

1.1 To seek recommendations for the Council on unresolved issues.

2. Report

2.1 The Council approved some updates to the Conventions on 1st July, based on recommendations from the Procedures Working Party and the Standards Committee.

2.2 The following actions are required by the Council's decision and are being addressed:

(1) Training to be provided for Chairs, to include:

- The information and skills needed to apply the Conventions
- In Scrutiny meetings, ensuring that everyone's role is clear to the public and that there is a fair balance of contribution across Political Groups, Co-opted Members and visitors.

(2) Committee Legal advisers asked to intervene if a meeting appears to be straying beyond the proper boundaries of its role and the Conventions.

(3) Political Groups asked to give further consideration to the Protocols for Member Conduct at meetings with a view to their inclusion in the Conventions.

(4) Cabinet asked to discuss the issue of Cabinet Members avoiding the appearance of stifling or influencing the proper course of Scrutiny through off agenda communications.

- (5) Review, after 3 months operation, of the new Convention on contributions to Development Control debates by Councillors not on the Committee (paragraph 23 of Appendix 3). This provides:

"Members not on the Committee should sit in the designated place. Such Member addressing the Committee is expected to keep their presentation to within five minutes. The Chair is expected to exercise discretion to allow such additional time as may be required for all valid points to be given a reasonable airing."

- (6) On the procedure for departing from development control recommendations (see attached schedule), Development Control Members to be consulted and the Working Party advised how it would work in practice. Once agreed, this is to be included in Development Control training.
- (7) Guidance to be prepared on the procedure for dealing with late tenders for property disposals.

2.3 Views are requested on the outstanding issues in the attached schedule.

2.4 The new Convention on departing from development control recommendations (5.1 in the schedule) would replace paragraph 25 of Appendix 3 with the following:

"Members wishing the Committee to consider an amended recommendation from that made by the Director must move that amendment, giving planning reasons, and have it seconded before a vote is taken on the Director's recommendation. A vote will then be taken on the amended recommendation and, should it be accepted by the Committee, the planning reasons will be included in the minutes of the meeting".

2.5 On 7 September 2004, the Service Director (Environment) advised the Development Control Committee as follows:

- (1) All decisions on planning applications must be justified in terms of the relevant material planning considerations and reasons must be given both for approval and refusal. The current code, at paragraph 25, states *"The reasons for any decision made by committee against the Director's recommendation will be clearly given by the Chair and will be included in the minutes of the meeting."*
- (2) The purpose of the change is to ensure that those reasons are clearly stated before a decision is taken, so that officers can comment about the appropriateness of the reasons, to minimise the risk of legal challenge and of losing any subsequent appeal. It also aids transparency of decision making in that anyone observing the meeting will be clear of the basis for the decision.
- (3) Changes to officer recommendations can either be to the principle, for example to refuse rather than approve an application, or to a detail, for example an additional condition where the recommendation is approval.
- (4) I recommend that in practice it will operate as follows:

- (a) Following the officer presentation, Members' questions and officers' responses, and during or following the Member debate, any member of the committee can move an amendment to the Service Director's recommendation, giving planning reasons.
- (b) The Chair will:
 - Ask whether any member of the committee wishes to second it;
 - Clarify the proposal and the planning reasons; and
 - Invite officers to comment on it.
- (c) The Chair will ask the Committee to vote on the amendment.
- (d) Where the amendment is accepted, the decision will be recorded as the resolution on that item.
- (e) Where the amendment is not accepted, the Chair will ask the Committee to vote on the officer recommendation.
- (f) Where an alternative recommendation is not moved, seconded, and accepted, there will be a presumption that the officer recommendation will be approved.

2.6 The Development Control Committee noted the proposed changes and the requirements to review after three months, the operation of the new paragraph on the length of contributions (paragraph 2.2(5) above). They endorsed the proposed procedure on departures from officer recommendations.

3. Financial & Legal Implications

- 3.1 Failure to observe the Conventions could give grounds for a complaint against a Member to the Standards Board, or for disciplinary action against an Officer.
- 3.2 There is no financial implication.

4. Recommendation

- 4.1 Guidance is requested on the changes to be recommended to the Council.

5. REPORT AUTHOR

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<u>Convention</u>		<u>Issue</u>	<u>Proposal</u>
1.5	Respect and courtesy between Councillors and Officers.	Remarks and behaviour causing offence during debates	The attached Protocols were approved by the WHIPS and the Standards Committee. Subject to any further views from Political Groups, it is proposed they be incorporated into this Convention.
5.1	Development Control decisions	Procedure when Councillors want to depart from an Officer recommendation (Appendix 3, paragraph 25)	Officers proposed that the procedure be clarified by requiring that departure must be formally moved, with planning reasons given and seconded before a vote is taken on the recommendation. The Council supported this in principle, but subject to further consultation with Development Control Members and a further report to the Working Party on how this would work in practice. Once agreed, this is to be included in Development Control training.
7.4	Staff Lobbying Councillors	Whether the balance is right between allowing employees their rights as citizens and avoiding them having (actual or perceived) advantage over other members of the public	After more than one discussion, the Working Party recommended that the existing Convention be retained but that it be applied with appropriate sensitivity. The Council approved this but the Leader gave an undertaking that the matter would again be placed on the Working Party's agenda.
	Property discussions and negotiations	Ensuring that negotiations are not inadvertently blown off course and that Councillors are protected from inappropriate pressure and unwarranted criticism.	A proposed new Convention is attached.

MEMBER CONDUCT AT MEETINGS
AS CONSIDERED BY THE STANDARDS COMMITTEE -24 MARCH 2004

Key Principles

Political interaction is frequently the catalyst for public engagement. It is also perhaps the most powerful of the checks and balances which are inbuilt into local authority policy development and service delivery. It is, therefore, not surprising, indeed it should be expected and encouraged, that such interaction should be both robust and challenging. Such an ethos, however, also requires a strong, clear and delineated set of principles in which to operate. To do otherwise would undermine the unique legitimacy of the local democratic process.

Note: To apply to all meetings within the Council irrespective of size (i.e.. Council, Cabinet, Committees, Panels or Working Groups involving Elected, Co-opted or .Independent Members).

1. Members should have due respect for the local democratic process in which they are engaged and the particular meeting in which they are involved.
2. Self regulation by Members is the best approach and is far preferable to waiting for the Lord Mayor's/Chair's intervention before moderating their behaviour.
3. Lively debate and good humoured banter is to be encouraged and not stifled.
4. Members and officers should, at all times, respect the other's role and responsibilities.
5. All those present should show due respect for the chair of the meeting.
6. Comments of a personal nature against Members, officers or members of the public and seen as generally unacceptable.
7. If offence is taken to a personal remark, an immediate apology and retraction at the time is often all that is needed.
8. Extreme language, including that which is abusive, defamatory or offensive, should be avoided.
9. All speeches should be channelled through the Lord Mayor/Chair, with conversations directly to other Members across the meeting being avoided.
10. The noise levels from conversations within the meeting should be kept to a minimum and certainly not at a level which is disruptive and prevents others hearing the debate.
11. Members should avoid, including the appearance of, taking a lead from Members or others in the public gallery.

PROPOSED CONVENTION RELATING TO
COUNCILLORS INVOLVEMENT IN
PROPERTY DISCUSSIONS

This Convention must be read in conjunction with the Council's Framework for the Disposal of Property (attached). It is intended to protect Councillors as well as the Council's financial and probity interests.

Commercial negotiations, particularly those involving property, are an area of special sensitivity where the Council's public service objectives may conflict with the profit motivation of the other party to the negotiation.

There will be occasions when Councillors can play an invaluable part in property discussions, for example, expressing to the other party the commitment of the Council to a particular project, or to the political constraints within which the transaction occurs. However, any involvement must be carefully managed to avoid pitfalls, such as prejudging negotiations or planning issues. Councillors also need to avoid circumstances where their comments can later be misrepresented.

CONVENTIONS

1. Councillors' involvement in property discussions should be transparent and take place after officer briefing. The officer(s) should be present and the meeting should be properly recorded;
2. Councillors should confine their discussions to overall policy and the direction to be taken, leaving professional negotiation for officers to pursue separately;
3. No concession should be made unless this has been identified beforehand, after due briefing and consultation. Proposals should otherwise be taken away for consideration.
4. Informal meetings with the private parties or their agents should be avoided if they could be misconstrued, and any meeting should be declared to the relevant officer;
5. Any party making a representation regarding a property negotiation must be referred to the relevant officer and the party accordingly advised;
6. Formal decisions should be referred to the Council's agreed processes;
7. Confidentiality of commercial information and sensitivities must be maintained to ensure that the integrity of property acquisition or disposal and that maximum value is obtained.

12. Councillors should not play to the gallery in such a way that would incite member of the public to behaviour which may lead to them being ejected and shall riot direct unacceptable comments to members of the public sitting in the gallery
13. Members should give the other the courtesy of presenting their comments without continual interruption such that it is disruptive to the good conduct of the meeting.